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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO(OS) (COMM) 285/2024**
AMRITSAR HAVELI CUISINES PRIVATE LIMITED

.....Appellant

Through: Mr. C.M. Lal, Sr. Adv. with
Mr. Anshuman Upadhyay and
Ms. Naseem Sheikh, Advs.

versus

SURJEET KAUR & ANR.Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

% **13.12.2024**

CM APPL. 73406/2024 and CM APPL. 73407/2024 (Exemptions)

1. Allowed, subject to all just exceptions.

FAO(OS) (COMM) 285/2024 & CM APPL. 73408/2024

2. This appeal has been filed challenging the Order dated 06.12.2024 passed by the learned Single Judge of this Court in I.A. No. 47448/2024, in CS(COMM.) 1092/2024, titled ***Amritsar Haveli Cuisines Private Limited vs. Surjeet Kaur & Anr.***

3. The appellant is aggrieved by the fact that the learned Single Judge has simply adjourned the Suit to 20.01.2025, when two appeals, that are, C.A.(COMM.IPD-TM)-57/2024, titled ***Haveli Restaurant and Resorts Limited v. Registrar of Trademarks & Anr.***, and C.A.(COMM.IPD-TM)-58/2024 titled ***Haveli Restaurant and Resorts Limited v. Registrar of Trademarks & Anr.***, are listed before the said Court, without considering the prayer of the appellant for the



grant of an *ad interim ex parte* relief of injunction.

4. The learned senior counsel for the appellant submits that in the said appeals, which have been taken note of by the learned Single Judge, the defendants in the Suit are not parties. He further submits that the rights of the appellant against the respondents herein are distinct from the *inter se* dispute which is to be adjudicated in the said appeals between the appellant therein, who is a different party, and the appellant herein. He submits that the confusion arose because Mr. S.K. Bansal, Advocate appeared before the learned Single Judge on 06.12.2024, and apprehending that the Suit has been filed against the appellants in the said two appeals, that is *Haveli Restaurant and Resorts Limited*, requested the Court to list the Suit and the interim application on the day when those two appeals were listed.

5. This fact is today affirmed by Mr. S.K. Bansal, Advocate, who happened to be in Court and, as we were informed, had also appeared before the learned Single Judge on 06.12.2024, when the Impugned Order was passed. He submits that he has no objection if the prayer of the appellant is considered by the learned Single Judge in accordance with the law, however, without prejudice to or in any manner affecting the rights of the appellant in the above mentioned two appeals.

6. In the present case, the appellant has filed the above suit being aggrieved of the adoption of the mark “**AMRITSAR DI HAVELI**”, which the plaintiff claims infringes the mark of the plaintiff, that is, “**AMRITSAR HAVELI**” and “**AMRITSARI HAVELI**”. Though the appeals that have been referred to hereinabove challenge the rights of the plaintiff in the above two marks, it is the submission of the learned



senior counsel for the appellant that the defendants in the suit, not being party to the said appeal may not be able to take advantage of the same; the rights of the plaintiff *vis-a-vis* the defendants would have to be independently determined.

7. Taking note of the above submissions, we are, therefore, of the opinion that the learned senior counsel for the plaintiff has rightly contended that merely because of the pendency of those two appeals, the consideration of the rights of the plaintiff for grant of an *ad interim ex parte* order should not have been postponed.

8. Observing the above, we set aside the Impugned Order dated 06.12.2024 inasmuch as it has not considered the prayer of the appellant for grant of *ad interim ex parte* relief. We direct that the I.A. No. 47448/2024, in CS(COMM.) 1092/2024, be listed before the learned Single Judge on 18th December, 2024 for a fresh consideration by the learned Single Judge. The learned Single Judge shall consider the prayer of the appellant afresh, in accordance with the law and remaining uninfluenced by any observation made by us in the present appeal.

9. The appeal and the pending applications are disposed of.

NAVIN CHAWLA, J

SHALINDER KAUR, J

DECEMBER 13, 2024/SU/SK/DG

[Click here to check corrigendum, if any](#)