

Arun

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL APPELLATE DIVISION
INTERIM APPLICATION NO. 1142 OF 2022
IN
COMMERCIAL APPEAL NO. 22 OF 2022**

Mohit Khabar Khabar	...Applicant
<i>In the matter between</i>	
Mohit Khabar Khabar	...Appellant
<i>Versus</i>	
Dazzler Confectionery Co Pvt Ltd	...Respondent

**WITH
COMMERCIAL APPEAL (L) NO. 7426 OF 2022
IN
INTERIM APPLICATION NO. 1873 OF 2020**

Dazzler Confectionery Company Pvt Ltd	...Appellant
<i>Versus</i>	
Mohit Khabar Khabar	...Respondent

**WITH
INTERIM APPLICATION (L) NO. 7502 OF 2022
IN
COMMERCIAL APPEAL (L) NO. 7426 OF 2022**

ARUN
RAMCHNDRA
SANKPAL

Digitally signed by
ARUN RAMCHNDRA
SANKPAL
Date: 2022.04.05
16:33:00 +0530

Dazzler Confectionery Company Pvt Ltd	...Applicant
<i>In the matter between</i>	
Dazzler Confectionery Company Pvt Ltd	...Appellant

Versus

Mohit Khabar Khabar

...Respondent

Mr Zal Andhyarujina, Senior Advocate, with Nerav Merchant, Akanksha Agarwal & Nadeem Sharma, i/b Thakordas Madgavkar, for the Appellant in COMAP/22/2022 and for the Respondent No. COMAPL/7426/2022.

Mr Siddhesh Bhole, with Yakshay Chheda, i/b SSB Legal & Advisory, for the Appellant in COMAPL/7426/2022 and Respondent in COMAP/22/2022.

**CORAM G.S. Patel &
 Madhav J. Jamdar, JJ.
DATED: 4th April 2022**

PC:-

**COMMERCIAL APPEAL NO. 22 OF 2022 AND
COMMERCIAL APPEAL (L) NO. 7426 OF 2022:**

1. All objections are to be removed in Commercial Appeal No. 7426 of 2022 and it is to be finally numbered on or before 18th April 2022.
2. By consent of parties, we make the following order in regard to the impugned Order and Judgment dated 24th January 2022.
3. This order today is by consent and without any assessment on the merits.

4. Both sides agree that the entire amount of Rs.80 lakhs will remained deposited with the Court to the credit of the present Suit in which leave to defend has been granted to the original Defendant.

5. To this extent—

- (a) paragraph 2 of the operative portion of the impugned order is modified.
- (b) Paragraph 5 of the operative portion of the impugned order will no longer survive; and
- (c) paragraph 1 of the operative portion of the impugned order will necessarily stand modified accordingly.

6. Both sides agree that they will file an appropriate applications under Order XIII-A of the Code of Civil Procedure 1908 (“CPC”) as amended by the Commercial Courts Act 2015. They agree to do so on or before 17th June 2022.

7. We permit the parties to make an application or a request to the learned Single Judge for an expedited or priority hearing of the Order XIII-A application given the frame of the Commercial Courts Act.

8. We keep open all questions of limitation. The findings of the learned Single Judge on limitation are clearly prima facie and will not affect the final determination of any issue of limitation.

9. The Appeals are disposed of in these terms with no order as to costs.

10. In view of this, the pending IAs are infructuous and disposed of accordingly.

(Madhav J. Jamdar, J)

(G. S. Patel, J)