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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **FAO (COMM) 115/2024 & CM APPL. 34263-34265/2024**

M/S SHYAM KRIPA FRAGRANCE ..... Appellant  
Through: Mr.Samar Bansal, Mr.Souradeep Mukhopadhyay, Mr.Vedant Kapur and Mr.Mohit Khandelwal, Advocates.

versus

M/S MYSORE DEEP PERFUMERY HOUSE ..... Respondent  
Through: Mr. Rajender H. Bhansali, Mr. Roshan Kumar, Mr. Anil Kumar Saho, Mr. Syed Naqui Abbas, Advs.

**CORAM:**

**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**HON'BLE MS. JUSTICE TARA VITASTA GANJU**

**ORDER**

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**31.05.2024**

1. The appellant has filed the captioned appeal impugning an order dated 15.05.2024 passed by the learned Commercial Court in CS (COMM) No. 310/2024 whereby the appellant has been *inter alia*, restrained from using, selling, soliciting, exporting, displaying, advertising or by any other mode or manner dealing in or using the impugned trademark/label/device



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2. The said impugned order is an *ex-parte* order and passed without hearing the appellant. The learned counsel for the appellant submits that by virtue of the said order, the appellant's business has come to a stand still and, therefore, there is some urgency in hearing the said application.



3. After some arguments, the learned counsel for the appellant submits that he will file an application under Order XXXIX Rule 4 of the Code of Civil Procedure, 1908 for vacation/modification of the said order. The learned counsel for the appellant thus, seeks to withdraw the present appeal with liberty to file the said application under Order XXXIX Rule 4 of the CPC. However, he requests that directions be issued to the learned Commercial Court to take up the said application expeditiously.

4. The learned counsel appearing for the respondent has no objection to this request.

5. In view of the above, the present appeal is dismissed as withdrawn. We however clarify that, in the event, the appellant files an application under Order XXXIX Rule 4 of the CPC for modification of the impugned order, we request the learned Commercial Court to take the same expeditiously and preferably in the first two weeks' of July 2024.

6. It is clarified that all rights and contentions of the parties are reserved. This Court has not expressed any opinion on the merits of the directions issued by the learned Commercial Court.

7. All pending applications are also disposed of.

8. A copy of the order be given *dasti* under the signatures of the Court Master.

**VIBHU BAKHRU, J**

**TARA VITASTA GANJU, J**

**MAY 31, 2024/r**

[Click here to check corrigendum, if any](#)