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

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*Date of Decision: 19.12.2025***+ CM(M)-IPD 30/2025 & CM 173/2025****MR. MAHBOOB ALAM**

.....Petitioner

Through: Mr. Anshuman Upadhyay, Ms. Naseem, Mr. Rahul Singh and Ms. Shubhangi Shaswat, Advocates.

versus

**FLIPKART INTERNET PRIVATE LIMITED
& ORS.**

.....Respondent

Through: Mr. Manish Kumar Jha, Senior Advocate with Ms. Surabhi Pandey, Mr. Kuber Mahajan, Ms. Shilpa Gupta and Mr. Himanshu Mishra, Advocates for R-1.
Mr. F.K. Jha, Mr. Gaurav Jha, Ms. Shalini Jha and Mr. Aaryamaan Singh, Advocates for R-2 to 4.**CORAM:****HON'BLE MR. JUSTICE TEJAS KARIA****TEJAS KARIA, J. (Oral)**

1. The present Petition has been filed under Article 227 of the Constitution of India, 1950, being aggrieved by the order dated 08.07.2025 passed in CS (COMM) NO. 181/2022 captioned '*Mr. Mahboob Alam v. Flipkart Internet Private Limited and Ors*' ("**Impugned Order**") passed by the learned District Judge (Commercial Court)-05, South District, Saket Courts, New Delhi ("**Commercial Court**"), *inter alia*, seeking the following reliefs:

"i. Set aside and quash the impugned order dated 08.07.2025 passed by the Ld. District Judge (Commercial Court)-05, South District, Saket Courts, New Delhi in CS (Comm) No. 181/2022, titled Mahboob Alam vs. Flipkart Internet Private Limited & Ors.;

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ii. Pass an order directing the Ld. Trial Court to grant the Petitioner an opportunity to advance oral arguments prior to the pronouncement of judgment, in accordance with the principles of natural justice and fair trial;

iii. Pass a direction to recall the witness of Defendant No. 1 so that he may provide and verify the correct and complete information pertaining to dates, details, sales and profits generated by Defendants Nos. 1, 2-4 out of sales by Defendant Nos. 2-4 as “more sellers” with effect from 01.11.2019, as was directed to Defendant No. 1 by this Hon’ble Court vide Order dated 22.03.2023 in the subject matter;”

PROCEEDINGS BEFORE THE LEARNED COMMERCIAL COURT

2. Vide order dated 22.03.2023 passed by the learned Commercial Court, Respondent No. 1 was directed to produce sales and profit generated by Respondent No. 1, under the specific head of ‘income’, and Respondent Nos. 2 to 4 from sales made by Respondent Nos. 2 to 4 as ‘more sellers’, using latching on feature of Respondent No. 1’s website, of the Petitioner’s products on the platform of Respondent No. 1 for the period from 01.11.2019 till 22.03.2023.

3. Respondent No. 1 filed an affidavit dated 08.08.2024 providing the information as directed vide order dated 22.03.2023. The learned Counsel for the Petitioner submitted that the information provided by Respondent No. 1 was insufficient and did not comply with the specific requirements of the order dated 22.03.2023 and by way of the application under Order 18 Rule 17 of the Code of Civil Procedure, 1908 (“CPC”), the Petitioner sought effective compliance of the order dated 22.03.2023.

4. The learned Commercial Court dismissed the application under Order 18 Rule 17 of the CPC, filed by the Petitioner, vide the Impugned Order, on the ground that the Petitioner was attempting to protract the proceedings by



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seeking the recall of a witness and concluded that the said application lacked merit and imposed costs of ₹10,000/- (Rupees Ten Thousand only) while closing the right of the Petitioner to advance oral arguments for final adjudication of his suit before the learned Commercial Court.

PROCEEDINGS IN THIS PETITION

5. *Vide* Order dated 18.07.2025, the learned Counsel for the Petitioner submitted that the Petitioner will be restricting its arguments with respect to prayer (i) and will not press for prayers (ii) and (iii) in the present Petition.

6. The learned Counsel for the Petitioner submitted that the information provided by Respondent No. 1 in the affidavit dated 08.08.2024 was insufficient and did not comply with the specific requirements of the order dated 22.03.2023. The learned Counsel for Respondent No. 1 submitted that as the affidavit was filed on 08.08.2024, the Petitioner had sufficient time to raise this objection with regard to the insufficiency or lack of information provided by Respondent No. 1. In any event, the Impugned Order with regard to an application filed by the Petitioner for recalling all the witnesses, which was rejected by the learned Commercial Court.

7. Considering the nature of the order dated 22.03.2023 and the affidavit dated 08.08.2024 and in an attempt to cut the controversy short, *vide* Order dated 05.08.2025, it was directed that Respondent No. 1 shall file an Affidavit within a period of two weeks, explaining whether the information as directed *vide* order dated 22.03.2023 was fully provided in the affidavit dated 08.08.2024, and if any further information is available with Respondent No. 1 with respect to the direction passed by the learned Commercial Court.



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8. On 18.11.2025, the learned Counsel for Respondent No. 1 had submitted that the affidavit as directed to be filed *vide* Order dated 05.08.2025, could not be filed within the stipulated time and an additional time of two weeks may be granted to Respondent No. 1 to file the aforesaid Affidavit. Accordingly, Respondent No. 1 was granted an additional period of two weeks to file the requisite Affidavit.

9. Pursuant to the Order dated 18.11.2025, Respondent No. 1 filed the Affidavit dated 01.12.2025 (“**Affidavit**”), however, the learned Counsel for the Petitioner submitted that the requisite information in the Affidavit was directed to be provided with respect to Respondent Nos. 2 to 4, however, the Affidavit only provides the requisite information with regard to the sales made by Respondent Nos. 3 and 4 in relation to the Flipkart Serial Numbers (“**FSNs**”) provided by the Petitioner, the revenue generated by Respondent No. 1 from the sales made by Respondent Nos. 3 and 4 and also the date on which Respondent Nos. 3 and 4 have started selling on the FSNs provided by the Petitioner. Therefore, the information with regard to Respondent No. 2 has not been provided despite the directions for the same. The learned Senior Counsel for Respondent No. 1, on instructions, submitted that for the FSNs provided by the Petitioner, no sales were made by Respondent No. 2 and Respondent No. 1 was willing to file an additional Affidavit confirming the same. Hence, *vide* order dated 11.12.2025, it was directed that an Additional Affidavit in this regard shall be filed by Respondent No. 1 within a period of three days.

10. The Additional Affidavit dated 15.12.2025 (“**Additional Affidavit**”) has been filed by Respondent No. 1 in compliance of the Order dated 11.12.2025 stating that no sales data is available for Respondent No. 2 on the



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list of FSNs provided by the Petitioner from the period 01.11.2019 till 22.03.2023, and therefore the data pertaining to Respondent No. 2 is not a part of the Affidavit dated 01.12.2025.

CONCLUSION

11. As Respondent No. 1 has complied with the directions passed *vide* Orders dated 05.08.2025 and 18.11.2025, by filing the Affidavit dated 01.12.2025 and the Additional Affidavit dated 15.12.2025 and the submission of the learned Counsel for the Petitioner that the Petitioner will be restricting its arguments with respect to prayer (i) and will not press for prayers (ii) and (iii) in this Petition, no further directions are required to be passed in the present Petition.

12. The Affidavit and Additional Affidavit filed by Respondent No. 1 in the present Petition shall be considered by the learned Commercial Court while adjudicating CS (COMM) 181/2022. The Petitioner is also at liberty to file the Written Submissions before the learned Commercial Court as per the liberty granted in the Impugned Order.

13. The learned Commercial Court shall continue further proceedings in CS (COMM.) 181/2022 in accordance with law.

14. The present Petition is disposed of with the aforesaid directions. Pending Application also stands disposed of. No order as to costs.

TEJAS KARIA, J

DECEMBER 19, 2025/ap