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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ C.O. (COMM.IPD-TM) 48/2026 & I.A. 4244/2026

ITC LIMITED & ANR.

.....Petitioners

Through: Ms. Shyel Trehan, Senior Advocate
with Mr. Tanmay Mehta, Ms. Suhrita
Majumdar, Mr. Afzal B. Khan, Mr.
Debjyoti Sarkar, Mr. Sharad Besoya
and Ms. Vidhi Jain, Advocates.

versus

UMESH ARORA & ANR.

.....Respondents

Through: Ms. Nidhi Raman, CGSC with Mr. Om
Ram and Ms. Nikita Singh, Advocates
for R-2.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

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19.02.2026

1. The present petition has been listed today, as this Court, after reconsideration of the order dated 16.02.2026 and having perused the judgment of the Division Bench in *Vaidya Rishi India Health Pvt. Ltd. v. Suresh Dutt Parashar & Ors.*, reported in *2025 SCC OnLine Del 6147* and the seminal judgment of the Supreme Court in *Syed Mohidden v. P. Sulochana Bai.*, reported in *2016 2 SCC 683*, is of the considered opinion that since the respondent no. 1 is undoubtedly a registered proprietor of the impugned registered trademark, an *ad interim* injunction may be passed only after affording an opportunity to the respondent no. 1 to file its reply.

2. Paragraphs 17 and 18 of the *ex parte ad interim* order dated 16.02.2026 is extracted hereunder:

“17. In that view of the matter, this Court is of considered opinion that in the interregnum, the impugned registration of the trade mark no. 4064296 in Class-43 needs to be stayed.

18. Respondent no.1 shall not use the said trade mark till this order is



varied after hearing the respondent no.1.”

3. Accordingly, the *ex parte ad interim* order dated 16.02.2026 to the extent contained in para 17 and 18, is recalled. However, in the conspectus of the arguments by Ms. Shyel Trehan, learned senior counsel and the observation made by this Court on 16.02.2026 it appears appropriate to direct the respondent no. 1 not to create any third party rights so far as the impugned registered Trade Mark no. 4064296 in Class 43 is concerned.

4. Accordingly, respondent no. 1 shall not create any third party rights or alienate or assign or create any encumbrance in respect of Trade Mark no. 4064296 in Class 43 i.e. “THE BREW BUKHARA”.

5. It is also made clear that the aforesaid observations in respect of the law laid down by the Division Bench in *Vaidya Rishi (supra)* and Supreme Court in *Syed Mohideen (supra)*, are only for the purpose of consideration of this Court while recalling the order and shall not stand in the way of the petitioner arguing on merits so far as the I.A. No. 4244/2026 under Order XXXIX Rules 1&2 is concerned.

6. Learned senior counsel submits that the regime with respect to petitions filed under Section 47 and 57 of the Trade Marks Act, 1999 and the factual conspectus in the case of *Vaidya Rishi (supra)* and *Syed Mohideen (supra)* are different since those were based on infringement and challenge to the use of the trade mark.

7. List before the Court on 07.05.2026.

8. The date already fixed i.e. 22.07.2026 stands cancelled.

9. List before the Joint Registrar (Judl.) on the date already fixed i.e. 28.04.2026.

TUSHAR RAO GEDELA, J

FEBRUARY 19, 2026/anj