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IN THE HIGH COURT OF DELHI AT NEW DELHI

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FAO (COMM) 229/2024, CM APPL. 69640/2024-Stay

ANAMIKA PRAKASHAN

.....Appellant

Through: Ms. Anshu, Mr. Vipul Saluja and
Ms.Neha Drall, Advocates.

versus

VANI PRAKASHAN & ANR.

.....Respondents

Through: Mr. Ritwik Parikh, Advocate.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

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21.01.2025

1. The present appeal under Order XLIII Rule 1(r) of the Code of Criminal Procedure, 1908 read with Section 13 of the Commercial Courts Act, seeks to assail the order dated 21.09.2024 passed by the learned District Judge Comm-12, Central Delhi in CS (COMM) 1753/2020. Vide the impugned order, the learned Trial Court has rejected the application preferred by the appellant/defendant no. 2 under Order XXXIX Rule 4 CPC seeking vacation of interim injunction granted way back on 05.12.2020, which interim injunction was thereafter extended from time to time.

2. On the last date of hearing, after the matter was heard at length, learned counsel for the appellant was granted time to file additional documents. Pursuant thereto, the appellant has filed copies of orders passed by the learned Trial Court. Besides urging that even though the application for vacation of the interim injunction had been moved after more than 03 years from the date of the injunction order, the learned Trial Court ought to have appreciated that the order had been obtained by fraud as the respondent nos. 1 and 2 were acting in collusion. Further by placing reliance on the



order dated 07.12.2024, he submits that even though the learned Trial Court was orally informed about the pendency of the present appeal, the learned Trial Court still proceeded to hear final arguments and has consequently reserved judgment in the matter. In these circumstances, the appellant has already moved a transfer petition before this Court seeking transfer of the suit to some other Presiding Officer, which petition is still pending consideration. She, therefore, prays that the impugned order dismissing the appellant's application be set aside and the interim injunction granted by the Trial Court be vacated.

3. Having considered the submissions of learned counsel for the appellant and perused the record, we find that the primary reason for the learned Trial Court to reject the application under Order XXXIX Rule 4 CPC was that the same was filed after more than 03 years from the date of the passing of the interim injunction order and that too without the appellant having filed any reply to the injunction application filed by the respondent/plaintiff. Once the appellant does not deny that the vacation of interim orders was being sought after more than 03 years, the learned Trial Court was in our view justified in declining to entertain the appellant's application for vacation of stay at this belated stage. In any event, once the judgment in the suit itself has already been reserved, there is even otherwise no reason for us to now vacate the interim order dated 05.12.2020, which has accrued to the benefit of respondent no. 1/plaintiff for the last four years.

4. We, therefore, find no merit in the present appeal, which is, accordingly, dismissed along with pending application.

5. We, however, make it clear that we have not expressed any opinion on the merits of the claims of the respondent no. 1 in the suit or the



appellant's defence in respect thereof.

REKHA PALLI, J

SAURABH BANERJEE, J

JANUARY 21, 2025/uk