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

+ **CM(M)-IPD 6/2026 & CM 24/2026, 25/2026, 26/2026**

**MOLD TEK PACKAGING LIMITED**

.....Petitioner

Through: Mr. Ashutosh Kumar, Mr. Anmol Saxena, Mr. Vinod Chauhan, Mr. Adithya B, Mr. Ayush Sharma and Ms. Radhika Prera, Advocates.

versus

**PODDAR TECHNOPLAST & ORS.**

.....Respondents

Through: Mr. Vikas Khera, Advocate.

**CORAM:**

**HON'BLE MS. JUSTICE JYOTI SINGH**

**ORDER**

% **22.01.2026**

1. This petition is filed on behalf of the Petitioner under Article 227 of the Constitution of India seeking the following reliefs:-

*“a. Allow this petition and set aside the Impugned Order I & Impugned Order II both dated 05.01.2026 passed by the Ld. District Judge (Commercial Court)-02, Patiala House Courts, New Delhi in CS (COMM) 571/23 and Counter Claim 53/25 respectively;*

*b. Declare that the Counter Claim No. 53/25 filed by Defendant No. 2 as non-est and invalid in the eyes of law as it was filed after the forfeiture of the right to file Written Statement and without the leave of the Court;*

*c. Remit the matter back to the Ld. District Court (Commercial) with directions to proceed with the adjudication of the Petitioner's application for Summary Judgement.”*

2. Challenge in this petition is to the impugned order dated 05.01.2026 passed by learned District Court (Commercial Court)-02, Patiala House Courts in CS COMM. 571/2023 and Counter Claim No. 53/2025



respectively. By order dated 05.01.2026, learned District Judge has transferred the suit along with the Counter Claim to this Court in light of Section 104 of The Patents Act, 1970 ('1970 Act'). The legal issue raised by the Petitioner in this petition is that a Counter Claim cannot be entertained when the right of the Defendant to file the written statement has been closed and consequently, there is no written statement on record.

3. The suit has been transferred by the learned District Judge to this Court along with the Counter Claim. Learned counsel for the Petitioner, on instructions, seeks to withdraw this petition with liberty to agitate the aforementioned legal issue before the suit Court, at the appropriate stage.

4. Petition is disposed of as withdrawn with liberty as prayed for, in accordance with law.

5. Pending applications stand disposed of.

**JYOTI SINGH, J**

**JANUARY 22, 2026**

***S.Sharma***