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

+ **CS(COMM) 483/2024 with I.A. 31043/2024**

HALDIRAM INDIA PVT. LTD.Plaintiff

Through: Mr. Neeraj Grover, Mr. Angad Deep Singh and Ms. Arpita Mishra, Advocates.

versus

HARIRAM VENTURES PVT. LTD & ORS.Defendants

Through: Ms. Nandita Seth, Advocate for Defendants No. 1 & 2.
Mr. Gautam Narayan and Mr. Ashok Kumar Jain, Advocates for Defendant No. 3.

**CORAM:
HON'BLE MR. JUSTICE AMIT BANSAL**

**ORDER
27.09.2024**

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I.A. 31043/20204 (seeking exemption from pre-institution mediation)

1. List on 29th January, 2025.

I.A. 31041/2024 (O-XXXIX Rule 1 & 2 of CPC)

2. The present suit has been filed seeking reliefs of permanent injunction restraining the Defendants from infringing the trademarks and copyrights of the Plaintiff, passing off their products as that of the Plaintiff and other ancillary reliefs.

3. It is stated in the plaint that the Plaintiff is the proprietor of the trade mark "HALDIRAM BHUJIAWALA/HALDIRAM'S" in respect of edible



articles of human consumption and as such has an exclusive right to use the aforesaid trademarks. The trademark “HALDIRAM BHUJIWALA” with



the letter “HRB” in a V shape logo *i.e.*, was registered on 27th December, 1972 under Class 30 in the name of the Plaintiff. The said registration had been granted for the entire territory of India except in the state of West Bengal. Details of other registrations granted in favour of the Plaintiff in India are given in paragraph 10 of the plaint.

4. Plaintiff is the registered proprietor of the trade mark “HR-



HALDIRAM’S” / “”. The Plaintiff has obtained registrations across various classes in respect of the aforesaid marks which are given in Paragraph 11 of the plaint.



5. Plaintiff’s trade mark HALDIRAM / : has been declared as a ‘*well-known mark*’ within the meaning of the Trade Marks Act, 1999 by this Court *vide* judgment dated 2nd April 2024 in CS (COMM) 495/2019.

6. Plaintiff is the copyright holder in respect of the artistic work relating to its pouches/packaging material and has various copyright registrations in its favour. The details of the various copyright registrations granted in favour of the Plaintiff are given in paragraph 13 of the plaint. The Plaintiff is also the owner of several domain names, details of which are given in paragraph 19 of the plaint.



7. On or about September, 2021, the Plaintiff came to know about the



adoption and usage of in conjunction with the mark



“HALDIRAM BHUJIAWALA” as also a H (logo) - in



conjunction with by Defendant No.2 in relation to Defendant No.2’s restaurant and sweet shop at Patna, Bihar.

8. Consequently, the Plaintiff filed a civil suit against Defendant No.2 wherein an interim injunction order was passed on 7th December, 2021 which continued to operate till 23rd January, 2023. In the said suit, it was the stand of Defendant No.2 that it was authorised to use the aforesaid trade mark by virtue of entering into a Super Stockist Agreement dated 8th October, 2020 with Defendant No.3. On 23rd January, 2023, the civil suit filed by the Plaintiff was returned since the concerned District Court did not have the territorial jurisdiction to entertain the suit.

9. Subsequently, Plaintiff came to know that the erstwhile outlet of Defendant No.2 is being run by Defendant No.1/Company which claimed



itself to be the authorized dealer of . As per the Plaintiff, Defendant No.1 has been promoted by the same persons, who promoted Defendant No.2. A perusal of paragraph 39 of the plaint shows that Defendant No.1/Company is running a full-fledged restaurant displaying the marks “HALDIRAM BHUJIAWALA”/



, giving the impression that it is a franchise of the Plaintiff.

10. The present suit was filed by the Plaintiff on 27th May, 2024.

11. Summons in the present suit as well as notice in the captioned application were issued on 30th May, 2024.

12. On the next date of hearing, 3rd July, 2024, a submission was made on behalf of counsel for the Plaintiff that for the moment, he would not be pressing for interim relief against Defendant No.3 and would only be pressing for interim relief against Defendants No.1 and 2.

13. In the order passed by the Joint Registrar (Judicial) on 2nd September, 2024, it was noted that Defendants No.1 and 2 have been served summons on 19th June, 2024. However, till date, Defendants No.1 and 2 have not filed their written statement.

14. Ms Nandita Seth, counsel appearing for Defendants No. 1 and 2 seeks further time to file written statement. It is to be noted that despite 90 days having elapsed, written statements are yet to be filed by Defendants No.1 and 2.

15. As per the assertions made by Defendant No.3 in his written statement, Defendant No.2 was never authorized by Defendant No.3 to use



the mark "HALDIRAM'S"/ in the manner alleged in the suit. In fact, a cease and desist notice was issued by Defendant No.3 to Defendant No.2 on 14th December, 2023. Subsequently, after the cease and



desist notice, Defendant No.3, *vide* letter dated 11th July 2024, terminated the Super Stockist Agreement on account of breaches committed by Defendant No.2, including infringement of trademarks.

16. In so far as Defendant No.1 is concerned, it was never authorised by Defendant No.3 in any manner whatsoever to use the impugned marks.

17. In view of the above, a *prima facie* case has been made out on behalf of the Plaintiffs. Balance of convenience is in favour of the Plaintiff and against Defendants No.1 and 2. Irreparable injury would be caused to the Plaintiffs if Defendants No.1 and 2 continue to use the impugned marks. Prejudice would also be caused to the public as the marks used by Defendants No. 1 and 2 are deceptively similar to that of the Plaintiff and are likely to cause confusion in the market.

18. Consequently, till the next date of hearing, *ad-interim* injunction is ordered restraining Defendants No.1 and 2, their directors, agents, servants, representatives from selling, conducting, offering for sale, stocking, advertising, directly or indirectly dealing in any food items, Indian sweets, namkins, and/or any other allied/cognate goods and/or any other goods or restaurant services under the impugned marks “HALDIRAM

BHUJIAWALA”,



and/or



and/or

“HARIRAM” and/or any other marks confusingly and deceptively similar mark thereto.

19. As regards Prayer 57 (b) in the captioned application concerning Defendant No.3, the same would be considered on the next date of hearing.

20. List before the Joint Registrar for completion of service and pleadings



on 5th November, 2024.

21. List before the Court on 29th January, 2025.

AMIT BANSAL, J

SEPTEMBER 27, 2024

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