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

+ **CS (COMM) 244/2021 & I.A.6811/2021**

KHADI AND VILLAGE INDUSTRIES COMMISSION Plaintiff

Through: Ms. Shwetasree Majumder, Ms. Diva
Arora & Ms. Devyani Nath,
Advocates (M:9873450562)

versus

**KHADI DESIGN COUNCIL OF
INDIA AND OTHERS**

..... Defendants

Through: Mr. Ashish Mohan with Mr. Samarth
Chowdhary, Mr. Kunal, Mr. Ranjan
Dwivedi, Mr. Manish Tiwari, Mr.
Manish Dubey, Ms. Gargi Sethi, Ms.
Sagarika, Advocates with Mr. Ankush
Anami, D-3 in person. (M-
7544073835)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% 26.07.2022

1. The present suit has been filed seeking permanent injunction restraining infringement of trademark, passing off, rendition of accounts, damages, delivery up, etc. The Plaintiff - Khadi & Village Industries Commission is a statutory body established by an Act of Parliament being 'Khadi and Village Industries Commission Act of 1956'. The Plaintiff claims to be the registered proprietor of the mark 'KHADI' and the variants of the same in several classes, in Hindi and English, both in artistic form, as also, in logo form, along with the 'Charkha Logos'. The said marks are set out below:



i) 'KHADI' (Word)



ii) ' ' (Device)



iii) ' ' (Device)

Symbol of purity



iv) ' ' (Charkha Logo)

शुद्धता का प्रतीक



v) ' ' (Charkha Logo)

2. A perusal of the Complaint shows that the mark 'KHADI' is a registered trademark of the Plaintiff, along with logos and various device marks thereof, as depicted hereinabove. The trademark 'KHADI' is promoted by the Plaintiff through a statutory corporation, and in recent times, enormous emphasis has been given globally to promote 'KHADI' products. The Plaintiff's 'KHADI' trademarks are also registered in various other jurisdictions/regions, including but not limited to United Kingdom, China, Australia, USA, New Zealand, Bhutan, Mexico, etc.

3. The Plaintiff hosts its website under the domain name 'www.kviconline.gov.in' which is registered since 1st July, 2010. The



Plaintiffs have obtained further registrations for the domain names ‘www.Khadiindia.gov.in’ which redirects to ‘https://www.kviconline.gov.in/khadimask/’. Recently, on 31st December, 2021, the Plaintiff has also unveiled ‘www.ekhadiindia.com’ which sells over 50,000 products of the more than 500 varieties ranging from food products, grocery products, oils, to *diyas*, woollen products, cosmetics, etc.

4. The Plaintiff also promotes its products branded as ‘KHADI’ on several social media platforms, such as Facebook, Twitter, YouTube, Instagram, etc. all of which enjoy a wide followership. A mobile application by the name of ‘KHADI INDIA’ is also operated and made available on Google Play Store, by the Plaintiff and the same has been downloaded by more than 10,000 users. The said application helps customers, patrons, and members of trade in locating the nearest ‘KHADI INDIA’ store. The Plaintiff also closely works with various Ministries in order to promote ‘KHADI’ products and the ‘KHADI’ Industry in India and abroad. The mark ‘KHADI’ along with the ‘Charkha logo’ is also licensed out to several third-parties and the ‘KHADI’ products are sold on e-commerce platforms.

5. As per the Complaint, the Plaintiff has spent an amount of Rs.4 Crores in the year 2018-2019 and Rs.7.12 Crores in the year 2019-2020, respectively towards advertisement and promotional for its ‘KHADI’ trademarks. The annual sales turnover of the Plaintiff’s for the financial year 2019- 2020 was Rupees 88875.54 Crores. Thus, the Plaintiff’s products and services have acquired substantial reputation and goodwill through extensive use and promotion. The mark ‘KHADI’ along with the ‘Charkha logo’ have become well-known and have, in fact, been protected in several proceedings before this Court, as also, in several administrative proceedings.



6. The grievance of the Plaintiff is that Defendants are using the Plaintiff's registered trademark 'KHADI' and its variants, along with the 'Charkha Logo', as part of their trading names being 'KHADI DESIGN COUNCIL OF INDIA' and 'MISS INDIA KHADI FOUNDATION'. The Plaintiff acquired knowledge of the Defendants' infringing activities in December, 2019 when it came across the Defendants' events being 'National Khadi Designers Awards, 2019' and 'Miss India Khadi' being organized in Goa from 19th December, 2019 to 22nd December, 2019. Upon acquiring such knowledge, the Plaintiff issued a legal notice to the Defendant No.3 directing him to cancel the aforesaid events, but to no avail. The Plaintiff also filed complaints with the Collector, North Goa, and the Director General of Police, Panjim, requesting their assistance in issuing necessary directions to restrain the Defendants.

7. Further, during a routine check in March, 2020, the Plaintiff came across the Defendants' websites being 'www.paridhaanam.com', 'www.kdci.org' and 'www.missindiakhadi.in', which were analogous to the Plaintiff's website. It was submitted by the Plaintiff that the said websites and social media pages had been scripted and structured in a manner that gives the impression that the Defendant-Council is associated with or affiliated to the Plaintiff. In light of these circumstances, the Plaintiff was constrained to file the present suit.

8. Vide detailed order dated 28th May, 2021, an *ex parte ad interim* injunction was granted by the Court, in the following terms:

"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,



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'."

9. The allegation of the Plaintiff is that, despite the injunction order dated 28th May, 2021, the Defendant is continuing to use the mark and name 'KHADI' in their advertisements and for various events such as trainings and fashion shows/pageants, along with various national symbols, emblems and logos. Various documents have been placed on record, including



Defendants' Facebook posts, extracts of the LinkedIn profile of the Defendants showing that the Defendants are writing to the Government Departments, both at the State and the Central levels, wherein the Defendants are misusing the mark and name 'KHADI'. The website of the Defendants also clearly attempts to give an impression that it is affiliated to the Government and an approved organisation whereas in fact it is a private establishment.

10. The court has perused the material produced by Id. Counsel for the Plaintiff. The said material *prima facie* shows that despite the injunction order the Defendant is corresponding with Ministries, State governments using the impugned marks. Various other forms of use are also continuing by the Defendants when admittedly they have no right to use the said mark/s. Defendant No.3 - Mr. Ankush Anami, is present in Court and upon being queried, continues to defend the use of the mark 'KHADI', on the ground that he had obtained permission from the Plaintiff to use the said mark. Upon being asked to demonstrate any document whereby such a permission has been given by the Plaintiff, he or his Counsels are unable to show any such permission.

11. In view of the continued use of the mark and name 'KHADI' and the name 'KHADI' by the Defendants, as also, the above stand taken by the Defendants, issue Show Cause Notice as to why contempt action should not be initiated against Defendant No.3 – Mr. Ankush Anami. Let a reply to the Show Cause Notice be filed within two weeks.

12. Mr. Ankush Anami shall remain present in Court, on the next date of hearing.

13. Submissions have been heard in part on the application seeking



interim injunction.

14. List for further hearing on 12th September, 2022. This is a part-heard matter.

PRATHIBA M. SINGH, J.

JULY 26, 2022

dj/ad