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

+ **CS(COMM) 108/2021**

VICTORIA FOODS PRIVATE LIMITED Plaintiff
Through **Mr.Mukul Sharma, Mr.Abhinav
Bhatia and Ms.Shelly Khanna, Adv.**

versus

RAJDHANI MASALA CO. & ANR. Defendants
Through **Mr. Kapil Sibal and Mr. Chander
Lall, Sr. Adv.** with **Mr. Ankur Singhal, Mr. Sajad
Sultan and Ms. Nancy Roy, Adv.**

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **08.03.2021**

This hearing is conducted through video-conferencing.

IA No. 3529/2021

The application is allowed subject to all just exceptions.

CS(COMM) 108/2021

Let the plaint be registered as a suit.

Issue summons.

Learned counsel for the defendants accept summons.

Written statement be filed within 30 days. Replication be filed within
30 days thereafter.

List on 24.03.2021.

IA No. 3527/2021

1. This is an application filed under Order 39 Rules 1 and 2 CPC seeking



an injunction to restrain the defendants, their directors, proprietors, etc. from manufacturing, selling, soliciting, etc. or dealing in any product/goods with the trademark “Rajdhani” or any other mark which is identical or deceptively similar to the trademark “Rajdhani”.

2. Learned counsel for the plaintiff has pleaded that the trademark of the plaintiff is registered since 1983 and there has been user of the said trademark since 1966. It is pleaded that only recently in 2021, the plaintiff came across the fact that the defendants are selling their goods using the identical or virtually identical trademark as that of the plaintiff.

3. Learned senior counsel for the defendants has denied the aforesaid contention. It is pleaded that the defendants have been using the said trademark “Rajdhani” since 1965. Reliance is also placed on a legal notice said to have been issued by the plaintiff in 2008 which was duly replied to by the defendants. It is pleaded that at that stage also, the plaintiff took no steps whatsoever to protect their alleged rights in the said trademark. It is further stated that it is inconceivable that the plaintiff were not aware about the user of the defendants inasmuch as both the parties are situated in the same area, namely, Lawrence Road Industrial Area.

4. Before any order is passed on this application, it is appropriate that a reply is placed on record by the defendants. Issue notice.

5. Learned counsel for the defendants accepts notice.

6. Reply be filed within 10 days. Rejoinder, if any, be filed within four days thereafter.

7. List on 24.03.2021.

IA No. 3528/2021

1. This is an application filed under Order 26 Rule 9 CPC and Order 39



Rule 7 CPC seeking appointment of a Local Commissioner to visit the premises of the defendants and to take into custody the impugned goods including moulds, packaging material, pouches, cartons, containers, etc. bearing the trademark “Rajdhani” or any other mark which is similar or deceptively similar to the trademark of the plaintiff.

2. It is pleaded that unless the needful is done, the plaintiff will suffer irreparable loss and injury on account of the infringement of the trademark of the plaintiff.

3. For the time being, it would be in the interest of justice that a Local Commissioner is appointed to make an inventory of the goods which bear the trademark “Rajdhani” or any other trademark which is deceptively similar or identical to the trade mark which is claimed by the plaintiff. Such an exercise would be necessary for moulding any relief that may be passed in favour of the plaintiff, if any.

4. Mr.Pratham Agarwal, Advocate (Mobile No: +91-7838794194) is appointed as a Local Commissioner to visit the following premises of defendants:-

M/s. Rajdhani Masala Co.
B-34, Lawrence Road,
Industrial Area, Delhi- 110035.

5. The Local Commissioner will visit the concerned premises of the defendants without prior notice. He will prepare an inventory of all the infringing goods, promotional and advertising material or things, etc. containing the mark “Rajdhani” found at the said premises.

6. The Local Commissioner will be accompanied by an authorised representative of the plaintiff whom the defendants/occupants of the



concerned premises will allow to enter the premises. The SHO of the concerned police station is directed to ensure proper police protection to the learned Local Commissioner, if required. The Local Commissioner is permitted to take photographs also.

7. The Local Commissioner will file his report within two weeks of the commission. The fee of the Local Commissioner is fixed at Rs.1,00,000/- (Rupees One Lakh) plus out of pocket expenses to be paid by the plaintiff.

8. The application stands disposed of.

9. A copy of this order be given dasti under the signatures of the Court Master.

JAYANT NATH, J

MARCH 8, 2021

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