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

+ **CS(COMM) 244/2021**

KHADI AND VILLAGE INDUSTRIES COMMISSION Plaintiff

Through: Ms. Shwetasree Majumder, Ms. Diva
Arora, Ms. Archita Nigam, Advocates
(M:9873450562)

versus

**KHADI DESIGN COUNCIL OF INDIA AND
OTHERS**

..... Defendants

Through: Mr. Ashish Mohan with Mr. Samarth
Chowdhary, Ms. Gargi Sethee,
Advocates

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **22.03.2022**

1. This hearing has been done through hybrid mode.

I.A. 2606/2022 (Additional documents)

2. This is an application filed on behalf of the Defendants, seeking leave to file additional documents.

3. The additional documents have already been filed and the copy has been supplied to the ld. counsel for the Plaintiff, and the same are taken on record. If the Plaintiff wishes to rebut the same by way of filing any documents, the Plaintiff is permitted to file such documents within four weeks.

4. **I.A. 2606/2022** is disposed of in the above terms.

I.A. 9213/2021(u/O XXXIX Rule 2A)

5. This is an application under Order XXXIX Rule 2A CPC. The



grievance of the Plaintiff is that despite the *ex-parte ad-interim* injunction order dated 28th May, 2021, the Defendants continue to use the name Khadi Design Council of India, email containing the word ‘KHADI’, and in fact, Defendant No.3 has also uploaded various videos on YouTube in respect of this litigation, which is still pending before the Court.

6. Ld. counsel for the Plaintiff also places reliance upon various legal notices and letters issued by the Plaintiff to the Defendant between December, 2019 and January, 2021, despite which the Defendants continued using ‘KHADI’ in their advertisements and for various events such as trainings and fashion shows/pageants, along with various national symbols, emblems and logos. Ld. Counsel for the Plaintiff, further relies upon a circular dated 24th June, 2021, vide which the Defendants have issued notice for selection of National Core Committee Members and invited profiles for the same, to show that the Defendants have been in contempt of the interim injunction order dated 28th May, 2021. The Defendants’ website is also stated to have remained the same as of July, depicting the word ‘KHADI’, despite the injunction order.

7. Ld. counsel for the Defendants submits that the Defendants were not aware of the injunction order dated 28th May, 2021, till a few months after the passing of the said order and therefore there may have been some delay in compliance. However, currently, he submits there is compliance by the Defendants.

8. The Court has perused the correspondence between the parties as also the transcript of one of the videos, placed on record by the Plaintiff, where Defendant No.2’s CEO, Mr. Ankush Anami, categorically admits that he got notice of the injunction order on 28th May, 2021. The relevant portion of the



said transcript, as placed on record, is as under:

“Time stamp: 11:24 to 11:53

Transcription: 28 May 2021 ko inhone mujhe notice bheja aur aap utha karke dekh lijiye 29 May 2021 se inhone desh bhar ke sabhi akhbaro ke andar sab jagah pe ki self-proclaimed CEO or so called... so called self-proclaimed CEO Ankush Anami. Arey aap saabit to kariye na aur abhi to manniya nyayalaya ne koi nirdesh hi nahi diye hai. Apne pehle hi ek wo laga diya. Chaliye khair darr me ho jata hai aisa.

Translation: On 28th May, 2021, they sent me a notice and you can see that from 29th May, 2021, they published in newspapers across the country saying self-proclaimed CEO or so called... so called self-proclaimed CEO Ankush Anami. You prove first. And now the Hon'ble Court has not passed any orders. And you already made it a thing. Never mind, it happens in fear.”

9. From this video, it is clear that the Defendant has had knowledge of the injunction since the date it was granted. The use of the name of the Plaintiff, as also of the word ‘KHADI’, in any manner whatsoever by the Defendant, would clearly constitute violation and contempt of the orders passed by this Court on 28th May, 2021. The operative portion of the said order dated 28th May, 2021, reads as under:

“25. In view of the above, the Plaintiff has established a prima facie case in its favour. The balance of convenience also lies in favour of the Plaintiff and an irreparable loss would be caused to the Plaintiff, in case an ex-parte interim injunction is not granted. Accordingly, till the next date of hearing, the Defendants, their partners, servants, representatives, agents and all others acting for and on their behalf are restrained from manufacturing,



selling, offering for sale, advertising, directly or indirectly providing any kind of goods and/or services under the trademark 'KHADI', either as a word or as part of its tradename or



logo, the



and



logos and/or any mark identical or deceptively similar to the Plaintiff's registered KHADI trademarks and Charkha logos, that may amount to infringement and/or passing off of the Plaintiff's registered trademarks.

26. Further, the Defendants are directed to take down their Facebook, Instagram and YouTube pages under the mark tradename "Khadi Design Council of India" and "Miss India Khadi" and the infringing content from their websites being 'www.paridhaanam.com', 'www.kdci.org' and 'www.missindiakhadi.in'."

26. Further, the Defendants are directed to take down their Facebook, Instagram and YouTube pages under the mark tradename "Khadi Design Council of India" and "Miss India Khadi" and the infringing content from their websites being 'www.paridhaanam.com', 'www.kdci.org' and 'www.missindiakhadi.in'."

10. In addition, there seem to be various videos online where Defendant



No.3 seeks to defend the use of word ‘KHADI’ on social media and on online platforms. The Defendants also appear to have issued notices such as that for constitution of a National Core Committee, which uses the word ‘KHADI’, on 24th June, 2021, i.e., after the order dated 28th May, 2021 was passed. Since the issue as to whether the injunction on the word ‘KHADI’ is to be granted or not is still pending before this Court, and the injunction already granted is operating, it is directed that the Defendants shall ensure strict and absolute compliance of the order dated 28th May, 2021 till the next date of hearing.

11. At this stage, Mr. Ashish Mohan, ld. Counsel for the Defendants, submits that his client-Mr. Ankush Anami would file an affidavit before this Court confirming complete adherence to the injunction.

12. Accordingly, the following directions are issued:

- (i) An affidavit shall be filed by Mr. Ankush Anami/Defendant No.3 that he and the Khadi Design Council of India/Defendant No.1, shall strictly abide by the injunction order dated 28th May, 2021 and there shall be no use of the work ‘KHADI’ either as a mark, trading style or in any electronic or printed form by him or anyone acting on his behalf, as also the Khadi Design Council of India. The said affidavit shall be filed within two weeks.
- (ii) The objectionable YouTube videos which seek to sensationalize the issue relating to use of the word ‘KHADI’ shall be taken down immediately by Mr. Ankush Anami. An email to this effect shall be sent by Mr. Ankush Anami, within two working days, giving the proper YouTube links to



Google, for taking down the said videos. Copy of the said email shall be marked to the Id. Counsel for the Plaintiff, who shall also follow up in this regard.

- (iii) Confirmation of compliance of the sending of the said email shall also be placed on record in the affidavit, which is to be filed by the Defendant.

13. It is made clear that if any future violation of the injunction order dated 28th May, 2021 by any of the Defendants, is noticed by the Court, strict action in accordance with law would be liable to be taken.

14. The above directions shall be subject to the orders in the application being **I.A. 6811/2021**, under Order XXXIX Rule 1 and 2 CPC.

15. **I.A. 9213/2021** is disposed of in these terms.

I.A. 6811/2021 (for stay)

16. The issue raised in this application is whether the use of the word '**KHADI**' can be monopolised and any exclusive rights can be granted to the Plaintiff for the same.

17. Id. Counsel for the Plaintiff places reliance upon its trademark registrations along with the Khadi and Village Industries Commission Act, 1956, for the same and The Khadi Mark Regulations, 2013. She submits that this permits the Plaintiff to grant certification for *khadi* products, use of the mark '**KHADI**', and also promote the various schemes for setting up of *khadi* and village industries across the country.

18. On the other hand, on behalf of the Defendants, reliance is placed upon The Khaddar (Protection of Name) Act, 1950 which provides in Section 2 as under:



“2. The words “Khaddar” and “Khadi” to be trade description.—The words “Khaddar” and Khadi”, whether in Hindi or in any other Indian language or in English, when applied to any woven material, shall be deemed to be a trade description within the meaning of the Indian Merchandise Marks Act, 1889 (40 of 1889), indicating that such material is cloth woven on handlooms in India from cotton, silk or woolen yarn hand-spun in India or from a mixture of any two or all of such yarns.”

19. It is thus submitted by Mr. Ashish Mohan, Id. Counsel, that the words ‘KHADDAR’ and ‘KHADI’ are the trade description of the cloth which is woven on handlooms in India, thus the Plaintiff cannot claim any exclusive rights on the mark/word ‘KHADI’.

20. The said issue deserves to be considered by the Court.

21. List this application being **I.A. 6811/2021** for hearing on 26th July, 2022.

22. Interim order to continue in the meantime.

23. The order be uploaded forthwith.

24. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as the certified copy of the order for the purpose of ensuring compliance. No physical copy of orders shall be insisted by any authority/entity or litigant.

PRATHIBA M. SINGH, J.

MARCH 22, 2022/aman/ms