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

**+ RFA(COMM) 6/2023 & CM APPLs.1749-1751/2023**

**RUKHMANI KESHWANI TRADING AS VISHWAS AGARBATTI  
STORE**

..... Appellant

Through: Mr.Sachin Gupta, Advocate with  
Mr.Anil Kumar Sahu, Mr.Surati  
Meena, Mr.Yashi Agrawal, Mr.Yashi  
Agrawal, Mr.Rohit Pradhan and  
Mr.Manan Mandol, Advocates.

versus

**NARESH JESWANI**

..... Respondent

Through: None.

**CORAM:**

**HON'BLE MR. JUSTICE MANMOHAN**

**HON'BLE MR. JUSTICE SAURABH BANERJEE**

**ORDER**

**%**

**16.01.2023**

Present appeal has been filed challenging the order dated 14<sup>th</sup> November, 2022 passed by the learned District Judge, (Commercial Court-01), Shahdara, Karkardooma Court, Delhi in CS (Comm.) No. 58 of 2022, whereby the plaint of appellant-plaintiff was rejected under Order VII Rule 11 CPC on account of lack of territorial jurisdiction.

Learned counsel for the appellant-plaintiff states that the learned District Judge has erred in not appreciating the appellant's averment in Para No. 35 of the Plaint that the respondent-defendant has started its impugned activity under the impugned trade mark/label very recently and the respondent-defendant has been selling the impugned goods under the

impugned trade mark/label in Delhi Market i.e. Shahdara, Vivek Vihar, Anand Vihar, Jagat Puri, Farsh Bazar etc. and other parts of the country in a surreptitious and clandestine manner without issuing any formal bills.

He submits that it is settled law that an application under Order VII Rule 11 CPC is to be decided on a demurrer by accepting all statements made in the plaint to be true and if the statements made in the plaint are accepted to be correct then the commercial courts would have jurisdiction to entertain the suit.

He states that in a similar appeal filed by the appellant herein, this Court vide order dated 8<sup>th</sup> December, 2022 in FAO (COMM) 188/2022 has revived the interim injunction and stayed the order passed in CS (COMM) No. 59 of 2022, whereby the suit was dismissed on account of lack of territorial jurisdiction.

Issue notice to the respondent by all modes, returnable on 11<sup>th</sup> April, 2023.

Till further orders, there shall be a stay of the impugned order dated 14<sup>th</sup> November, 2022. Consequently, the interim order dated 27<sup>th</sup> January, 2022 passed by the Trial Court shall stand revived.

**MANMOHAN, J**

**SAURABH BANERJEE, J**

**JANUARY 16, 2023**  
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