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

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Judgment delivered on: 02.03.2020

+ FAO 106/2020

WELLNESS HEALTH LABS (OPC)

PVT LTD & ANR

.... Appellant

versus

WELLNESS PATHCARE INDIA LLP & ANR Respondents

Advocates who appeared in this case:

For the Petitioner:

Mr. Ashok Gupta, Ms. Laxmi Gupta,
Advocates

For the Respondents

Mr. Sanjeev Singh, Mr. D.K. Yadav and Ms.
Kamla, Advocates

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

CAV. 198/2020

In view of the appearance of the respondents, the caveat stands discharged.

CM APPL. 8535/2020 (Exemption)

Allowed, subject to all just exceptions.

FAO 106/2020 & CM APPL. 8534/2020 (stay)

1. Appellant impugns order dated 04.02.2020 whereby appellant has been restrained from using the mark 'Wellness Health Lab' and

also impugns order dated 15.02.2020 whereby an application under Order 39 Rule 4 CPC filed by the appellant has been adjourned to 20.03.2020.

2. Learned counsel for the appellant submits that appellant had already filed a caveat which was served on the respondent and despite service of caveat, they failed to serve the appellant prior to filing of the Suit. He further contends that there is non-compliance of Order 39 Rule 3 CPC as also the fact that when the appellant moved an application under Order 39 Rule 4 CPC, the same was adjourned to 20.03.2020.

3. Learned counsel for the respondents appearing on advance notice submits that ad-interim injunction was granted because appellant who was an earlier employee of the respondents had recently adopted a deceptively similar mark. He further contends that compliance of Order 39 Rule 3 CPC has been done in terms of order dated 04.02.2020 and he further submits that no notice of caveat was served on the respondent.

4. Without getting into controversy, since the application, under Order 39 Rules 1 and 2 CPC, filed by the respondents as well as the application Order 39 Rule 4 CPC filed by the appellant are pending and listed before the trial court on 20.03.2020, this appeal is disposed of with a direction to the appellant to file the written statement and reply to the application under Order 39 Rules 1 and 2 CPC within 10

days and respondent may file replication as well as rejoinder to the applications Order 39 Rules 1 and 2 CPC and reply to the application under Order 39 Rule 4 CPC within one week thereafter.

5. Trial court shall endeavour to dispose of the applications under Order 39 Rules 1 and 2 CPC and Order 39 Rule 4 CPC on the next date of hearing or as soon as possible thereafter.

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

7. It is clarified that this Court has neither considered nor commented upon the merits of either party.

8. Order *dasti* under signatures of the Court Master.

MARCH 02, 2020

‘rs’

SANJEEV SACHDEVA, J