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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 171/2019**

HALDIRAM BHUJIAWALA Petitioner
Through: Mr.P.C.Sharma, Mr.Akhil Sachar,
Mr.Saurav Sharma, Advocates

versus

HALDIRAM INDIA PVT LTD AND ORS. Respondents
Through: Mr.Sanjeev Sindhwani, Sr.Advocate
with Mr.Gurvinder Singh and
Mr.Neeraj Grover Advocates for R-1

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **31.01.2019**
CM No. 4694/2019

Exemption allowed subject to all just exceptions.

CM(M) 171/2019 and CM No. 4694/2019

The respondents No. 2 and 3 arrayed to the present petition are stated to be mere sellers of the products in relation to which TM No. 13/2018 is stated to have been filed.

The petitioner assails the impugned order dated 24.1.2019 of the Court of the Additional District Judge-01 (North) vide which it was observed to the effect:

*Present: Sh. Neeraj Grover, Ld. Counsel for plaintiff.
Sh. Saurav Aggarwal, Ld. Counsel for the
defendant.*

*Today the matter was fixed for arguments on the
application U/o 39 rule 1 & 2 CPC. The matter was*

called before lunch and two applications were filed on behalf of defendant. The first application was u/o 11 rule 18 CPC that was filed on 19.01.2019 and notice thereof was given to the opposite party for today. The other application is moved today which is u/o 23 rule 1 (4) read with order 7 rule 11 CPC. The matter was argued before lunch for about 45 minutes not on the interim application but upon the aforesaid two applications. It was being pressed by Sh. Aggarwal that his applications especially U/o 7 rule 11 CPC should be decided first. Ld. Counsel for plaintiff was seeking time to file reply to the said application and was submitting that these applications be not made as an impediment in proceedings with the application u/o 39 rule 1 & 2 CPC of the plaintiff. It was nearing lunch time and Ld. Counsels were requested to come after lunch. In the post-lunch session, Sh. Aggarwal firstly pressed that an order be first passed on the aforesaid two applications. I am of the view that the plaintiff's request to file reply to the application is reasonable. Accordingly, Sh. Aggarwal is requested to continue with the arguments on the interim application. However it is again pressed by Sh. Aggarwal that if his applications are not been decided today, an order must be passed first and then the arguments on the interim application will be resumed. When the request is being objected to by Sh. Grover, Sh. Aggarwal has left the Court room stating that he cannot argue with such interruption of the opposite Counsel. On returning within 2 minutes, Sh. Aggarwal states that he is being cornered by the Court and he has no faith in the Court. Ld. Counsel is entitled to his views. He is requested to resume the arguments if he so desires.

The arguments are being resumed at 2:40 p.m.

Till 3:06 p.m., Sh. Aggarwal has addressed further arguments. There are two 10 years old cases pending and I cannot devote more time. The date is already fixed for 28.01.2019 however Sh. Aggarwal is seeking change of date. Matter is adjourned for 01.02.2019 for

remaining arguments. Sh. Grover is seeking four weeks time to file reply to the other pending application filed today. Time granted.

(Neeraj Gaur)
ADJ-1 (North)/Delhi/24.01.2019”

On behalf of the respondent No.1 has been submitted a copy of the order dated 25.1.2019 of the Hon’ble Supreme Court in petitions SLP Civil Nos. 31543-31544/2018 in relation to the impugned order dated 15.11.2018 of this Court in CM(M)1313/2018 with directions to the effect:

*“The Special Leave Petitions are dismissed.
However, the trial Court is to decide the matter on its own merits, without reference to any additional observations made by the impugned judgment in deciding the application under Order 39 of the Code, along with the pending applications.
Pending applications, if any, stand disposed of.”*

During the course of submissions that have been made now on behalf of the petitioner and the respondent No.1, it has been submitted on behalf of the petitioner that the application under Order 7 Rule 11 of the CPC and the application under Order 23 Rule 1 (4) of the CPC filed by the petitioners herein as well as the application under Order 39 Rule 1 & 2 of the CPC filed by the respondent No.1 filed before the learned Trial Court all be taken up together to which the respondent No.1 has no objection with it having been further sought on behalf of the respondent No.1 that the matter be disposed of expeditiously within a stipulated time frame.

In view of the submissions that have been made on behalf of

either side, the petition is disposed of with directions to the learned Trial Court to dispose of the application under Order 39 Rule 1&2 CPC filed by the respondent No.1 whilst taking into consideration also the averments made by the petitioner herein through the application under Order 7 Rule 11 CPC read with Order 23 Rule 1(4) of the CPC simultaneously after the reply of the respondent No.1 to the said applications is placed on record and all the said applications be disposed of within a period of 10 days after the conclusion of the hearing on the said applications.

Copy of the order be given *Dasti* to either side, as prayed.

ANU MALHOTRA, J

JANUARY 31, 2019/sv