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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO(OS) (COMM) 176/2018 AND CM APPL. 32195-32196/2018**
HARDEEP SINGH GILL Appellant
Through Mr. Hasim Rawal, Sr. Advocate with
Mr. Sanjeet Ranjan and Mr. Nakul
Gandhi, Advs.
versus
ARTIUS INTERIOR PRODUCTS (P) LTD Respondent
Through None.

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+ **FAO(OS) (COMM) 177/2018 AND CM APPL.32197/2018 &
32198/2018**
HARDEEP SINGH GILL & ORS. Appellants
Through Mr. Hasim Rawal, Sr. Advocate with
Mr. Sanjeet Ranjan and Mr. Nakul
Gandhi, Advs.
versus
ARTIUS INTERIOR PRODUCTS (P) LTD & ANR..... Respondents
Through None.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER
% **10.08.2018**

The appellants' grievance in these two appeals is that the impugned ex-parte order dated 01.06.2018 passed in two suits – one complaining trademark infringement and the other complaining of Copyright infringement, besides urging that the aspect of balance of

convenience was unreasoned. It is sought to be highlighted that the allegations with respect to the cause of action that arose for filing the suits, arose much prior to May/June, 2018 and in these circumstances, the grant of ex-parte interim order under Order 39 Rule 3A CPC, was not justified.

Learned Senior Counsel relies upon *A. Venkatasubbiah Naidu vs. S. Chellappan & Ors.* (2000) 7 SCC 695, to say, that the present appeals are maintainable given the mandate of Rule 3A of Order 39 CPC. He also submits that consistently, the Supreme Court has held (*Morgan Stanley Mutual Fund vs Kartick Das*, 1994(4) SCC 225), to say that an ex-parte order should be based on a *prima facie* consideration of all relevant factors and should disclose, especially, the rationality for the grant of such order highlighting the irreparable nature of the injury and the balance of convenience, if, not granted.

The record would show that the appellants – which is the defendant in both the suits has moved separate applications under Order 39 Rule 4 CPC; notice was issued in these applications. These were scheduled and listed on 25.07.2018; they could not be taken up and now re-notified for 30.08.2018. Given these peculiar circumstances, the Court is of the opinion that no useful purpose would be served in the circumstances of this case to entertain these appeals. However, learned Single Judge shall endeavour to complete the hearing on 30.03.2018 in the applications or as soon as thereafter, as is convenient to him; he would endeavour his best to dispose of the applications as expeditiously as possible. Learned Single Judge may

also keep in mind the observations and the directions of Supreme Court in *Asian Resurfacing of Road Agency vs. CBI*, 2018 SCC online SC 310), wherein Supreme Court has also issued directions to the effect that in all pending cases where stay against proceedings of Civil or Criminal trial is operating, the same will come to an end on the expiry of six months, unless, in an exceptional case, by a speaking order, such stay is extended.

All rights and contentions of the parties are kept open.

Both the appeals are disposed of in the above terms.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

AUGUST 10, 2018

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