

\$~33

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 498/2024, I.A. 31295/2024, I.A. 31296/2024, I.A. 31297/2024, I.A. 31298/2024, I.A. 31299/2024, I.A. 31300/2024 & I.A. 31301/2024.

INDEPENDENT NEWS SERVICE PRIVATE LTD & ANR.

..... Plaintiffs

Through: Mr. Rajiv Nayyar, Sr. Adv. with Mr. Sudeep Chatterjee, Mr. Kunal vats, Ms. Tanya Arora, Mr. Jaydeep Roy and Mr. Sanyam Suri, Advocates.

versus

RAVINDRA KUMAR CHOUDHARY & ORS. Defendants

Through:

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
30.05.2024

%

I.A. 31296 /2024 (*Exemption from filing certified, typed copies of dim annexures etc*).

1. Exemption is granted, subject to all just exceptions.
2. Applicant shall file legible, clear, and original copies of the documents on which the applicant may seek to place reliance before the next date of hearing.
3. Accordingly, the present application is disposed of.

I.A. 31297/2024 (*Exemption from pre-institution mediation*)

1. Having regard to the facts of the present case and in light of the


Court Master
High Court of Delhi
New Delhi

judgement of Division Bench of this Court in *Chandra Kishore Chaurasia v. R.A. Perfumery Works Private Ltd.*, FAO (COMM) 128/2021, exemption from attempting pre institution mediation is allowed. Accordingly, the application stands disposed of.

I.A. 31298/2024 (Seeking leave to file Additional Documents)

1. The present application has been filed on behalf of the plaintiffs under Order 11 Rule 1(4) of the Code of Civil Procedure, 1908 (“CPC”) as applicable to commercial suits under the Commercial Courts Act, 2015 seeking to place on record additional documents.
2. The plaintiffs, if it wishes to file additional documents at a later stage, shall do so strictly as per the provisions of the Commercial Courts Act, 2015 and the Delhi High Court (Original Side) Rules, 2018.
3. Accordingly, the present application is disposed of.

I.A. 31299 /2024 (Exemption in filing the Court fees)

1. Application is disposed of on the undertaking of the counsel for the plaintiffs that the Court Fees will be deposited within one week.

I.A. 31300 /2024 (Exemption from filing the copies of Legal Proceedings)

1. The application under Section 151 of Code of Civil Procedure, 1908, seeking exemption from filing legal proceeding certificates and/or payment receipts thereof for the various trade mark applications of the plaintiffs.
2. In view of the reasons stated in the application, the application is allowed and accordingly dispose of.


Court Master
High Court of Delhi
New Delhi

I.A. 31301/2024 (Exemption from advance service to the defendant)




1. This application has been filed by plaintiffs seeking exemption from effecting advance service to defendant no. 1.
2. Exemption is granted.
3. Application stands disposed of.

CS(COMM) 498/2024

1. Let the plaint be registered as a suit.
2. Upon filing of process fee, issue summons to the defendants by all permissible modes. Summons shall state that the written statement(s) be filed by the defendants within 30 days from the date of receipt of summons. Along with the written statement(s), the defendant shall also file affidavit(s) of admission/denial of the documents of the plaintiff, without which the written statement shall not be taken on record. Liberty is given to the plaintiff to file a replication within 30 days of the receipt of the written statement(s). Along with the replication, if any, filed by the plaintiffs, affidavit(s) of admission/denial of documents filed by the defendants, be filed by the plaintiffs, without which the replication(s) shall not be taken on record. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.
3. List before the Joint Registrar for marking of exhibits on 30th August, 2024.
4. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.



**Court Master
High Court of Delhi
New Delhi**

I.A. 31295/2024 (Application under Order XXXIX Rules 1 & 2, CPC).




1. This application has been filed under Order XXXIX Rules 1 and 2 of CPC as part of the accompanying suit seeking a decree of permanent injunction restraining defendants and all those acting for and, on their behalf, from using the mark/logo  (“impugned mark”) and ‘Baap ki Adalat’ or any other trademark/logo deceptively similar to the trademark/logo of the plaintiff viz.   (“plaintiff’s mark”) and ‘Aap Ki Adalat’ and other attendant relief.

2. Plaintiff no.1 company was incorporated in the year 1997 by its Chairman and Editor-in-Chief Shri. Rajat Sharma, who is plaintiff no.2. In 2002, plaintiff no.1 company got the permission from the Ministry of Information and Broadcasting, Government to uplink its 24 hours Hindi News channel called ‘INDIA TV’. The mark ‘INDIA TV’ was coined by plaintiff no.2.

3. Grievance is against defendant no.1, who is a self-proclaimed political satirist creating and publishing various video audio content on social media, including on the platforms of defendant nos. 2 to 4.

4. Plaintiffs are aggrieved by the deceptively similar mark  being used by defendant no.1, including one of the principle and popular programs ‘AAP KI ADALAT’; a comparative of the rival marks and programmes is extracted below:


Court Master
High Court of Delhi
New Delhi





Plaintiff's Trademarks	Impugned Marks of Defendant No.1
 	
'AAP KI ADALAT'	'BAAP KI ADALAT'







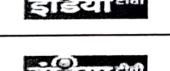



5. Plaintiff has stated that the manner of using the impugned trademark logo by defendant no.1 for social media posts is identical to the manner in which the plaintiff has been using the mark on his channels, examples of this are tabulated by plaintiff, and have been produced below:

Plaintiffs' show	Defendants' show
	


Court Master
High Court of Delhi
New Delhi

6. Plaintiffs' registrations are tabulated as under:

S. No.	Application No.	Trademark applied for	Class	User Details	Status
1.	1262554		38	01/12/2002	Registered
2.	1262555	India tv	41	01/12/2002	Registered
3.	2656257		9	01/11/2013	Registered
4.	2656258		16	01/11/2013	Registered
5.	2656259		35	01/11/2013	Registered

6.	2656260		38	01/11/2013	Registered
7.	2656261		41	01/11/2013	Registered
8.	2656262		9	01/11/2013	Registered
9.	2656263		16	01/11/2013	Registered
10.	2656264		35	01/11/2013	Registered
11.	2656265		38	01/11/2013	Registered
12.	2656266		41	01/11/2013	Registered
13.	4064173		09	23/09/2018	Registered
14.	4064174		38	23/09/2018	Registered
15.	4064175		41	23/09/2018	Registered
16.	129114	AAP KI ADALAT	38	01/05/2004	Registered

7. Plaintiffs also claim successful prosecution as far as marks are


 Court Master
 High Court of Delhi
 New Delhi

concerned and Mr. Rajiv Nayyar, Senior Counsel for plaintiffs, pointed out to the following proceedings before this Court, where injunction was granted:

- CS (OS) No. 102/2007 [renumbered as CS (COMM) No. 304/2018] titled '*India TV Independent News Service Pvt. Ltd. vs. India Broadcast Live LLC & Ors.*' wherein, this Hon'ble Court vide order dated 10.07.2007 held that the television channel of Plaintiff No.1 – INDIA TV has acquired immense popularity;
- CS (OS) 1731 of 2014 [renumbered as CS (COMM) No. 532/2016 titled as '*India TV Independent News Service Pvt. Ltd. vs. Sanjeev Shrivastva & Ors.*' wherein, this Hon'ble Court while acknowledging the rights of the Plaintiff's for the mark 'INDIA TV', was pleased to decree the suit in favour of the Plaintiff on 26.07.2019 by restraining the Defendants from using the impugned mark NEWS INDIA TV;
- CS (COMM) No. 147/2021 titled as '*Independent News Service Pvt. Ltd. vs. OTT India TV News & Ors.*' – was instituted against the Defendant therein, for infringing Plaintiff's registered trademark and as also passing off. This Hon'ble High Court by way of an order dated 01.10.2021, decreed the suit in terms of the settlement executed by the parties.


8. In view of the above facts and circumstances, this Court is satisfied that




Court Master
High Court of Delhi
New Delhi

plaintiff has made out a *prima facie* case for the grant of an *ex parte ad interim* injunction till the next date of hearing. Balance of convenience lies in favour of plaintiff, and they are likely to suffer irreparable harm in case the injunction, as prayed for, is not granted.

9. Accordingly, till the next date of hearing, following reliefs are granted in favour of plaintiffs and against defendants:

a) Defendant no.1 and all those acting for and, on its behalf, are restrained from using/dealing in any manner with the impugned




trademark/logo , and 'Baap ki Adalat' or any other trademark/logo deceptively similar to the trademark/logo of the

plaintiff viz.   and 'Aap Ki Adalat', either as trademark/trade mark/logo/trading style, domain name, social media posts, audio video content, or in relation to any services so as to result in violation of statutory and common law rights of plaintiff no.1.

b) Defendant no.1, and all those acting for and, on its behalf, are restrained from using/dealing in any manner with the photograph, video and name of plaintiff no.2, either as trademark/trade mark/logo/trading style, domain name, social media posts, audio video content, or in relation to any services so as to result in violation of personality rights of plaintiff no.2.

c) Defendant nos. 2 to 4 are directed to remove the impugned content


Court Master
High Court of Delhi
New Delhi

including social media posts/links of defendant no.1 containing the impugned trademark/logo  and 'Baap ki Adalat' or any other trademark/logo deceptively similar to the trademark/logo of the plaintiff viz. ,  and 'Aap Ki Adalat', as detailed in para 34 of the present application and any other links that may be notified by the plaintiffs.

10. On steps being taken by plaintiff, issue notice to defendant through all permissible modes including speed post, courier, and email. Affidavit of service along with proof thereof be placed on record before the next date of hearing.
11. Reply, if any, be filed within six weeks with an advance copy to the counsel for plaintiff, who may file a rejoinder thereto, if so desired, before the next date of hearing.
12. Compliance with Order XXXIX Rule 3 of CPC be effected within one week.
13. List before this Court on 18th October, 2024.
14. Copy of the order to be given *dasti* under the signature of the Court Master.
15. Order be uploaded on the website of this Court.


ANISH DAYAL, J

MAY 30, 2024/RK/rj

True copy


ATISH GOEL
Court Master
High Court of Delhi
New Delhi