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

+ **CS(COMM) 437/2024 & I.A. No. 42582/2024**

**KARAN RAJESH DATTANI SOLE PROPRIETOR OF  
DNYANADA**

.....Plaintiff

Through: Ms. Rajeshwari H., Ms. Raj Latha  
Kotni, Ms. Swagita Pandey, and Ms.  
Ananya Singh, Advocates.  
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versus

**FASHNEAR TECHNOLOGIES PVT LTD & ORS.** .....Defendants

Through: Mr. Faisal Sherwani, Mr. Shikher  
Deep Aggarwal, Mr. Aditya Vikram  
and Ms. Sanjukta Kaushik, Advocates  
for D-1.  
Mob: 95999562591  
Mr. Siddharth Jain and Mr. Shubham  
Saigal, Advocates for D-2.  
Email: [siddharthjain@jslaw.in](mailto:siddharthjain@jslaw.in)  
Mob: 8010270087  
Mr. Saurabh Sagar, Advocate for D-3,  
6, 7, 8, 10, 11 & 12  
Mob: 9773586399

**CORAM:  
HON'BLE MS. JUSTICE MINI PUSHKARNA**

**ORDER**  
**18.10.2024**

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**I.A. No. 42582/2024 (For modification/clarification)**

1. The present application has been filed on behalf of defendant no. 2  
under Section 151 of the Code of Civil Procedure, 1908 ("CPC"), seeking



modification/ clarification of the order dated 6<sup>th</sup> September, 2024, passed by this Court.

2. It is submitted that the present suit has been filed by the plaintiff seeking, *inter alia*, permanent injunction against the defendants.

3. It is submitted that it has wrongly been alleged that defendant no. 2 has infringed the plaintiff's design, namely "*Hathi Saree*", registered under the Designs Act, 2000, as design number 367062-001 ("Hathi Design").

4. Thus, it is submitted that the present application has been filed by defendant no. 2 seeking modification in Para 1 of the order dated 6<sup>th</sup> September, 2024.

5. It is submitted that the counsel for defendant no. 2 did not submit that defendant no. 2 will stop using the Hathi Design on its sarees or will otherwise change the design of their sarees. However, inadvertently, it was so recorded in the order dated 6<sup>th</sup> September, 2024.

6. It is submitted that defendant no. 2 is legally operating its business of producing, distributing, promoting and selling the sarees, having the original design. This original design on defendant no. 2's sarees is registered under the name of Mr. Vaghamashi, under Class 02-02 and bearing design number 339770-001, with effect from 25<sup>th</sup> April, 2021. It is submitted that Mr. Vaghamashi has authorized defendant no. 2, to use the original design on defendant no. 2's sarees, under two authorization letters dated 1<sup>st</sup> April, 2022 and 30<sup>th</sup> March, 2024.

7. Thus, it is submitted that defendant no. 2 is seeking modification in Para 1 of the order dated 6<sup>th</sup> September, 2024, to the extent that it may be clarified that the statement made by the counsel for the defendant no. 2 is limited to not using the photographs of the sarees of the plaintiff and does



not extend to changing the design of the saree.

8. Issue notice. Notice is accepted by learned counsel appearing for the plaintiff.

9. Learned counsel appearing for the plaintiff submits that in view of the submission made by learned counsel appearing for defendant no. 2, the defendant no. 2 should continue to use the design as authorized by Mr. Vaghamashi, under Class 02-02 and bearing design number 339770-001.

10. Considering the submissions made before this Court, Paragraph 1 of the order dated 6<sup>th</sup> September, 2024, is modified and clarified to the extent, that the statement as recorded in the order dated 6<sup>th</sup> September, 2024, on behalf of defendant no. 2, is limited to not using the photographs of the sarees of the plaintiff.

11. With the aforesaid directions, the present application is disposed of.

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12. In view of the submissions made by learned counsel appearing for defendant no. 2, with respect to the defendant no. 2 using the design as authorised by Mr. Vaghamashi, let an undertaking affidavit be filed by defendant no. 2 before this Court, pertaining to use of the said designs.

13. List before the Court on 22<sup>nd</sup> October, 2024.

14. List before the Joint Register (Judicial) on 13<sup>th</sup> December, 2024.

**MINI PUSHKARNA, J**

**OCTOBER 18, 2024**

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