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

+ C.R.P. 385/2024 & CM APPL. 75635/2024

M/S MITHAAS SWEETS AND RESTAURANT PRIVATE
LIMITED

.....Petitioner

Through: Mr. Anirudh Bakhru, Mr. Amit Jain,
Ms. Ishita Suri and Mr. Abhishek,
Advocates.

versus

M/S LAKHI RAM DEEPAK KUMAR

.....Respondent

Through: None.

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

19.08.2025

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1. This Court had by its order dated 22.05.2025 directed as follows:

“6. The present Petition has been filed on behalf of the Petitioner under Section 115 of the Code of Civil Procedure, 1908 [hereinafter referred to as “CPC”] against the order dated 06.08.2024 passed by learned District Judge, North District, Rohini Courts, Delhi [hereinafter referred to as “Impugned Order”]. By the Impugned Order application under Order XXIII Rule 1(3) CPC filed by the Respondent has been allowed and the Respondent has been granted liberty to file the suit afresh on the same cause of action.

7. It is the case of the Petitioner that Application that was filed by the Respondent was wrongly allowed by the learned Trial Court.

8. None appears for the Respondent.

9. A perusal of the Impugned Order shows that the Respondent (who is the plaintiff before the learned Trial Court) has filed a suit for infringement of its trademark Mithas and has claimed recovery of damages.

10. A query has been put to the learned Counsel for the Petitioner as to why the suit which was filed in the year 2016 was decided by the Civil Court in view of the Section 15 of the Commercial Courts Act, 2015.

11. Learned Counsel for the Petitioner requests for some time to examine



the same and place on record his note of contentions in this behalf.

11.1 Let a short note of contentions, not exceeding three pages each, be filed by the parties, at least three days before the next date of hearing, along with the compilation of judgments, if any, relied upon. All judgments sought to be relied upon shall be filed with an index which also sets out the relevant paragraph numbers and the proposition of law that it sets forth.”

2. Learned Counsel for the Petitioner seeks and is granted permission to withdraw the present Petition with liberty to take appropriate steps in accordance with law with respect to the contentions raised before this Court.
3. The Petition is dismissed as withdrawn with liberty as prayed for. Pending Application stands closed.
4. It is made clear that the order passed today will not preclude the Petitioner from pursuing its Application under Section 114 read with Order XLVII Rule 1 of the Code of Civil Procedure, 1908 filed by the Petitioner in August, 2024 before the learned Trial Court.
5. The parties shall act based on a digitally signed copy of the order.

TARA VITASTA GANJU, J

AUGUST 19, 2025/pa