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

+ **FAO (COMM) 18/2022**

M/S GANESH GOURI INDUSTRIES AND ORS Appellants

Through **Mr. Akhil Sibal, Senior Advocate
with Mr Salim A. Inamdar,
Mr. Nikhil Chawla and Mr. Modassir
Husain Khan, Advocates.**

versus

**R. C. PLASTO TANKS AND
PIPES PVT LTD AND ANR**

..... Respondents

Through **Mr. Sanjeev Sindhvani, Senior
Advocate with Mr. Anil Kumar Sahu,
Mr. Mohit Sharma, Mr. Pran Krishna
Jana, Ms. Namrata Jain, Ms. Shinkal
Garg, Mr. Roshan Kumar and
Mr. Ayush Dixit Advocates for R-1.
Mr.Naman Joshi with Mr.Yuvraj
Francis for R-2.**

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Date of Decision: 28th January, 2022

**CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE NAVIN CHAWLA**

J U D G M E N T

MANMOHAN, J (ORAL)

C.M.Nos.5019-5020/2022

Exemption allowed, subject to all just exceptions.

Accordingly, the applications stand disposed of.

**FAO (COMM) 18/2022 & C.M.No.5017-5018/2022**

1. The matter has been heard by way of video conferencing.
2. After some arguments, it is agreed between the counsel for parties that the appellants/defendants shall file an application under Order XXXIX Rule 4 read with Rules 1 & 2 CPC forthwith, to which the plaintiff/respondent no.1 shall file a reply within three working days. The Trial Court is directed to dispose of the said application filed under Order XXXIX Rule 4 read with Rules 1 & 2 CPC within ten days of filing of the same including on the issue of lack of jurisdiction of the learned Trial Court to entertain the plaint. It is clarified that these applications will be decided without reference to any other application and/ or without awaiting the outcome of any other application pending as on date or filed subsequently.
3. With consent of the parties, the order appointing the Local Commissioner is varied. Accordingly, we hereby appoint Ms.Akanksha Ghosh, Mobile No.8617220568 as a Local Commissioner in this case who shall visit the address of the appellants/defendants (as per memo of parties) where the impugned goods and/or material is expected to be found. The Local Commissioner shall:-
 - (i) Deseal the premise of M/s Ganesh Gauri Industries, Khasra No.55, Lihi Gaon, Bhandara Road, Nagpur-441202 sealed on 20.01.2022 pursuant to the order dated 12.01.2022 passed by the learned Trial Court.
 - (ii) Seize and take into custody only those impugned goods i.e., WATER STORAGE TANKS and other incriminatory material like stationery, packing material, pouches, cartons, display boards, sign boards,



advertising material, unfinished packed, unpacked impugned goods or any other documents, wrapper etc. bearing the impugned label/trade



dress/colour Scheme & and no other goods.

- (iii) Inspect and sign all books of accounts including ledgers cash books, purchases and sales records etc of the defendants and take a photocopy in physical form and/or electronic form.
- (iv) The Local Commissioner shall prepare the inventory of the seized goods and take the photographs of the seized goods. Local Commissioner is also permitted to take the videography of the proceedings and goods seized by her.
- (v) The Local Commissioner shall seal all the seized goods and hand over the same to the appellants/defendants/representatives on *Superdari* after getting an undertaking that the sealed material will be produced before the Court as and when directed.
- (vi) The representative of respondent no.1 and their respective counsel, not exceeding 3-4 in number, would be allowed during the execution of the present proceedings of the Local commissioner.
- (vii) The Local Commissioner is directed to execute the commission forthwith. The Local Commissioner shall be paid a fee of Rs.1,25,000/- (excluding expenses) by the appellants/defendants.



(viii) The Local Commissioner shall inform the parties in advance about the visit to the premises in question.

4. With the aforesaid directions, the present appeal and pending applications are disposed of. This Court clarifies that it has not commented on the merit of the controversy. The rights and contentions of all the parties are left open.

MANMOHAN, J

NAVIN CHAWLA, J

JANUARY 28, 2022
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