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

+ **CS(COMM) 677/2018**

M/S BHIWADI POLYMERS LTD.Plaintiff

Through: **Mr. M.K. Miglani & Mr. Utkarsh Jha,**
Advocates.

versus

SMT RAJ RANI GUPTADefendant

Through: **Mr. Brijesh Kumar Gupta, Advocate**

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

% **21.01.2026**

1. Learned counsel appearing for the plaintiff invites attention of this Court to the order dated 27.11.2018, whereby by virtue of para 35, two issues were framed, the onus of proof whereof was placed on the defendant.

2. Learned counsel for the plaintiff further submits that on account of the stay having continued till date, the design, which is the subject matter of the dispute in the suit, has lapsed by passage of time. He states that consequentially, the suit *qua* the defendant in respect of the *quia timet* action does not survive any further.

3. He further submits that he is under instructions to withdraw the present suit reserving rights in future in case similar action is apprehended by the plaintiff as against the defendant.

4. Opposing the aforesaid stand, learned counsel for the defendant submits that so far as the issues are concerned, the defendant had discharged the said onus affirmatively. He submits that having obtained the stay and having deprived the defendant for lawful use of the design for the last eight years, even if it was under the orders of this Court, would not preclude the



defendant from a cause of action in respect of any claim for damages or other claims. He also submits that his rights may be reserved.

5. In view of the aforesaid statement of learned counsel for the plaintiff, the suit is permitted to be withdrawn.

6. It is made clear that on the basis of statement made by learned counsel for the defendant, the rights of the defendant, if any, which may have arisen in the course of the present suit, shall remain reserved and subject to the rigors of law.

7. The suit is accordingly disposed of.

TUSHAR RAO GEDELA, J

JANUARY 21, 2026

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