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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **FAO 270/2017**

BIBA APPARELS PVT LTD

..... Appellant

Through

Mr. Jayant Mehta, Ms. Roopa Dayal,
Ms. Rashi Misra and Mr. Shaurya,
Advocates

Versus

M/S RUI PHOOL

..... Respondent

Through

Mr. Sonal Jain and Ms. Heena Sharma,
Advocates

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

ORDER

% **02.06.2017**

Caveat No.579/2017

The caveat petition is disposed of as the counsel for caveator enters appearance.

C.M. No.22225/2017 & 22226/2017 (Exemptions)

Exemptions allowed, subject to all just exceptions.

Applications stand disposed of.

FAO 270/2017

This is an appeal filed against the order dated 27.05.2017 passed by learned Additional District Judge by which an application filed by the plaintiff/respondent herein under Order 39 Rules 1 & 2 CPC in a suit for permanent injunction restraining the defendant from passing of the trade mark 'Rui Phool' of the plaintiff and also restraining from infringing in the artistic work of the plaintiff which relates to a design of a 'flower' and a 'bird' and further restraining them from unfair competition and commercial misappropriation of trade mark 'Rui Phool' and copy right in the artistic work and for rendition of the account and for damages to the tune of Rs.25 Lacs has been allowed and the defendant/appellant herein has been restrained from using the designs on its product code 'RUIPHOO1233YEL' 'RUIPHOO123400WHT'

and 'EUIPHOO12346YEL' or any other product code. The defendant/appellant herein was also restrained from using the name Ruiphool on its products.

It may be noted that arguments in the stay application were heard on account of the urgency expressed by the plaintiff/respondent herein without completion of pleadings.

After some hearing, learned counsel for the appellant/defendant submits that he would not press this appeal, appellant/defendant would after completion of pleadings move an application under Order 39 Rule 4 CPC and a direction be issued to the Trial Court to dispose of the application within four weeks thereafter.

Learned counsel for the respondent/plaintiff has no objection to the same. Accordingly, appeal is dismissed as not pressed.

Leave is granted to the appellant/defendant to make an application under Order 39 Rule 4 CPC after filing of written statement, reply to the stay application and documents. On filing of application under Order 39 Rule 4 CPC and after completion of pleadings, the Trial Court is directed to dispose of the same as expeditiously as possible and not later than six weeks from the date the pleadings are completed.

C.M. No.22224/2017 (stay)

The application is dismissed in view of order passed in the appeal.

Dasti, under the signatures of Court Master/Private Secretary.

G.S.SISTANI, J
(VACATION JUDGE)

JUNE 02, 2017

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FAO 270/2017