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

+ CS(COMM) 428/2024, I.A. 30132/2024, I.A. 30133/2024, I.A.
30134/2024 & I.A. 30135/2024

MR LAKSHIT GOYAL PROPRIETOR OF RAMA DOMESTIC
APPLIANCES

..... Plaintiff

Through: Mr. Umesh Mishra, Advocate.

versus

SUNITA GUPTA TRADING AS MVA GAS AND HOME
APPLIANCES

..... Defendant

Through:

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
22.05.2024

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I.A. 30133/2024 (Seeking leave to file Additional Documents)

1. The present application has been filed on behalf of the plaintiff under Order 11 Rule 1(4) of the Code of Civil Procedure, 1908 (“CPC”) as applicable to commercial suits under the Commercial Courts Act, 2015 seeking to place on record additional documents.
2. The plaintiff, if it wishes to file additional documents at a later stage, shall do so strictly as per the provisions of the Commercial Courts Act, 2015 and the Delhi High Court (Original Side) Rules, 2018.
3. Accordingly, the present application is disposed of.



I.A. 30134/2024 (Exemption from pre-institution mediation)

1. Having regard to the facts of the present case and in light of the judgement of Division Bench of this Court in **Chandra Kishore Chaurasia v. R.A. Perfumery Works Private Ltd.**, FAO (COMM) 128/2021, exemption from attempting pre institution mediation is allowed. Accordingly, the application stands disposed of.

I.A. 30135/2024 (Exemption from filing certified, typed copies of documents, annexures, etc).

1. Exemption is granted, subject to all just exceptions.
2. Applicant shall file legible, clear, and original copies of the documents on which the applicant may seek to place reliance before the next date of hearing.
3. Accordingly, the present application is disposed of.

CS(COMM) 428/2024

1. Let the plaint be registered as a suit.
2. Upon filing of process fee, issue summons to the defendant by all permissible modes. Summons shall state that the written statement be filed by the defendant within 30 days from the date of receipt of summons. Along with the written statement, the defendant shall also file affidavit of admission/denial of the documents of the plaintiff, without which the written statement shall not be taken on record. Liberty is given to the plaintiff to file a replication within 30 days of the receipt of the written statement. Along with the replication, if any, filed by the plaintiff, affidavit of admission/denial of documents filed by 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 any documents, the same shall be sought and given within the timelines.

3. List before the Joint Registrar for marking of exhibits on 27th August, 2024.

4. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

I.A. 30132 /2024 (Application Under Order XXXIX Rules 1& 2, CPC).

1. This application under Order XXXIX Rules 1 and 2 of CPC has been filed by plaintiff as part of the suit seeking a decree for permanent injunction restraining the defendant from manufacturing, selling, offering of sale, advertising, directly or indirectly dealing in impugned goods included in Class 11 bearing the impugned trademark/device/label '**HPC APPLIANCES**' / '**HPC APLS**' or any other trademark/device/label which is identical or deceptively similar to plaintiff's mark '**HPC**'.

2. Plaintiff mark was registered *vide* no. 1606211 in Class 11 with effect from 27th September, 2007 with user claimed since 10th April, 1984. The mark was originally registered by Mr. Manmohan Krishan, the predecessor in interest of the current proprietor.

3. The defendant has also procured a registration in the same class for the work mark '**HPC APPLIANCES**' by no. 2497451 with effect from 18th March, 2013 on a '*proposed to be used*' basis. The said mark was opposed by plaintiff in June, 2021 and it is informed by counsel for plaintiff that a rectification petition has also been filed before the Trade Marks Registry which is pending adjudication.



4. The comparative representation of plaintiff and defendant products is extracted as under:

Plaintiff's Product	Defendant's Product
     	 



5. On steps being taken by plaintiff, issue notice to defendant through all permissible modes including speed post, courier, and email. Affidavit of service along with proof thereof be placed on record before the next date of hearing.
6. Reply be filed within six weeks with advance copy to counsel for plaintiff, who may file rejoinder thereto, if so desired, before the next date of hearing.
7. List before the Court on 23rd July, 2024.
8. Orde be uploaded on the website of this Court.

ANISH DAYAL, J

MAY 22, 2024/RK/sc