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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 437/2024, I.A. 30380/2024, I.A. 30381/2024, I.A.
30382/2024, I.A. 30383/2024 & I.A. 30384/2024
KARAN RAJESH DATTANI SOLE PROPRIETOR OF
DNYANADA Plaintiff

Through: Ms. Rajeswhari H., Mr. Raj Latha
Kotni, Mr. Rohan Garg, Mr. S K
Maurya, Ms. Swagita Pandey, Ms.
Chahat Raghav & Ms. Ananya Singh,
Advs.

versus

FASHNEAR TECHNOLOGIES PVT LTD & ORS. Defendants

Through: Mr. Faisal Sherwani, Mr. Shekher
Deep Aggarwal & Ms. Sanjukta
Kaushik, Advs. for D-1

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

% **ORDER**
27.05.2024

I.A. 30383/2024 (Exemption from filing certified, clear copies of documents)

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.

I.A. No.30382/2024 (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 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 DHC (Original Side) Rules, 2018.
3. Accordingly, the present application is disposed of.

I.A. No.30381/2024 (exemption from instituting pre-litigation 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.
2. Accordingly, the application stands disposed of.

I.A. 30384/2024 (Exemption from providing emails and mobile numbers of defendant nos. 2 to 16)

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 as applicable to commercial suits under the Commercial Courts Act, 2015 seeking exemption from providing email ids and mobile numbers of defendant nos. 2 to 16.
2. In view of the directions passed in I.A. 30380/2024, the application stands disposed of, with directions to serve on the basis of disclosure.



CS(COMM) 437/2024

1. Let the plaint be registered as a suit.
2. Upon filing of process fee, issue summons to the defendants by all permissible modes. Summons shall state that the written statements be filed by the defendants within 30 days from the date of receipt of summons. Along with the written statement, the defendants shall also file affidavit of admission/denial of plaintiff's documents, without which the written statements shall not be taken on record. Liberty is given to plaintiff to file replications within 30 days of the receipt of the written statements. Along with the replication, if any, filed by the plaintiff, affidavits of admission/denial of documents filed by the defendants, be filed by plaintiff, without which the replications 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 (Judicial) for marking of exhibits on 29th August 2024.
4. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

I.A. 30380/2024 (under Order XXXIX Rule 1 & 2 CPC)

1. This application under Order XXXIX Rules 1 and 2 of Code of Civil Procedure, 1908 ("CPC") has been filed by plaintiff as part of the accompanying suit seeking decree of permanent injunction restraining defendant nos. 2 to 16, and all those acting for / on their behalf from manufacturing, promoting, selling and dealing with directly or indirectly, any product using the 'Hathi Saree' design bearing registration no. 367062-001, or any other design which is an obvious or fraudulent imitation



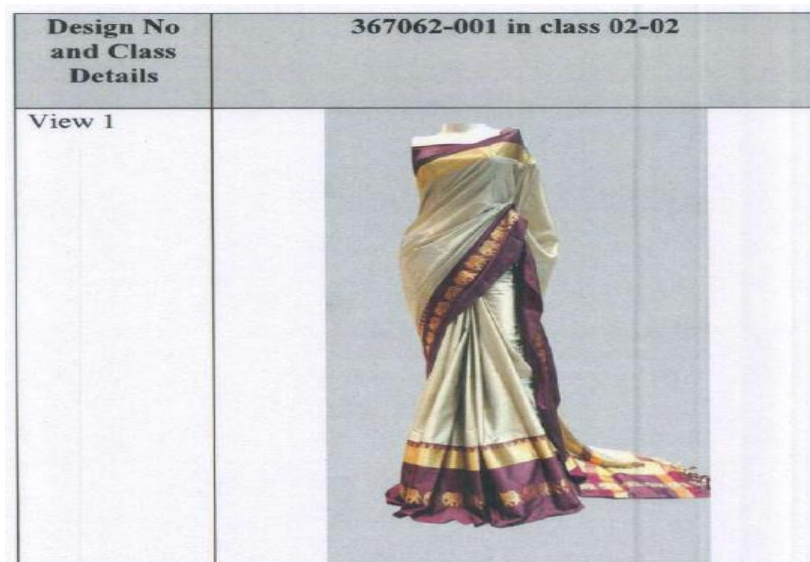
thereof and a decree against defendant no.1 (*'Meesho' - an e-commerce platform*) to permanently delete and take down the product listings from the website '<https://www.meesho.com/>' which amount to infringement of plaintiff's registered design and also amount to infringement of the copyright in plaintiff's photographs.

2. Plaintiff is engaged in business of manufacturing and sale of sarees and is a proprietor of business under the name and style '**DNYANADA**'



and uses the device mark

3. Plaintiff claims that in June 2022 he created a novel design by using a motif of sarees of decorated walking elephants on *zari* border of sarees, combined with series of inverted triangles, both separated by lines. This pattern was termed as '*Hathi*' design and was applied for registration on 1st July 2022 and granted with the number noted above, in class 02-02. The pictures of the registered design are as under:



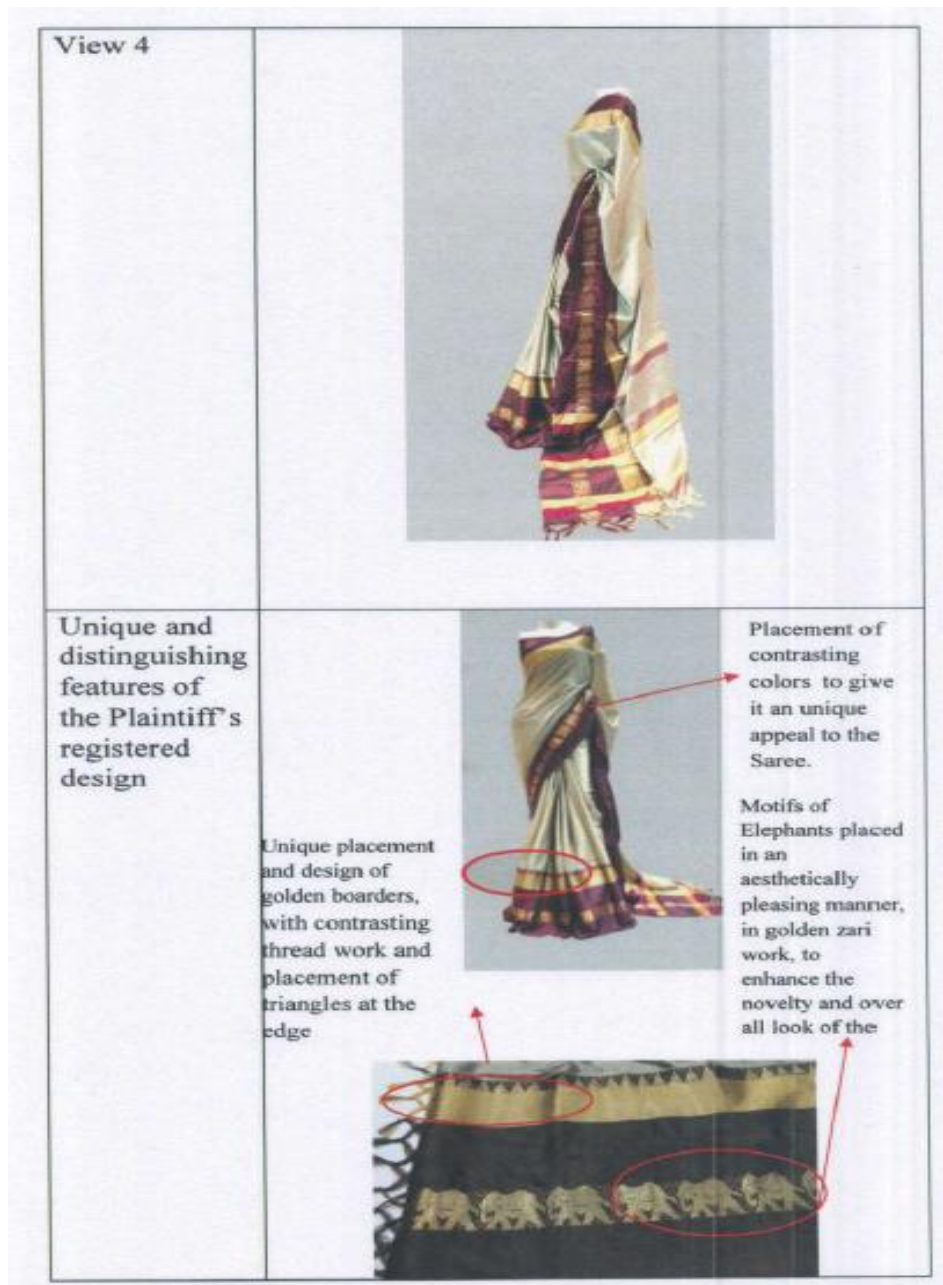


View 2



View 3





4. Plaintiff also sells its products on various e-commerce platforms, including that of defendant no.1. Revenue claimed by plaintiff through sale of the registered design is tabulated as under:

FY	REVENUE (INR)
2022 - 23	74,86,328/-
2023 - 24	94,65,302/-

5. Grievance is against defendant nos. 2 to 16 who are selling their



Plaintiff's Registered "Hathi Saree" Design	Defendants listings
Plaintiff's Registered "Hathi Saree" Design	Defendant No. 3's listings (Reenat Sarees)
 Elephant Pattern and other unique features of the boarder are identical	Link: https://www.meesho.com/s/p/1q7fiv?utm_source=s_w 
Plaintiff's Registered "Hathi Saree" Design	Defendant No. 4's listings (Fashion Nation)
 Elephant Pattern is copied	Link: https://www.meesho.com/s/p/5uhwwj?utm_source=s_w 

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Plaintiff's Registered "Hathi Saree" Design	Defendants listings
Plaintiff's Registered "Hathi Saree" Design	Defendant No. 5's listings (Zarubya Sarees)
 Elephant Pattern is copied	Link: https://www.meesho.com/s/p/5mlrde?utm_source=s_w 
Plaintiff's Registered "Hathi Saree" Design	Defendant No. 6's listings (Indian Designer)
 Elephant Pattern and other unique features of the boarder are identical	Link: https://www.meesho.com/s/p/5ivix4?utm_source=s_w 

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Plaintiff's Registered "Hathi Saree" Design	Defendants listings
Plaintiff's Registered "Hathi Saree" Design	Defendant No. 5's listings (Zarubya Sarees)
 Elephant Pattern is copied	Link: https://www.meesho.com/s/p/5mlrde?utm_source=s_w 
Plaintiff's Registered "Hathi Saree" Design	Defendant No. 6's listings (Indian Designer)
 Elephant Pattern and other unique features of the boarder are identical	Link: https://www.meesho.com/s/p/5ivix4?utm_source=s_w 

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Plaintiff's Registered "Hathi Saree" Design	Defendants listings
Plaintiff's Registered "Hathi Saree" Design	Defendant No. 9's listings (Leenaz Women Ethnic)
 Elephant Pattern and other unique features of the boarder are identical	Link: https://www.meesho.com/s/p/35sotk?utm_source=s_w 
Plaintiff's Registered "Hathi Saree" Design	Defendant No. 10's listings (Deep Kiran Fabrics)
 Elephant Pattern and other unique features of the boarder are identical	Link: https://www.meesho.com/s/p/1q73r3?utm_source=s_w 

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Plaintiff's Registered "Hathi Saree" Design	Defendants listings
Plaintiff's Registered "Hathi Saree" Design	Defendant No. 11's listings (Dignity Fashion Sarees)
 Elephant Pattern and other unique features of the boarder are identical	Link: https://www.meesho.com/s/p/1h9e8n?utm_source=s_w 
Plaintiff's Registered "Hathi Saree" Design	Defendant No. 12's listings (Saree Club)
 Elephant Pattern is copied	Link: https://www.meesho.com/s/p/1d57c1?utm_source=s_w 

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Plaintiff's Registered "Hathi Saree" Design	Defendants listings
Plaintiff's Registered "Hathi Saree" Design  Elephant Pattern is copied	Defendant No. 13's listings (Pretty sarees) Link: https://www.meesho.com/s/p/65rtwc?utm_source=s_w 
Plaintiff's Registered "Hathi Saree" Design  Elephant Pattern and other unique features of the boarder are identical	Defendant No. 14's listings (Fine Sarees) Link: https://www.meesho.com/s/p/6iyq5r?utm_source=s_w 

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Plaintiff's Registered "Hathi Saree" Design	Defendants listings
Plaintiff's Registered "Hathi Saree" Design	Defendant No. 15's listings (Shalimar Sarees)
 Elephant Pattern and other unique features of the boarder are identical	Link: https://www.meesho.com/s/p/6rjo22?utm_source=s_w 

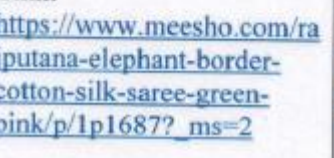
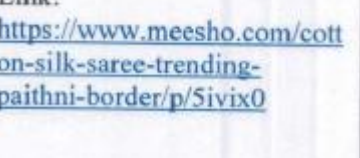
7. Further, comparative listing of photographs of plaintiff's designs, utilised by defendants are as under:

Image(s) used by the Plaintiff's Listings	Defendants listings copying the same image(s) as used by Plaintiff
Image(s) used by the Plaintiff's Listings	Defendant No. 2's listings (Royal Creation 19) copying the same image(s) as used by Plaintiff
Link: https://www.meesho.com/kanjeevaram-elephant-design-cotton-silk-saree-hathi-saree-mustard-gold-black/p/40zcrq?_ms=2	Link: https://www.meesho.com/hathi-design-cotton-silk-saree-with-running-blouse-peice/p/1x3oko



Image(s) used by the Plaintiff's Listings	Defendants listings copying the same image(s) as used by Plaintiff
	
Image(s) used by the Plaintiff's Listings	Defendant No. 3's listings (Reenat Sarees) copying the same image(s) as used by Plaintiff
Link: https://www.meesho.com/k/anjeevaram-elephant-design-cotton-silk-saree-hathi-saree-mustard-gold-black/p/40zcrq?_ms=2	Link: https://www.meesho.com/soft-cotton-silk-banarasi-saree-with-blouse-mango-brown/p/2zjug7?_ms=2
	
Image(s) used by the Plaintiff's Listings	Defendant No. 4's listings (Fashion Nation) copying the same image(s) as used by Plaintiff
Link: https://www.meesho.com/k/anjeevaram-elephant-design-cotton-silk-saree-hathi-saree-paithani-saree/p/3ybvwc?_ms=2	Link: https://www.meesho.com/s/p/5uhwwj?utm_source=s_w



Image(s) used by the Plaintiff's Listings	Defendants listings copying the same image(s) as used by Plaintiff
	
Image(s) used by the Plaintiff's Listings	Defendant No. 5's listings (Zarubya Sarees) copying the same image(s) as used by Plaintiff
Link: https://www.meesho.com/kanjeevaram-elephant-design-cotton-silk-saree-hathi-saree-mustard-gold-black/p/40zcrr?_ms=2	Link: https://www.meesho.com/hathi-saree-elephant-design-cotton-silk-saree/p/5mlrdf
	
Image(s) used by the Plaintiff's Listings	Defendant No. 6's listings (Indian Designer) copying the same image(s) as used by Plaintiff
Link: https://www.meesho.com/rajputana-elephant-border-cotton-silk-saree-green-pink/p/1p1687?_ms=2	Link: https://www.meesho.com/cotton-silk-saree-trending-paithni-border/p/5ivix0
	



Image(s) used by the Plaintiff's Listings	Defendants listings copying the same image(s) as used by Plaintiff
	
Image(s) used by the Plaintiff's Listings	Defendant No. 7's listings (Hasir Tex) copying the same image(s) as used by Plaintiff
Link: https://www.meesho.com/kanjeevaram-elephant-design-cotton-silk-saree-hathi-saree-mustard-gold-black/p/40zcrr?_ms=2	Link: https://www.meesho.com/new-arrivals-hatti-border-sarees/p/1pqatv
	
Image(s) used by the Plaintiff's Listings	Defendant No. 8's listings (Dreem Store) copying the same image(s) as used by Plaintiff
Link: https://www.meesho.com/kanjeevaram-elephant-design-cotton-silk-saree-hathi-saree-paithani-saree/p/3ybvwc?_ms=2	Link: https://www.meesho.com/charvi-graceful-sarees/p/1oplkl



Image(s) used by the Plaintiff's Listings	Defendants listings copying the same image(s) as used by Plaintiff
	
Image(s) used by the Plaintiff's Listings	Defendant No. 9's listings (Leenaz women Ethnic) copying the same image(s) as used by Plaintiff
Link: https://www.meesho.com/kanjeevaram-elephant-design-cotton-silk-saree-hathi-saree-mustard-gold-black/p/40zcr?_ms=2	Link: https://www.meesho.com/hathi-design-elephant-pattern-cotton-silk-saree-mangogreen/p/35sotj
	
Image(s) used by the Plaintiff's Listings	Defendant No. 10's listings (Deep Kiran Fabrics) copying the same image(s) as used by Plaintiff
Link: https://www.meesho.com/kanjeevaram-elephant-design-cotton-silk-saree-hathi-saree/p/3ybv7?_ms=2	Link: https://www.meesho.com/raja-wadi-elephant-border-saree/p/1q73r2



Image(s) used by the Plaintiff's Listings	Defendants listings copying the same image(s) as used by Plaintiff
	
Image(s) used by the Plaintiff's Listings	Defendant No. 11's listings (Dignity Fashion Sarees) copying the same image(s) as used by Plaintiff
Link: https://www.meesho.com/kasvi-paithani-cotton-silk-saree-with-contrast-blouse-piece-red-black/p/1u0n8e?_ms=2	Link: https://www.meesho.com/hathi-design-elephant-pattern-cotton-silk-saree-rani-royal-blue/p/2o1if7
	
Image(s) used by the Plaintiff's Listings	Defendant No. 12's listings (Saree Club) copying the same image(s) as used by Plaintiff
Link: https://www.meesho.com/kanjeevaram-elephant-design-cotton-silk-saree-hathi-saree-mustard-gold-black/p/40zcrr?_ms=2	Link: https://www.meesho.com/kanjeevaram-elephant-sari/p/1wf3as?_ms=2



Image(s) used by the Plaintiff's Listings	Defendants listings copying the same image(s) as used by Plaintiff
	
Image(s) used by the Plaintiff's Listings	Defendant No. 13's listings (Pretty Sarees) copying the same image(s) as used by Plaintiff
Link: https://www.meesho.com/kanjeevaram-elephant-design-cotton-silk-saree-hathi-saree-mustard-gold-black/p/40zcrs?_ms=2	Link: https://www.meesho.com/hathi-saree-elephant-design-cotton-silk-saree/p/4d8g96?_ms=2
	
Image(s) used by the Plaintiff's Listings	Defendant No. 14's listings (Fine Sarees) copying the same image(s) as used by Plaintiff
Link: https://www.meesho.com/kanjeevaram-elephant-design-cotton-silk-saree-hathi-saree-mustard-gold-black/p/40zcrs?_ms=2	Link: https://www.meesho.com/hathi-saree-elephant-design-cotton-silk-saree/p/2ubs1f?_ms=2

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8. Issue notice.

9. Counsel for defendant nos. 1 and 2, who are present in Court, accept notice. Remaining defendant nos. 3 to 16 be served on steps being taken by plaintiff through all permissible modes.

10. Counsel for defendant no.1 ('Meesho') states that they cannot respond to take down listings which were issued by plaintiff in February 2024 and again in April 2024, since they require an order from the Court and there are conflicting claims in the said mark.

11. Counsel for defendant no.2 points out that there is a registration of the same design which is prior in time i.e. 25th February, 2021, design no. 339770-001 in the name of Krunal Kumar Govindbhai Vaghamashi, Smart Deals, Surat, Gujarat; screenshot of the same is as under:



12. He states that defendant no.2 has been authorised for selling their products of Smart Deals by letter dated 30th March, 2024 screen shot of the same is as under:



SMART DEALS

309, Midas squar, Nr, SMC Party Plot, Puna Patiya to Godadra Road, Surat – 395010

Date - 30-March, 2024

Krunal G.Vaghamashi
Smart Deals
309, Midas Squar,
Surat, Gujrat – 395010
smartdealsclothing@gmail.com

Client Details
Ejaz Khan Rasool Khan
Royal Creation 19
S No- 797/1/62/63 Raviwar ward,
Nasik, Maharashtra -423203

I, Krunalkumar Govindbhai Vaghamashi, authorize Royal Creation 19 (232815) to use the copyrighted designs/patterns no - 339770-001 owned by Smart Deals for the production, distribution, and promotion of apparel products from 01, April-2024 to 30, March-2025, with the authorization valid for one year from the start date. This authorization is granted solely for the agreed-upon purpose and may not be extended without further consent.

FOR, SMART DEALS

Sincerely,
Krunal G Vaghamashi **Proprietor**

[Handwritten signature]

13. He further informs that Mr. Krunal Kumar Govindbhai has applied for cancellation of plaintiff's mark on 17th May, 2024 before the Controller General of Patents, Designs & Trademarks with the following details which are extracted as under:



Welcome Abhay Pratap Singh [Sign out](#)

Controller General of Patents, Designs & Trade Marks
CP-4, Sector 17, Ball Lake City, Kolkata-700011
Tel No. (033)23512123 23471945-48 Fax No. 033 23471988
E-mail: delhi@ipdr.in
Web Site: www.ipdr.in


गणतन्त्रम्
G.A.R.6
(See Rule 2D(1))
RECEIPT


INTELLECTUAL
PROPERTY INDIA
PATENTS, DESIGNS, TRADE MARKS
CINematograph, Geographical Indications

Date/Time 17/05/2024

To
Abhay Pratap Singh
J 25, First Floor Jangpura Extension

User Code: **sps_3152**
User Name: **Abhay Pratap Singh**

CBR Detail:

Sl. No.	Ref. No./Application No.	App. Number	Amount Paid	C.B.R. No.	Form Name	Remarks
1	D-879/2024-KOL.	267862-001	1500	208429	FORM 8	

Transaction ID	Payment Mode	Challan Identification Number	Amount Paid	Bank of A/C No.
D-0000071586	Online Bank Transfer	176824062922*	1500.00	1475001010000000

Total Amount : ₹ 1500
Amount in Words: Rupees One Thousand Five Hundred Only
Received from Abhay Pratap Singh the sum of ₹ 1500 on account of Payment of fee for above mentioned Application/Forms.
* This is a computer generated receipt, hence no signature required.

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14. In view of the same, he seeks time to file response to the said claim. Other defendants shall also file reply within the next 6 weeks, with copies to the opposing counsel.

15. Ms. Rajeshwari, counsel for plaintiff, however states that notwithstanding that defendant no.2's submission, regarding which she will take instructions, the photographs have been copied from plaintiff's listings by other defendants.

16. Defendant no.1 shall place on record details of the dates of when listings went up first, of plaintiff and that of defendant nos. 2 to 16. They shall also state if there are any other listings, which are similar to that of defendant nos. 2-16.

17. Details of defendant nos. 2 to 16 will be disclosed by defendant no.1



by way of affidavit within a period of one week with copies to the counsel for plaintiff.

18. Counsel for plaintiff shall also place on record the details of their listings with said photographs in which they claim their copyright and any other detail which may substantiate the copyright claim in the said photographs of plaintiff.

19. On steps being taken by plaintiff, issue notice to remaining unserved defendant nos. 3 to 16, after filing of affidavit disclosing details by defendant no.1, as directed above, 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.

20. Replies be filed within six weeks with advance copy to the counsel for plaintiff, who may file rejoinders thereto, if so desired, before the next date of hearing.

21. List on 23rd July 2024.

22. Order be uploaded on the website of this Court.

ANISH DAYAL, J

MAY 27, 2024/sm/na