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

\# **CNR No. DLHC010455912026**

\+ RFA(COMM) 647/2026, CM APPL. 65698/2026 & CM APPL. 65700/2026

TELEGRAM FZ-LLC .....APPELLANT

Through: Mr. Madhav Khosla & Ms. Balapragatha M., Advs.

versus

HARI KRIPA EDUCATION PRIVATE LIMITED & ORS.

.....RESPONDENTS

Through: Mr. Sanskar Aggarwal & Mr. Bhavya Kohli, Advs. for R-1.

CORAM:
HON'BLE MR. JUSTICE VIVEK CHAUDHARY
HON'BLE MS. JUSTICE NISHA SAHAY SAXENA

O R D E R

% 12.10.2026

1. The present appeal is filed under Section 96 of the Code of Civil Procedure, 1908 ('CPC') read with Order XLI Rule 1 and 2 and Section 151 of CPC read with Section 13 of Commercial Courts Act, 2015, assailing the Order dated 29.08.2026 passed by learned District Judge (Commercial Court-05), West District, Tis Hazari Courts, New Delhi, in CS (COMM) No. 699/2026.

2. Heard learned counsel for the parties.

3. The matter was listed before the learned Trial Court for hearing of application filed by the plaintiff under Order XXXIX Rule 1 and 2 CPC. Till then, no reply was filed by the defendant, to the said application. The defendant had only filed a written statement. Taking the written statement as

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a reply to the injunction application, the learned Trial Court passed the impugned Order dated 29.08.2026 and surprisingly, thereafter, also proceeded to decide the suit itself. Learned counsel for the appellant submits that the same is not permissible under law.

4. Having perused the order with the assistance of the learned counsel for the parties, we find that the learned Trial Court has, in fact, while deciding the application under Order XXXIX Rule 1 and 2 CPC, disposed of the suit itself. Such a procedure is nowhere permitted in law. The suit could only be decided in terms of CPC.

5. The learned Trial Court has nowhere stated as under which provision of CPC, the suit has been disposed of in such a manner. In view thereof, the impugned Order dated 29.08.2026, to the extent it disposes of the suit, is set aside.

6. We also find force in the submission that the application under Order XXXIX Rule 1 and 2 CPC could only be decided after a reply is filed to the same by the defendant. The law with regard to the pleadings and evidence of a written statement and a reply to application under Order XXXIX of the CPC is entirely different. Proper opportunity should be given to the defendant to file his reply alongwith the evidence that it relies upon for opposing any application under Order XXXIX of the CPC. In the present case, no such opportunity was granted.

7. Therefore, it is further provided that the defendant shall submit his reply to the application under Order XXXIX Rule 1 and 2 CPC within 10 days from today after serving an advance copy upon learned counsel for the plaintiff/respondent.

8. Thereafter, learned counsel for the plaintiff/respondent shall be at

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liberty to file rejoinder thereto, within a period of seven days.

9. It is made clear that no further time shall be granted to the parties to file their replies.

10. The parties shall appear before the learned Trial Court on 30.10.2026 and on the said date, the learned Trial Court shall proceed to hear the injunction application, and in case, it cannot be decided on the said date, the learned Trial Court shall proceed to decide the same as expeditiously as possible without granting any unnecessary adjournments.

11. The impugned order, shall be treated as an *ex-parte* order against the defendants.

12. With the aforesaid, the present appeal stands disposed of.

13. Pending applications, if any, also stand disposed of.

VIVEK CHAUDHARY, J

NISHA SAHAY SAXENA, J

OCTOBER 12, 2026/rs/tr

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