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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ FAO (COMM) 212/2024, CM APPL. 63195/2024 (Interim Relief), CM APPL. 63198/2024 (Summoning OF Record), CM APPL. 63199/2024 (Lengthy Synopsis & List Of Dates), CM APPL. 63201/2024 (Record Addl. Facts & Document)

ADARSH AGARWAL & ANR.

.....Appellants

Through: Mr. Ramesh Singh, Sr. Adv.
with Ms. Prachi Mishra, Mr.
Nishakant Pandey, Mr.
Chaitanya, Mr. Kartik Pant, Ms.
Archita Yadav, Ms. Vanshika
Jhamb and Ms. Hage Nanya,
Advs.

versus

M/S PATANJALI AYURVED LIMITED & ANR.

.....Respondents

Through: None.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER
25.10.2024

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CM APPL. 63196/2024 (Ex.) & CM APPL. 63197/2024 (Ex.)

Allowed, subject to all just exceptions.

Applications stand disposed of.

CM APPL. 63200/2024 (09 Days Delay)

Bearing in mind the disclosures made, the delay of 09 days in filing the appeal is condoned.

The application shall stand disposed of.



FAO (COMM) 212/2024, CM APPL. 63195/2024 (Interim Relief), CM APPL. 63198/2024 (Summoning of Record), CM APPL. 63199/2024 (Lengthy Synopsis & List Of Dates), CM APPL. 63201/2024 (Record Addl. Facts & Document)

1. Although the respondents have been placed on advance notice, none has appeared on their behalf when the matter was called.
2. The appellants are aggrieved by the order dated 14 August 2024 framed by the Trial Judge in terms of which an ex parte ad-interim injunction has come to be granted together with directions for the appointment of a Local Commissioner who has been called upon to take steps in accordance with the directions contained in Para 53 of that order.
3. Mr. Singh, learned senior counsel appearing in support of the appeal, has while taking us through the order impugned, submitted that at no stage has the Trial Judge recorded any reasons, even rudimentary in character, in support of the grant of the ex parte injunction.
4. Learned senior counsel has in this regard drawn our attention to the principles which came to be enunciated by the Supreme Court in **Shiv Kumar Chadha v. Municipal Corpn. of Delhi**¹ and which were reiterated in **Morgan Stanley Mutual Fund v. Kartick Das**². Mr. Singh submits that it was thus incumbent upon the Trial Judge in law to have disclosed the reasons which weighed upon the court and according to it justified the grant of injunction ex parte rather than awaiting the service of summons and notices upon the appellants.
5. Mr. Singh has then and while taking us through the operative directions as framed, and which stand embodied in Paras 46 and 54,

¹ (1993) 3 SCC 161

² (1994) 4 SCC 225



submitted that the right of the appellant to seek vacation of the ex parte injunction itself has been taken away since the application under Order XXXIX, Rules 1 and 2 of the **Code of Civil Procedure, 1908**³ as well as the application for appointment of a Local Commissioner have been disposed of finally.

6. Having considered the aforesaid submissions, we at the outset note that Para 46 is liable to be read in light of Relief 'E' which was claimed in the application seeking grant of interim injunction and in terms of which the plaintiff/respondent had sought the framing of an ex parte ad-interim injunction in terms of the main prayers sought therein. Viewed in that light, it is manifest that Para 46 is liable to be understood as only relating to the disposal of the prayer for grant of injunction ex parte. We, consequently, find ourselves unable to read the operative directions as amounting to a final disposal of the Order XXXIX, Rules 1 and 2 application and thus depriving the appellants of the right to seek vacation of the order impugned or to oppose the application itself.

7. Since and at this stage the injunction as framed has come to be granted ex parte and without hearing the appellants, we are of the considered opinion that the ends of justice would warrant the appellants being firstly called upon to furnish their reply to the injunction application as also to move in terms contemplated under Order XXXIX Rule 4 of the CPC for vacation of the ex parte injunction which stands impugned before us in this appeal.

8. We, consequently, dispose of this appeal by providing that the appellants shall furnish its replies to the injunction application as moved in the suit proceedings as well as an application for vacation of

³ CPC



the ex parte order as passed and impugned in this appeal on or before the next date fixed before the Trial Judge.

9. The Trial Judge shall take up the aforesaid application for consideration by fixing a short and convenient date for the disposal of the prayer for vacation of the ex parte injunction as granted.

10. All rights and contentions of respective parties on merits are otherwise kept open.

11. *Dasti* under the signature of Court Master.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

OCTOBER 25, 2024/RW