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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 103/2025 & I.A. Nos. 3208/2025, 3209/2025, 3210/2025
& 3211/2025
KHADI AND VILLAGE INDUSTRIES COMMISSIONPlaintiff

Through: Ms. Diva Arora Menon with
Mr. Shwetasree Majumder,
Ms. Devyani Nath and Ms. Vani
Sarin, Advocates.
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versus

VRUSHALI VINOD GANGURDE AND ANRDefendants
Through: None.

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
07.02.2025

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I.A. 3211/2025 (Exemption from filing original and clear 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 originals, clear copies and documents with proper margins.
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. 3209/2025 (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 undergoing Pre-Institution Mediation is granted.

7. Accordingly, the application stands disposed of.

I.A. 3210/2025 (Application seeking leave to file additional documents)

8. This is an application under Order XI Rule 1(4) read with Section 151 CPC as amended by the Commercial Courts Act, 2015, seeking leave to file additional documents.

9. The plaintiff, if it wishes to file additional documents at a later stage, shall do so strictly as per the provisions of Commercial Courts Act, 2015 and the Delhi High Court (Original Side) Rules, 2018.

10. The application is disposed of, with the aforesaid directions.

CS(COMM) 103/2025

11. None appears for the defendants despite advance service.

12. Accordingly, let the plaint be registered as suit.

13. Upon filing of the process fee, issue summons to the defendants by all permissible modes. Summons shall state that the written statement be filed by the defendants within thirty days from the date of receipt of summons.



Along with the written statement, the defendants shall also file affidavit of admission/denial of the plaintiff's documents, without which, the written statement shall not be taken on record.

14. 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 defendants, 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.

15. List before the Joint Registrar (Judicial) for marking of exhibits, on 07th April, 2025.

16. List before the Court on 04th March, 2025.

I.A. 3208/2025 (Application under Order XXXIX Rules 1 and 2 CPC)

17. The present suit has been filed for permanent injunction restraining the infringement of trademarks, passing off, rendition of accounts, damages etc.

18. Learned counsel appearing for the plaintiff submits that the plaintiff Khadi & Village Industries Commission, is a statutory body established by an Act of Parliament, 'Khadi and Village Industries Commission Act of 1956'. It is the registered proprietor of, *inter alia*, the wordmark KHADI,



device marks and , which are the subject matter trademarks for the present suit and are registered across several classes in India.



19. It is submitted that the defendant no. 1, Ms. Vrushali Vinod Gangurde, president of the registered society, M/s Somadha Khadi Sanstha, is engaged in the business of manufacturing, marketing, and selling apparels (such as sarees and stoles) and cosmetic products (such as handmade soaps)



under the mark SOMADHA KHADI . The defendant no. 1's products are available for sale through her website www.somadhakhadi.com. The defendant no. 1 is also using trade name SOMADHA KHADI SANSTHA. In addition to this, the defendant no. 1 is also advertising the products through her social media accounts on several platforms such as Facebook (Somadha Khadi Sanstha) and Instagram (@somadhakhadi).

20. It is further submitted that a perusal of the defendant no. 1's impugned website indicates that the products under the impugned trade name and impugned mark are also being marketed and promoted on third-party website www.tradeindia.com.

21. It is further submitted that the plaintiff is the prior adopter, owner and



and



in various classes in India and details thereof, as given in the plaint are reproduced as under:



Trademark	Registration no.	Registration Date	User Claim	Class	Status
KHADI	2851528	27/11/2014	25/09/1956	5	Registered
	3863681	19/06/2018	25/09/1956	3	Registered

	3863683	19/06/2018	25/09/1956	5	Registered
	2854720	02/12/2014	31/05/2000	3	Registered
	2854722	02/12/2014	31/05/2000	5	Registered
KHADI	2851543	27/11/2014	25/09/1956	25	Registered
KHADI	2851552	27/11/2014	25/09/1956	35	Registered
	3864173	19/06/2018	25/09/1956	25	Registered
	3864180	19/06/2018	25/09/1956	35	Registered
	2854735	02/12/2014	31/05/2000	25	Registered
	2854742	02/12/2014	31/05/2000	35	Registered

22. It is submitted that the plaintiff's KHADI trademarks are also registered in various other jurisdictions/ regions, including, but not limited to Australia, Canada, New Zealand, USA, etc.



23. It is further submitted that the mark KHADI forms the most essential and prominent feature of plaintiff's tradename/corporate name, trademarks and domain names, which have been used by the plaintiff continuously and uninterruptedly in relation to its products and services since adoption.

24. It is submitted that by virtue of its adoption more than sixty years ago, and long and extensive use thereof, the KHADI trademarks have become exclusively associated with the plaintiff in the eyes of consumers. Therefore, use of these trademarks by any third party will lead to confusion and deception among the plaintiff's patrons, members of trade, consumers, and general public.

25. It is further submitted that the plaintiff is engaged in the promotion and development of the KHADI brand and the products under the KHADI trademarks through the institutions certified by the plaintiff. The plaintiff authorizes various textile retail sellers, organizations, societies, and institutions to sell products under the KHADI trademarks. In order to be listed as an authorized user of the KHADI trademarks for purpose of sales and promotions of KHADI certified textile products and services, each organization has to apply for recognition through the Khadi Institutions Registration & Certification Sewa (KIRCS). Once the said user is issued a certificate/authorization from the plaintiff, it is authorized to use the plaintiff's KHADI trademarks in respect of its textile products.

26. It is submitted that as a result of years of continuous and painstaking effort, time, capital, and resources that the plaintiff has invested to promote and advertise the KHADI trademarks, the KHADI trademarks have attained immeasurable goodwill and reputation so much so that the KHADI trademarks are identified solely and exclusively with the plaintiff.



27. It is further submitted that the plaintiff's trademark KHADI has also been included in the list of well-known trademarks by the Trade Marks Registry and the same was published in the Trade Marks Journal bearing number 2065 dated 15th August 2022. The plaintiff's trademark KHADI has also been declared well-known in multiple administrative proceedings before the arbitrators of the World Intellectual Property Organization and the National Internet Exchange of India.

28. It is submitted that during a routine survey in October 2021, the plaintiff came across the impugned website i.e., www.somadhakhadi.com, where apparels such as sarees and stoles were being offered for sale under the impugned marks. The WHOIS details of the impugned domain name revealed that the website was registered on 23rd June 2020, however, the registrant details were masked. Additionally, the plaintiff also came across defendant no. 1's social media accounts under the impugned marks. Details of the said social media accounts, as given in the plaint, are reproduced as under:

S.No	Social Medial Platform	Impugned Username
1	Facebook	Somadha Khadi Sanstha
2	Instagram	@somadhakhadi

29. It is further submitted that in view of the above, the plaintiff addressed a cease and desist notice to defendant no. 1 on 13th October 2021



through its legal representative.

30. It is submitted that thereafter, defendant no. 1 contacted the plaintiff's legal representative telephonically and also sent an email to the plaintiff's legal representative on 22nd November 2021 stating that she has a '*KVIC approved certificate*' which is under renewal process and also shared a copy of the certificate. Upon perusal of the certificate provided by defendant no. 1, it was observed that the certificate was valid from 1st October 2019 to 30th June 2020.

31. It is further submitted that despite successful delivery of the above-mentioned rejoinder notice, no response was received from defendant no. 1. Thus, the plaintiff sent emails dated 4th February 2022 and 8th April 2022, to defendant no. 1 requesting her to comply with the plaintiff's request and use the plaintiff's KHADI trademarks in the correct manner, however, no response was received from defendant no. 1 to any of its emails.

32. It is submitted that thereafter, the plaintiff, through its legal representative, addressed another legal notice to defendant no. 1 on 16th September 2023 reiterating its demands as stated in the earlier legal notices. However, once again, defendant no. 1 did not respond to the same. Another follow-up letter was also sent on 14th February 2024 to defendant no. 1 to which again no response was received.

33. It is further submitted that from the posts on defendant no. 1's Facebook page, it appears that sometime in 2023, the defendant no. 1 had stopped her business and consequently, the plaintiff had presumed that the defendant no. 1 has complied with the plaintiff's demands. However, it appears that the defendant no. 1 has resumed her business activities once again in May 2024 and the same is evident from a post on defendant no. 1's



social media page on Facebook.

34. It is submitted that evidently, despite addressing various legal notices to defendant no. 1 and apprising defendant no. 1 of the correct manner of use of plaintiff's KHADI trademarks by an affiliated entity, defendant no. 1 is continuing to use the impugned marks, impugned trade name, and impugned domain name. Consequently, the plaintiff has filed the present suit. It is to be noted that the defendant no. 1's Khadi certificate was renewed by the plaintiff and the same was valid only till June 2024. The defendant no. 1 has not filed any renewal requests thereafter.

35. It is submitted that additionally, defendant no. 1, is also offering for sale cosmetic products such as handmade soaps under the impugned marks. While a Khadi Certificate would have given rights to defendant no. 1 to use the plaintiff's KHADI trademark and KHADI mark tag for the Khadi textile, the same did not give any rights to defendant no. 1 to use a KHADI formative mark for other products including but not limited to cosmetics.

36. It is further submitted that defendant no. 1's use of the impugned marks, impugned trade name, and impugned domain name which wholly subsume the plaintiff's KHADI trademarks is not only deceptively similar to plaintiff's KHADI trademarks but is also an attempt to take unfair advantage of plaintiff's goodwill and is detrimental to the long established and distinctive character and reputation of the plaintiff's registered trademarks. The defendant no. 1's use of the mark, trade name, and domain name



SOMADHA KHADI/ amounts to infringement of plaintiff's well-known and registered KHADI trademarks, as well as passing off and is



bound to cause confusion among the average purchasers and public at large.

37. It is submitted that further, defendant no. 1's acts of unfair competition are evident from the fact that they are using the impugned marks in order to unfairly compete with the plaintiff. The use of the impugned marks by the defendants, which are deceptively similar to the plaintiff's KHADI trademarks and are being used in respect of the identical products and amongst the same trade channels and members of the public further evidences the defendant no. 1's infringing acts. Even in public interest the defendant no. 1 cannot be allowed to use the impugned marks so as to ensure that there is no deception amongst public on account of misrepresentation.

38. It is submitted that the acts of the defendant no. 1 are also resulting in dilution, blurring, and tarnishing the plaintiff's goodwill and reputation which has been established over a long period of time and by use of the mark KHADI trademarks. Further, the impugned marks, trade name, and domain name gives the impression that the defendant no. 1 is associated/ licensee of the plaintiff, which evidently is untrue. Therefore, the impugned marks, domain name, trade name are deceiving and bound to cause confusion as to the source of the products.

39. It is submitted that the *mala fide* of the defendant no. 1 is not only limited to the impugned marks, but also extends to the use of the plaintiff's KHADI trademark as part of their trade name, "SOMADHA KHADI SANSTHA" and domain name www.somadhakhadi.com. The use of KHADI trademark by the defendant no. 1 as part of the impugned marks, impugned trade name, and impugned domain name is unauthorised.

40. 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 defendants.

41. This Court further notes that none appears for defendant no. 1, despite service.

42. Accordingly, till the next date of hearing, the following directions are issued:

I. Defendant no. 1, her partners, directors, servants, representatives, agents, distributors and all others acting for and on their behalf are restrained from selling, offering for sale, marketing, advertising, directly or indirectly providing any kind of goods and/or services, under the trademark and/or



trade name “SOMADHA KHADI/ /SOMADHA KHADI SANSTHA” and/or domain name or any mark/trade name/domain name that is identical or deceptively similar to the plaintiff’s registered KHADI trademarks, amounting to infringement of the plaintiff’s registered trademarks/as may amount to passing off of the defendant no. 1’s goods, services and business as those of the plaintiff’s.

II. Further, defendant no. 2 is directed to suspend and lock the impugned domain name i.e., www.somadhakhadi.com.

43. However, it is clarified that the defendant no. 1 is at liberty to carry on the business using any other mark, which is not identical/deceptively similar to the mark of the plaintiff.



44. Issue notice to the defendants by all permissible modes, upon filing of the Process Fee, returnable on the next date of hearing.
45. Let reply be filed within a period of two weeks.
46. Rejoinder thereto, if any, be filed within one week, thereafter.
47. Compliance of Order XXXIX Rule 3 CPC, be done, within a period of one week.
48. List before the Court on 04th March, 2025.

MINI PUSHKARNA, J

FEBRUARY 7, 2025

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