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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO (COMM) 246/2024**
AISHWARYA AGRIPROCESSORS PVT LTD AND ANR

.....Appellants
Through: Mr. Deepak Jain, Ms.
Anoushka Singh, Ms.
Dashampreet Kaur, Mr. Sajal
Gupta and Mr. Arsh Raina,
Advs.

versus

**SRI AISHWARYA FOOD INDUSTRIES PVT LTD AND
ANR**

.....Respondents
Through: Mr. Neeraj Grover, Mr.
Himanshu Deora, Ms. Aashita
Khandelwal, Mr. Himank Garg
and Mr. Sanat Saswadkar,
Advs.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE SHALINDER KAUR

% **ORDER**
28.02.2025

CM APPL. 12069/2025

1. Allowed, subject to all just exceptions.

CM APPL. 12068/2025

2. This application has been filed by the appellants, complaining that the Order dated 20.12.2024 of this Court has not been complied



with and the learned Trial Court, by an Order dated 14.02.2025, has adjourned the hearing of the application under Order XXXIX Rules 1 & 2 of the Code of Civil Procedure, 1908 (“CPC”) filed by the respondents herein and the application under Order XXXIX Rule 4 CPC filed by the appellants herein, to await the order that may be passed by this Court in a Civil Suit filed by the appellants herein, being CS (Comm.) No. 55/2025.

3. The learned counsel for the appellants submits that in the said suit, the High Court is yet to even issue summons to the respondents, as its maintainability has been challenged. He submits that, therefore, the stage for applying Rule 26 of the Delhi High Court Intellectual Property Rights Division Rules, 2022 (“IPD Rules”) has not yet arisen. In the meantime, the applications filed by the parties remain pending adjudication before the learned Trial Court, and the interim order of injunction against the appellant continues.

4. Issue notice.

5. Notice is accepted by Mr. Neeraj Grover, the learned counsel on behalf of the respondents.

6. He submits that as the appellants itself first amended the written statement and thereafter filed the second suit, which otherwise was not maintainable. He submits that the learned Trial Court has rightly decided to await the outcome of the said Suit, if any order is passed by the High Court in the exercise of its powers under Rule 26 of the IPD Rules

7. We have considered the submissions made by the learned counsels for the parties.



8. It is not denied that presently, even summons have not been issued in the Suit filed by the appellants, that is, CS (Comm.) No. 55/2025. There is a challenge to the very maintainability of the said suit. The stage for invoking Rule 26 of the IPD Rules, therefore, has not arisen as on date. For the present, therefore, there was no reason for the learned Trial Court not to proceed with the Suit or with the hearing of the interim applications that are pending before it.

9. Accordingly, we direct that the applications be heard by the learned Trial Court on 07th March, 2025, the date already fixed on those applications before the learned Trial Court.

10. With the above directions, the application stands disposed of.

NAVIN CHAWLA, J

SHALINDER KAUR, J

FEBRUARY 28, 2025/ss/kp/DG

Click here to check corrigendum, if any