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

+ **CS(COMM) 77/2025 & I.A. Nos. 2394-2396/2025**

M/S. CP CENTURY HARDWARE PVT. LTD.Plaintiff

Through: Mr. Vishal Patel with Mr. Nishant
Dwivedi and Ms. Divya Verma,
Advocates.
(M): 9711023307
Email: vishaladv25@gmail.com

versus

MR. AMRIT NATH DIVEDIDefendant

Through: None.

**CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA**

ORDER
30.01.2025

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I.A. 2396/2025 (Exemption from filing original copies of documents)

1. The present is an application under Section 151 of the Code of Civil Procedure, 1908 ("CPC"), on behalf of the plaintiff, seeking exemption from filing original/true typed and vernacular copy of the documents.
2. Exemption is granted, subject to all just exceptions.
3. Plaintiff shall file legible, clear, and translated copies of the documents, on which the plaintiff may seek to place reliance, before the next date of hearing.
4. Accordingly, the present application is disposed of.

I.A. 2395/2025 (Exemption from undergoing Pre-Institution Mediation)

5. The present is an application under Section 12A of the Commercial



Courts Act, 2015, read with Section 151 of CPC, seeking exemption from undergoing Pre-Institution Mediation.

6. Having regard to the facts of the present case and in the light of the judgments of Supreme Court in the case of ***Yamini Manohar Versus T.K.D. Keerthi***, 2023 SCC OnLine SC 1382, and Division Bench of this Court in ***Chandra Kishore Chaurasia Versus RA Perfumery Works Private Ltd.***, 2022 SCC OnLine Del 3529, exemption from attempting Pre-Institution Mediation is granted.

7. Accordingly, the application stands disposed of.

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8. Let the plaint be registered as suit.

9. Upon filing of the process fee, issue summons to the defendant by all permissible modes. Summons shall state that the written statement be filed by the defendant within thirty days from the date of receipt of summons. Along with the written statement, the defendant shall also file affidavit of admission/denial of the plaintiff's documents, without which, the written statement shall not be taken on record.

10. Liberty is given to the plaintiff to file replication within thirty days from the date of receipt of the written statement. Further, along with the replication, if any, filed by the plaintiff, an affidavit of admission/denial of documents of the defendant, be filed by the plaintiff, without which, the replication shall not be taken on record. If any of the parties wish to seek inspection of the documents, the same shall be sought and given within the timelines.

11. List before the Joint Registrar (Judicial) for marking of exhibits, on 27th March, 2025.



12. List before the Court on 08th July, 2025.

I.A. 2394/2025 (Application under Order XXXIX Rules 1 and 2 CPC)

13. The present suit has been filed for permanent injunction restraining infringement and passing off of trademark/label, copyright, damages, rendition of accounts, delivery up etc.

14. Learned counsel appearing for the plaintiff submits that in the year 2010, Mr. Pradeep Kumar being the proprietor of M/s. Aggarwal Trading Company has started the business of manufacturing, marketing and selling of hardware goods, kitchen hardware and cabinet hardware and household utensils, kitchen utensils, kitchen accessories etc. falling in Classes- 6 & 21 and for the said business, Mr. Pradeep Kumar *bonafidely* adopted the

trademark/device  and subsequently applied for the registration of the said mark/device and became the registered proprietor of the said mark/device. The registration details of the trademark applications filed by Mr. Pradeep Kumar, as given in the plaint, is reproduced as under:

S. NO	APPLICATION NO.	TRADEMARK	USER	CLAS S	STATUS
1.	4395053	Centuries with Device of CP 	01/04/2010	06	Registered
2.	4395054	Centuries with Device of CP 	01/04/2010	21	Registered

15. It is submitted that Mr. Anil Kumar being the trader of the Mr.

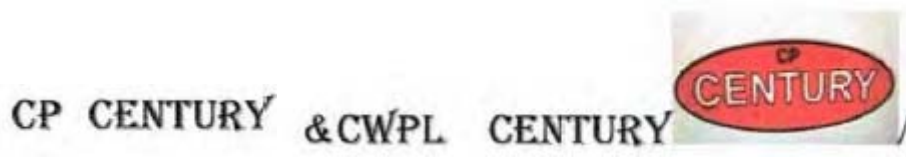


Pradeep Kumar used to sell the goods of Mr. Pradeep Kumar under the said

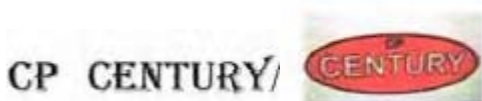
trademark/device . In the year 2018, as the said business of Mr. Pradeep Kumar grew many folds and as such for the better management of the said business, Mr. Pradeep Kumar and his brother Mr. Anil Kumar started a new proprietorship firm namely M/s. Century World, and Mr. Anil Kumar became the sole proprietor of the said Firm. Mr. Pradeep Kumar had orally allowed his brother to use the mark/device

trademark/device  and as such the Mr. Anil Kumar also started using the said trademark/device for its business.

16. It is further submitted that in the year 2018, Mr. Anil Kumar also *bonafidely* adopted the trademark/device

 as

well as the original artistic work for his business and on 20th April, 2018. Mr. Anil Kumar being the proprietor of M/s. Century World applied for the

registration of the trademark/device  vide application bearing no. 3812151 with respect to the goods such as modular kitchen hardware, cabinet hardware, wire baskets, hinges, baskets, locks,



telescopic slider etc. falling in Class-06 claiming user as “*proposed to be used*” and subsequently started using the said trademark/device/artistic work for his goods and business. Mr. Anil Kumar, the proprietor of M/s. Century World, also became the registered proprietor of the said mark/device vide certificate no. 2591393 dated 21st January, 2021 and the said registration is still valid.

17. It is submitted that Mr. Anil Kumar being the proprietor of M/s. Century World is also the original conceiver, adopter and user of the artistic

work  and it has been continuously, extensively and openly using the aforesaid distinctive artistic work having unique colour combination layout and lettering style in relation to the said goods since the year 2018. The aforesaid artistic work used by Mr. Anil Kumar, proprietor of M/s. Century World is an original artistic work within the meaning of Section 2 (c) of the Copyright Act, 1957 and Mr. Anil Kumar, proprietor of M/s. Century World is the registered proprietor of the original artistic work

 under copyright registrations bearing nos. A-135144/2020, A-135699/2020, A-136175/2021, A-156277/2024 & A-156278/2024. However, after the business was taken over by the plaintiff company, Mr. Anil Kumar has assigned the said copyright registrations in favour of the plaintiff company, which became the registered proprietor of the said copyright registrations. It is further submitted that the plaintiff is also original conceiver, adopter and user of the artistic work



and is the registered proprietor of the original artistic work under Copyrights Registration bearing no. A-156279/2024.

18. It is further submitted that today the plaintiff is one of the leading manufacturer and seller of modular kitchen hardware, cabinet hardware, wire baskets, hinges, baskets, locks, telescopic slider, modular kitchen accessories, household & kitchen containers, steel pullout basket goods etc. with headquarters in Delhi.

19. It is submitted that because of the high quality of goods sold by the plaintiff and its predecessor under the trademarks/device **CP CENTURY & CWPL CENTURY**, the said trademarks/device and artistic works has become distinctive and acquired secondary meaning *qua* the goods of the plaintiff. The consumers, members of the trade and general public associate and connect the goods under the trademarks/device **CP CENTURY & CWPL CENTURY**, and artistic works exclusively with the plaintiff and none else. As such the above said trademark/device has become intellectual property of the plaintiff.

20. It is further submitted that in light of the above-mentioned facts and circumstances, it is sufficiently clear that the plaintiff is the original conceiver as well as senior/prior adopter and user of the trademark/device **CP CENTURY & CWPL CENTURY**. The plaintiff is having the exclusive statutory as well as common law rights in the trademark/device **CP CENTURY & CWPL CENTURY**, and as such the plaintiff is entitled



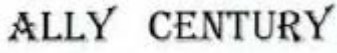
to the exclusive use of the said trademark/device **CP CENTURY & CWPL CENTURY**, as a trademark or otherwise in relation to the said goods falling in classes 6, 8, 11, 14, 21 & 35 or similar goods. The plaintiff is having valid, subsisting and exclusive legal rights in the said trademark/device **CP CENTURY & CWPL CENTURY**, to the exclusion of all others including the applicant herein.

21. It is submitted that in the third week of July, 2024, during the market survey in Delhi/NCR, it came to the knowledge of the plaintiff's sale team that someone is selling the goods under the similar trademark/artistic work **ALLY CENTURY** and the packing whereof bears an identical representation of the plaintiff's trade mark **CP CENTURY**. Upon inquiry from the market, it came to the knowledge of the plaintiff that it is the defendant who has recently started using the impugned trademark/art work **ALLY CENTURY** for his business. Thereafter, the plaintiff through its trademark attorney made inquiries on the website of the trademark registry and upon inquiry it also came to the knowledge of the plaintiff that on 20th April, 2024, the defendant had applied for the registration of a similar

ALLY CENTURY trademark/logo **"ALLY CENTURY/"** vide application no. 6396489 and 6396490 with respect to the goods i.e. hardware items, hinges, sliders, channel, metal basket, lock kitchen containers, kitchen utensils, utensils for house hold purposes, basket for kitchen utensils included in



Classes 6 and 21 claiming user as “*proposed to be used*”.

22. It is further submitted that the defendant is only riding upon the reputation and the plaintiff’s well-known trademark/label/artistic work by deliberately adopting the impugned mark  and started using the same for his business and as such on 02nd August, 2024, the plaintiff through its advocate sent a legal notice to cease and desist from continuing the unlawful adoption and unauthorized use of the identical mark as that of the plaintiff. Thereafter, on 13th November, 2024, the defendant sent a reply to the legal notice and refused to stop his business activities under the impugned mark ALLY CENTURY by stating that he has honestly and *bonafidely* adopted the said trademark and the word CENTURY is common to trade and there is no similarity between the plaintiff’s mark and the defendant’s mark.

23. It is submitted that the lettering style used by the defendant on his product packaging clearly shows the *malafide* on the part of the defendant.



The defendant has deliberately chosen the word/mark and the said conduct of the defendant is highly illegal act and the same is solely motivated to earn illegal profits by using/riding upon the reputation and the



goodwill of the well-known trademark/label/artistic work of the plaintiff. It is submitted that the defendant is very well aware about the plaintiff and its business under the said trademark/label/package



CP CENTURY & CWPL CENTURY and the defendant instead of refraining himself from infringement and passing off of the mark/label/artistic work of the plaintiff has started the use of the identical packaging under the similar mark/label ALLY CENTURY on a very large scale in various states including Delhi/NCR.

24. It is submitted that a comparative analysis of the defendant's use of 'ALLY CENTURY' and the plaintiff's use of "CP CENTURY" clearly sets out a case of "likelihood of confusion". While a mere cursory glance at the packing of defendant's product clearly reveals that it is intended at causing confusion that the products emanate from plaintiff, an analysis of the products of plaintiff and defendant clearly show the degree of resemblance of the products. The defendant is *malafidely* using the mark/label "ALLY CENTURY" by giving an identical impression in order to create confusion and deception in the mind of purchasing public with an intention to encash the goodwill/reputation of the plaintiffs trade mark/label. The defendant has deliberately written the word 'Century' as a prominent part in his impugned mark so that the customer can get easily confused at the time of purchasing of the goods. A tabular comparison of the artistic work in the packaging materials of plaintiff and defendant are as under:

Manner of use/presentation by the plaintiff	Manner of use/presentation by the defendant



25. It is further submitted that from the face of it that the defendant has adopted the similar and identical label/artistic work, as that of the plaintiff, which is a well-known label/artistic work of the plaintiff. The defendant has not obtained any license, permission or consent of the plaintiff to use the label/artistic work **“ALLY CENTURY”** in any manner.

26. It is submitted that the dishonesty on the part of the defendant is also apparent from the fact that the defendant has adopted and started using an identical/deceptively similar font, layout, lettering style and color combination in relation to the impugned goods as of the original artistic work **CP CENTURY & CWPL CENTURY** of the plaintiff.

27. In the above circumstances, the plaintiff has demonstrated a *prima facie* case for grant of injunction and, in case, no *ex-parte ad-interim* injunction is granted, the plaintiff will suffer an irreparable loss. Further, balance of convenience also lies in favour of the plaintiff, and against the defendant.

28. This Court notes that none appears for the defendant despite advance service.

29. Accordingly, till the next date of hearing, the defendant, his proprietors, partners, associates, sister concerns, dealers, distributors, servants, agents, assignees and representatives and all others acting for and on his behalf, are restrained from manufacturing, selling, offering for sale, advertising directly and indirectly dealing in impugned goods included in Classes 6 & 21 bearing the impugned trademark/label/device **“ALLY CENTURY” or CENTURY** or any other trademark/label/device as



may be identical with or deceptively similar to plaintiff's trademark/label/device "CP CENTURY & CWPL CENTURY", resulting in infringement and passing off of the trademark/label/device of the plaintiff or amounting to infringement and passing off of the artistic work of the plaintiff.

30. However, it is clarified that the defendant is at liberty to carry on its business by using a mark, which is not identical or deceptively similar to the plaintiff's mark.

31. Issue notice to the defendant by all permissible modes upon filing of the Process Fee, returnable on the next date of hearing.

32. Let reply be filed within a period of four weeks.

33. Rejoinder thereto, if any, be filed within two weeks, thereafter.

34. Compliance of Order XXXIX Rule 3 CPC, be done, within a period of one week.

35. List before the Court on 08th July, 2025.

MINI PUSHKARNA, J

JANUARY 30, 2025/ c