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

+ **FAO(OS) (COMM) 274/2018 & CM APPL. Nos.4486 & 89/2016**

+ **FAO(OS) (COMM) 275/2018 & CM APPL. 4560/2016**

**M/S PRABHAT ZARDA FACTORY
INTERNATIONAL (NOIDA)**

..... Appellant

M/S PRABHAT ZARDA FACTORY (CO)

..... Appellant

Through: Mr.Avinash Trivedi, Advocate

versus

LALIT KUMAR ARYA & ANR

..... Respondent

Through: Mr.Vidit Gupta, Advocate for R-1(a)
Mr.Sushant Singh, Mr.Tejinder Singh
& Mr.Kunal Khanna, Advocates for
R-1(i)

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

29.11.2018

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1. These two appeals are against a common temporary injunction order made by the learned Single Judge in two suits. The injunction restrains the appellant, from using certain registered trademarks.

2. It is a matter of record that the said trademark proprietor Mr.Lalit Kumar Arya died on 3rd February, 2016. The impugned interim orders were made prior to that on 2nd November, 2015. It is contended that before his

death the trademark proprietor had assigned all his rights in favour of Ms.Chhaya Devi, the widow of his pre-deceased son [Mr.Vijay Kumar Arya]. On the other hand it is also claimed that he bequeathed all property [including the registered trademarks] to his widow Ms.Rukmini Devi. Of course, this is contested by Ms.Chhaya Devi.

3. Learned counsel for Ms.Chhaya Devi submits that the assignment has since been noted in the trademark register [which is also the subject matter of contest] and that she is therefore entitled to contest the proceedings as the plaintiff/petitioner. We notice that applications under Order 22 Rule 10 CPC for substitution of the deceased Mr.Lalit Kumar Arya are pending.

4. Having regard to the nature of the proceedings and the injunction given, this Court is of the opinion that all the rights and contentions of the parties – including the right to enforce the injunction [and validity thereof] should be and are therefore, kept open. In the event of any other order adverse to any party, made by the learned Single Judge, in the course of the pending Order 22 Rule 10 CPC proceedings, it would be open to them to approach this Court in a fresh appeal in the light of the subsequent events.

5. The appeal is disposed of in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

NOVEMBER 29, 2018

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