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

+ **FAO (COMM) 35/2025 CM APPL. 6237/2025 CM APPL. 6238/2025**
INDIACAN EDUCATION PRIVATE LIMITED
& ANR.

.....Appellants

Through: Mr Prashanto C. Sen, Senior
Advocate with Ms Kanika Tandon,
Mr Sumant Nayak and Mr Mohit
Chadha, Advocates.

versus

MINISTRY OF RURAL DEVELOPMENT
& ORS.

.....Respondents

Through: Mr Chetanya Puri, SPC for R-1 with
Mr Lokesh Sukhwani, Advocate.
Mr Siddhant Jain, Advocate for R-2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

11.02.2025

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1. The learned counsel appearing for respondent no.1 submits that his appearance has not been recorded in the order dated 31.01.2025. Accordingly, the order dated 31.01.2025 is rectified to record the presence of Mr Chetanya Puri, SPC for respondent no.1.

2. The appellants have filed the present appeal, *inter alia*, impugning an order dated 12.11.2024 (hereafter *the impugned order*) passed by the learned Commercial Court in an application filed under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 in CS(COMM) No. 396/2023 captioned *IndiaCan Education Private Limited & Anr. v. Ministry of Rural Development & Ors.*

3. Mr Sen, the learned senior counsel appearing for the appellants fairly



states that the impugned order may not be interfered with. He, however, submits that several findings in the impugned order have trappings of a final determination and would prejudice the appellants if the same are considered as binding at the time of final disposal of the suit.

4. In view of the above, we clarify that the findings and observations made by the learned Commercial Court in the order dated 12.11.2024 must be construed in the context of disposal of the appellants' application under Order XXXIX Rules 1 and 2 of the CPC and would not bind the parties at the final stage of the disposal of the suit.

5. The learned Commercial Court shall try the suit and adjudicate the appellants' claim uninfluenced by any of the observations made in the impugned order.

6. The appeal is dismissed of with the aforesaid observations. All pending applications are also disposed of.

VIBHU BAKHRU, J

ANOOP KUMAR MENDIRATTA, J

FEBRUARY 11, 2025
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Click here to check corrigendum, if any