

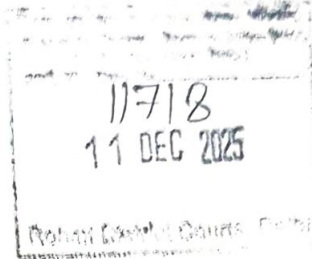
No. 55006-xDt. 11/12/25

From

The Registrar General
High Court of Delhi
New Delhi

To

1. The Principal District and Sessions Judge (Headquarters),
Central District, Tis Hazari Courts, Delhi.
2. The Principal District and Sessions Judge,
New Delhi District, Patiala House Courts, Delhi
3. The Principal District and Sessions Judge,
South District, Saket Courts, Delhi.
4. The Principal District and Sessions Judge,
South-East District, Saket Courts, Delhi.
5. The Principal District and Sessions Judge,
East District, KKD Courts, Delhi.
6. The Principal District and Sessions Judge,
North-West District, Rohini Courts, Delhi.
7. The Principal District and Sessions Judge,
North-East District, KKD Courts, Delhi.
8. The Principal District and Sessions Judge,
Shahdara District, KKD Courts, Delhi.
9. The Principal District and Sessions Judge,
South-West District, Dwarka Courts, Delhi.
10. The Principal District and Sessions Judge,
West District, Tis Hazari Courts, Delhi.
11. The Principal District and Sessions Judge,
North District, Rohini Courts, Delhi.
12. The Principal District and Sessions Judge cum Special Judge (PC Act CBI), RACC

FAO (Comm) No. 334/2025

MS ANURADHA SHARMA & ANR.

.....Appellant/s

Vs.

JIVA AYURVEDIC PHARMACY LIMITED

.....Respondent/s

Appeal against the order dated 17.11.2025 passed by the Mr. Ajay Pandey, District Judge (Commercial Court-10), Central District, Tis Hazari Courts, Delhi in CS Comm 554/2023.

Sir,

I am directed to forward herewith for information and immediate compliance/necessary action on/a copy of order dt. 01.12.2025 passed by Hon'ble Divisional Bench of this Court in the above noted case.

Other necessary directions are contained in the enclosed copy of order.

Please acknowledge the receipt.

Encl:- 1. Copy of order dt. 01.12.2025.

2. Memo of parties

Yours faithfully,

Admn. Officer (J) C-1V
For Registrar GeneralOFFICE OF THE PRINCIPAL DISTRICT & SESSIONS JUDGE: ROHINI COURTS, DELHINo. 19522-19527 Genl.I/F. 3(A)/N-W&N/RC/2025Dated 13/12/2025

Copy along-with its enclosures, forwarded for information & necessary action/compliance, to :-

1. All Ld. District Judges (Commercial Courts), posted at N/W & North, Rohini Courts, Delhi.
2. Dealing Official, Computer Branch, Rohini Courts for uploading the same on WEBSITE.
3. The Dealing Official, R & I Branch, Rohini Courts, Delhi for uploading the same on LAYERS.

(VINOD YADAV)

Officer In-Charge, General Branch-I,
North-West & North District,
Rohini Court Complex, Delhi.

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

+ **FAO (COMM) 334/2025**

MS ANURADHA SHARMA & ANR. Appellants

Through: Mr. Suhail Dutt, Sr. Adv. with
Mr. Sankalp Goswami, Mr. Praver Sharma,
Mr. Prakhar Sharma, Mr. Azhar Alam, Ms.
Piya Uppal and Mr. Ayush Malik, Advs.

versus

**JIVA AYURVEDIC PHARMACY LIMITED
& ORS.** Respondents

Through: Mr. Virender Goswami, Ms.
Soni Singh, Mr. Abhinav Bhalla, Ms. Swati
Goswami, Ms. Parkhi Singh and Mr.
Vedang Upadhayay, Advs.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

ORDER

01.12.2025

%

CM APPL. 75354/2025 (for exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

FAO (COMM) 334/2025

3. This appeal is directed against order dated 17 November 2025 passed by the learned District Judge (Commercial Courts), Central Tis

FAO (Comm) 334/25
Stay + 2 CR + C/o
all P.DJ

Hazari Courts¹ in CS (Comm) 554/2023², whereby the learned Commercial Court has disposed of the respondents' application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908³, filed by the respondents as the plaintiffs in the suit, seeking an injunction against the appellants using the mark SHATAM JEEVA.

4. By the impugned order, the learned Commercial Court has granted injunction as sought and has enjoined the appellants, as well as all others acting on their behalf, from using the trademarks of the appellants which are impugned in the plaint.

5. We have heard Mr. Suhail Dutt, learned Senior Counsel for the appellants and Mr. Goswami, learned Counsel for the respondents, at length.

6. Issue notice.

7. Notice is accepted on behalf of respondents by Mr. Goswami.

8. As this is an appeal against an interim order, we are dispensing with the requirement of exchanging of pleadings.

9. List on 5 February 2026 for disposal in the supplementary list.

10. Both sides are directed to place on record short notes of their respective submissions not exceeding four pages each, with cross

¹ "learned Commercial Court", hereinafter

² **Jiva Ayurvedic Pharmacy Limited and Ors v. Ms. Anuradha Sharma and Anr.**

³ "CPC" hereinafter

reference to relevant PDF page numbers, along with duly indexed compilations of any judicial authorities on which they may seek to place reliance, after exchanging copies with each other at least a week in advance of the next date of hearing.

CM APPL. 75353/2025 (Stay)

11. Issue notice.

12. Notice is accepted on behalf of respondents by Mr. Goswami.

13. Reply, if any, be filed within four weeks with advance copy to learned Counsel for the petitioners, who may file rejoinder thereto, if any, within four weeks thereof.

14. The appellant is the proprietor of the registered trade mark SHATAM JEEVA, which has been enjoined by the learned Commercial Court. As the appellant's trademark is registered, there can be no question of infringement, given the law laid down by Supreme Court in *S. Syed Mohideen v. P. Solochana Bai*⁴ and by this Court in *Vaidya Rishi India Health (P) Ltd v. Suresh Dutt Parashar*⁵. To be fair, Mr. Goswami, too, did not press infringement and argued on passing off.

15. Having heard learned Counsel for the parties and having perused the material on record, we are inclined to stay the operation of the impugned order, till the next date of hearing, for at least three

⁴ (2016) 2 SCC 683

reasons:

(i) Firstly, when one comes to the aspect of passing off, the law that applies is declared by the Supreme Court in *Kaviraj Pandit Durga Dutt Sharma v. Navaratna Pharmaceuticals Laboratories*⁶, in which the comparison is not between the marks as word marks, but the entire device marks in question, as added features are of significance in a passing off action. The comparison between the rival marks is provided by the respondent himself, as the plaintiff, in para 37 of the plaint, thus:

Respondent's Trademark	Appellant's Trade Mark
	 Shatam Jeeva

Prima facie, a comparison of the marks reveal that they are entirely dissimilar and that there is little likelihood of confusion between them. Even on the aspect of likelihood of confusion, therefore, *prima facie*, no case of passing off can be said to be made out.

(ii) Secondly, the respondent, while obtaining a registration of its mark , specifically attested to a disclaimer against use of the word “Jiva”, though Mr. Goswami points out that this

⁵ 2025 SCC OnLine Del 6147

disclaimer attached only to one of the marks in question and there were other registered marks of the respondents which were not subject to the said disclaimer.

(iii) Thirdly, to sustain a finding of passing off, it was necessary for the learned Commercial Court to return a finding of sufficient accumulation of goodwill of the respondent between the date of commencement of user of the mark by the respondent-plaintiff and the user/registration of the mark by the appellant-defendant. The Supreme Court, has, in its judgment in *Brihan Karan Sugar Syndicate (P) Ltd v. Yashwantrao Mohite Krushna Sahakari Sakhar Karkhana*⁷, specifically explained how goodwill is to be demonstrated in passing off actions. It has been held by the Supreme Court that sales figures, and expenses incurred by the plaintiff on advertisement and promotion of the goods bearing the asserted mark, are indispensable for demonstrating the existence of goodwill. The judgment of the Supreme Court in *Toyota Jidosha Kabushiki Kaisha v. Prius Auto Industries Ltd.*⁸ further clarifies that goodwill has to be shown to exist prior to the adoption of the mark by the defendant.

(iv) The appellant had applied for registration of its mark SHATAM JEEVA in 2018. The registration obtained by the appellant for the said mark, therefore, dates back to 2018. It was required for the respondent-plaintiff, therefore, to establish

⁶ AIR 1965 SC 980

⁷ (2024) 2 SCC 577

⁸ (2018) 2 SCC 1

accumulation of goodwill by the respondent of the asserted JIVA mark prior to 2018.

(v) It is an admitted position in paras 2.13 and 2.14 of the impugned order that the sales figures and advertisement expenses were provided by the respondent-plaintiff only from the year 2015-16 onwards. There had, therefore, necessarily to be a finding by the learned Commercial Court that, between 2015-2016 and 2018, the respondent had accumulated sufficient goodwill to injunct the appellant from use of the registered trademark.

(vi) That finding, to our mind, is missing in the impugned order.

16. We, therefore, are of the opinion that a *prima facie* case has been made out by the appellant to challenge the impugned order.

17. Should stay not be granted, the appellant would clearly suffer irreparable loss. The balance of convenience is also, therefore, in favour of grant of an *ad interim* stay till the next date of hearing.

18. Accordingly, till the next date of hearing, the operation of the impugned order dated 17 November 2025 shall stand stayed.

19. At this juncture, Mr. Goswami also submits that the appellant is

actually using the mark  **shatam jeeva**. Even if this mark is

compared with the mark , we are of the view that no similarity between the marks as would suffice to make out a case of likelihood of confusion or passing off can be said to exist.

20. Before closing this order, we feel it incumbent to note that we find from orders which are coming before us, passed by the learned Commercial Courts, as in the present order, that, often times, there is no reference to whether the order is being passed on the basis of infringement or passing off and, if the order is passed on the basis of passing off, no clear finding of the existence of goodwill and other ingredients which are necessary to be established in a passing off action is contained in the order. We, therefore, request the learned Commercial Courts, dealing with such actions, as under:

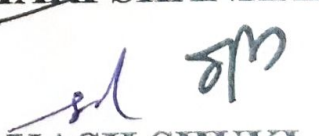
(i) The learned Commercial Courts should positively state in the order as to whether it is granting injunction on the ground of infringement, or passing off, or both.

(ii) If the injunction is being granted on the basis of passing off, there must be a positive finding regarding the existence of the classical ingredients of passing off, especially the requirement of goodwill. In returning a finding of goodwill, the learned Commercial Courts should bear in mind the principles contained in the judgment of the Supreme Court in **Brihan Karan Sugar Syndicate** regarding the manner in which goodwill is to be proved in a passing off action, and other applicable law in that regard, as well as the requirement of

goodwill of the plaintiff having to be established prior to commencement of user of the mark by the defendant.

21. Let a copy of this order be forwarded to the learned Principal District Judges in all Districts for circulation amongst the learned Commercial Courts so as to ensure that the orders in such matters comply with the aforesaid requirements.
22. List on 5 February 2026 for disposal in the supplementary list.
23. Let the record of the learned Commercial Court be requisitioned and electronic copies thereof be placed on both the files.


C. HARI SHANKAR, J.


OM PRAKASH SHUKLA, J.

DECEMBER 1, 2025/AR



IN THE HIGH COURT OF DELHI AT NEW DELHI
(Commercial Appellate Division)

Arising out of order dated 17.11.2025 passed by the Ld. Shri Ajay Pandey, District Judge (Comm-10), Central, Tis Hazari, Delhi in CS (Comm) No. 554 of 2023 titled as Jiva Ayurvedic Pharmacy Limited & Ors vs. Ms. Anuradha Sharma & Anr

FAO (COMM) NO. OF 2025

In the matter of:

Ms. Anuradha Sharma & Anr ...Appellants/ Defendants

Versus

Jiva Ayurvedic Pharmacy Ltd. & Ors ...Respondents/ Plaintiffs

MEMO OF PARTIES

1. MS. ANURADHA SHARMA
National Highway 25,
Opp. RNS World School,
Jhansi 284001, Uttar Pradesh
...Appellant No. 1
Email :

2. PEETAMBRA PLANTATION PRIVATE LIMITED
Pali Paharishi Road,
National Highway 25,
Opp. RNS World School,
Jhansi 284003, Uttar Pradesh
...Appellant No. 2
Email :

versus

1. JIVA AYURVEDIC PHARMACY LIMITED
Having its Registered Office at:
Building No. 6772, Block No. 10, Street No. 3,
Dev Nagar, Karol Bagh,
New Delhi 110005
...Respondent No. 1
Email : courts@brb-legal.com

2. JIVA INSTITUTE OF VEDIC SCIENCE & CULTURE

Having its Registered Office at:

1144, Sector 19,
Faridabad 121002

Haryana

...Respondent No. 2

Email : courts@brb-legal.com

3. MR. RISHIPAL CHAUHAN

1144, Sector 19,
Faridabad 121002

Haryana

...Respondent No. 3

Email : courts@brb-legal.com

Filed By:



SANKALP GOSWAMI & AZHAR ALAM & MILANPOPLI

Appellants/Defendants

HOUSE NO.H 21, 2ND ,FLOOR LAJPAT NAGAR -1,
NEW DELHI-110024. Ph. No. 9711794546 (M)

E-mail: sankalpvgoswami@gmail.com milanpopli1998@gmail.com & azharalam2009@gmail.com

Place : New Delhi

Dated : 24.11.2025