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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 520/2024, I.A. 31647/2024, I.A. 31648/2024, I.A.**
31649/2024, I.A. 31650/2024 & I.A. 31651/2024

TIRTH AGRO TECHNOLOGY PRIVATE LIMITED Plaintiff

Through: Mr. Raj Shekhar Rao, Sr. Adv. with
Mr. Manish Kumar Choudhary and
Ms. Srishti Choudhary, Advs.

versus

SHREE BHAWANI AGRO INDUSTRIES Defendant

Through:

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

% **31.05.2024**

I.A. 31649/2024 (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.
2. Accordingly, the application stands disposed of.

I.A. 31650/2024 (Exemption from filing original/certified copies 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.

I.A. 31651/2024 (Exemption from advance service on the defendant)

1. Since there is an urgency in the matter and the same is being heard today, plaintiff is exempted from serving advance notice on the defendant herein.
2. For the reasons stated in the application and in the interest of justice, the same is allowed and disposed of.

I.A. 31648/2024 (Application for appointment of Local Commissioner)

1. This application is not pressed at this stage.
2. Accordingly, the present application shall remain pending for the time being.

CS(COMM) 520/2024

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 02nd September, 2024.

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

I.A. 31647/2024 (Application under Order XXXIX Rules 1 and 2 CPC)

1. This application has been filed under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 as part of the accompanying suit seeking a decree of permanent injunction restraining the defendant and all those acting for and on their behalf from manufacturing, marketing, advertising, promoting agricultural products namely Rotavators Blade and/or any other cognate and allied product using the plaintiff's trademark 'SHAKTIMAN'.

2. Plaintiff claims to be using the trademark 'SHAKTIMAN', having acquired the mark in 2012 from its predecessor, who had user since 1961. Plaintiff adopted the trademark 'SHAKTIMAN' along with the artistic work and claims to have various registrations in different classes which are tabulated as under:

Trademark No.	Trademark Name	Class	Status
1419724	SHAKTIMAN (WORD)	7	Registered
1994253	SHAKTIMAN(Device)	7	Opposed
990334	SHAKTIMAN ROTARY TILLER (Device)	7	Registered
2277154	SHAKTIMAN (WORD)	7	Opposed
2277149		2	Registered



2277150		3	Registered
2277151		4	Registered
2277153		6	Registered
2277155		8	Registered
2277156		9	Registered
2277157		10	Registered
2277158		11	Registered
2277159		12	Opposed
2277160		13	Registered
2277162		15	Registered
2277163		16	Registered
2277164		17	Registered
2277165		18	Registered
2277166		19	Registered
2277167		20	Registered
2277168		21	Opposed

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2277169		22	Registered
2277170		23	Registered
2277171		24	Registered
2277172		25	Registered
2277173		26	Registered
2277174		27	Registered
2277175		28	Registered
2277176		29	Registered
2277177		30	Registered
2277179		32	Registered
2277180		33	Registered
2277181		34	Registered
2277182		35	Registered
2277183		36	Registered
2277184		37	Registered
2277185		38	Opposed

2277186		39	Opposed
2277187	SHAKTIMAN (Device)	40	Pending
2277188		41	Opposed
2277189		42	Opposed
2277190		43	Opposed
2277192	SHAKTIMAN (Device)	45	Opposed
3276155	SHAKTIMAN SUPREME (Device)	7	Registered
3857624	SHAKTIMAN BALE MASTER 150 (Device)	7	Registered
3857627	SHAKTIMAN PADDY MASTER 3776 (Device)	7	Registered
4007957	SHAKTIMAN COTTON MASTER 8037 (Device)	7	Registered
4541141	SHAKTIMAN LUBRIUM OIL (Device)	7	Registered

3. They have also obtained registration of the trademark 'SHAKTIMAN' in foreign countries. Details of which have been tabulated by plaintiff as under:



Country	Application No.	International Class	Trademark	Status
Bangladesh	H/154103	07	SHAKTIMAN	Pending
Nepal	3514	07	SHAKTIMAN	Pending
Sri Lanka	171314	07	SHAKTIMAN	Pending
Israel	246687	07	SHAKTIMAN	Registered
Cambodia	46254	07	SHAKTIMAN	Registered
Europe Community Trademark	010987394	07	SHAKTIMAN	Registered
USA	85660031	07	SHAKTIMAN	Registered
Vietnam	4-2013-12528	07	SHAKTIMAN	Registered
Philippines	4-2013-501437	07	SHAKTIMAN	Registered
Thailand	897439	07	SHAKTIMAN	Registered
South Africa	2013/15799	07	SHAKTIMAN	Registered
Myanmar	4/8115/2013	07	SHAKTIMAN	Pending
Sudan	48619	07	SHAKTIMAN	Registered
China	26883209	07	SHAKTIMAN	Registered

China	26883211	07	SHAKTIMAN (Word mark)	Registered
Iran	139750140001082574	07	SHAKTIMAN	Registered
Egypt	391555	07	SHAKTIMAN	Pending
Turkey	2020/00219	07	SHAKTIMAN	Registered
Australia	2202866	07	SHAKTIMAN	Pending
New Zealand	1186903	07	SHAKTIMAN	Registered
Algeria	DZ-T-2021-4930	07	SHAKTIMAN	Pending
Morocco	231193	07	SHAKTIMAN	Registered
Tunisia	TN/E/2021/00461	07	SHAKTIMAN	Pending
Colombia	SD2021/0080081	07	SHAKTIMAN	Published
Serbia	Z-1469/2021	07	SHAKTIMAN	Pending
Chile	1471696	07	SHAKTIMAN	Pending
Norway	202111124	07	SHAKTIMAN	Registered
Belarus	20211930	07	SHAKTIMAN	Pending
Croatia	Z20211055A	07	SHAKTIMAN	Pending

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Kosovo	KS/M/2021/1241	07		Pending
Macedonia	TM 2021/895	07		Pending
Mexico	2607668	07		Registered
Indonesia	DID2021065677	07		Pending
Taiwan	110064870	07		Pending
Myanmar	WFT2021043944	07		Pending
Fiji	577/2021	07		Pending
Brazil	924275235	07		Published for opposition
Argentina	4050111	07		Published for opposition
Mauritius	MU/M/2021/3460	07		Pending
Costa Rica	2021-8390	07		Pending
Mauritius	MU/M/2021/3460	07		Pending
Costa Rica	2021-8390	07		Pending
Cuba	2022-0164	07		Pending

Ecuador	21-89091	07		Pending
El Salvador	2021201082	07		Pending
Guatemala	2021-12499	07		Pending
Haiti	84-R	07		Pending
Paraguay	22/06856	07		Pending
Peru	927619	07		Published
Uruguay	523.749	07		Pending

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4. Plaintiff also has a copyright registration in its favour for the label ‘SHAKTIMAN’ and its artistic work, which is valid till date. Plaintiff’s sales figures for the said mark, as claimed, in the last sixteen years are as under:

YEAR	Approximate Sales in Crore	Advertisement Expenses in Crore
2007-08	38.62	0.60
2008-09	72.49	0.08
2009-10	116.77	0.01
2010-11	254.53	1.38
2011-12	447.75	3.48
2012-13	402.21	5.49
2013-14	545.13	4.08
2014-15	494.89	7.81
2015-16	561.69	4.58

2016-17	704.63	8.53
2017-18	858.35	10.16
2018-19	967.78	8.01
2019-20	777.54	5.69
2020-21	1353.49	10.75
2021-22	1386.71	7.54
2022-23	1767.21	9.56

5. Plaintiff purchased the domain name shaktimanagro.com on 18th July, 2005 and also has social media presence on various platforms.

6. Plaintiff became aware of the defendant’s use in third week of April



2024 through selling and referring to Rotavators and other spare parts using the plaintiff's trademark 'SHAKTIMAN'. The said listings on the various websites are as under:

Indiamart > All India > Enter product / service to search > Get Best Price

Shopping Sell Help Messages Sign In

IndiamART > Tractor, Tractor Parts & Assemblies > Rotavator > Rotavator Blades

Rotavator | Agricultural Implements near Ludhiana > View More >

Document-11

SHREE BHAWANI AGRO INDUSTRIES

Cast Iron Shaktiman Rotavator Blades

₹ 90 [Get Latest Price](#)

Blade Type L Type
Number Of Blades 36
Overall Width (Feet) 5 Feet
Material Boron Steel
Color BLACK / BLUE / GREEN
Surface Finish POWDER COATED

By leveraging upon our huge industry experience, we provide the best quality array of Cast Iron Rotavator Blades.

[View Complete Details](#)

[Get Latest Price](#)
Request a quote

Shree Bhawani Agro Industries

Sahibzada Ajit Singh Nagar, Ludhiana, Punjab

3.8/5 ★★★★★ (46)
GST-03CGHPK3016K1ZN

TrustSEAL Verified Manufacturer

[View Mobile Number](#)
77% Response Rate

[Contact Supplier](#)

SBAI-2175 ROTAVATOR BLADE 14"57

[Get More Photos](#) 147093 [View Similar](#)

[PDF BROCHURE](#)

Find products similar to Cast Iron Shaktiman Rotavator Blades near Ludhiana

4/18/24, 6:01 PM L Type Boron Steel ROTAVATOR BLADE FOR SHAKTIMAN AND SONALIKA at Rs 70 in Ludhiana 402

All India > Enter product / service to search > Search > Get Best Price

IndiamART > Tractor, Tractor Parts & Assemblies > Rotavator > Rotavator Blades

Rotavator | Agricultural Implements near Ludhiana > View More >

L Type Boron Steel ROTAVATOR BLADE FOR SHAKTIMAN AND SONALIKA

₹ 70 [Get Latest Price](#)

Blade Type L Type
Number Of Blades 36
Overall Width (Feet) 6 Feet
Material Boron Steel
Brand SHAKTIMAN / SONALIKA / BULL / LANCER /

With the valuable assistance of skilled team of professionals, we are engaged in offering an extensive range of high-quality Shaktiman Rotavator Blade.

[View Complete Details](#)

[Get Latest Price](#)
Request a quote

Shree Bhawani Agro Industries

Sahibzada Ajit Singh Nagar, Ludhiana, Punjab

3.8/5 ★★★★★ (46)
GST-03CGHPK3016K1ZN

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74% Response Rate

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Shree Bhawani Agro Industries

<https://www.indiamart.com/shreebhawaniagroindustries/>

“Shree Bhawani Agro Industries” is a distinguished **Manufacturer and Trader** of a wide range of **Rotavator Parts, Tractor Spare Parts, etc.**



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About Us

“Shree Bhawani Agro Industries” is a distinguished **Manufacturer and Trader** of a wide range of **Rotavator Parts, Tractor Spare Parts, etc.** Founded in the year **1918**, we are a **Sole Proprietorship** company that is incepted with an objective of providing high quality products in diverse specifications within scheduled time period. Situated in **Ludhiana (Punjab, India)**, we manufacture the products in accordance with set industry norms. Under the headship of our mentor “**Mr. Mayank Kumar**”, we have gained huge clientele in our country.

For more information, please visit

<https://www.indiamart.com/shreebhawaniagroindustries/profile.html>



ROTAVATOR PARTS



Rotavator Depth Skid Set
Shaktiman/Sonalika



Rotavator Gear 25 Teeth
Fieldking 10 Spline



Rotavator Side Gear Set
Fieldking



ROTAVATOR BLADE FOR
SHAKTIMAN AND SONALIKA

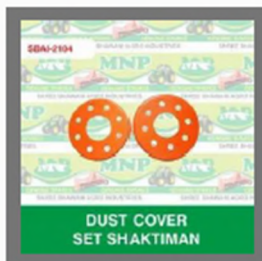
ROTAVATOR PART



ROTAVATOR SIDE GEAR
SET SHAKTIMAN BIG BORE



Rotavator Gear 20t Shaktiman
Big Bore



Rotavator Dust Cover
Shaktiman/Sonalika



ROTAVATOR STUB
HOUSING NIPHA

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ROTAVATOR SPARE PARTS



Gear 20t Shaktiman



Rotavator Side Gear Set
Fieldking



Rotavator Side Gear



Cast Iron Rotavator Blades

TRACTOR SPARE PART



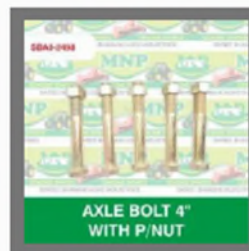
Mahindra Tractor Top Link
Assembly



ROTAVATOR CHECKNUT



Tie Rod End



Axle Bolt 4" With P/ Nut

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TOP LINK ASSEMBLY



Tractor Levelling Assembly
Sonalika Extra H/D



Toplink Assembly Swaraj 855
(farmer Type)



Tractor Lower Link Ends



Tractor Top Link End

WHEAT JOWAR RICE THRESHER



Wheat Thresher Seep Cup



Wheat Thresher Bracket



Wheat Thresher Seap Bush



Wheat Thresher Gulla Plate

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OTHER PRODUCTS:



ROTAVATOR DEPTH SKID
ADJUSTER PATTI
SONALIKA WITH BOLT



Rotavator Side Gear Set
Shaktiman Small Bore



Rotavator Dust Cover Oil Seal



Lower Link End

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OTHER PRODUCTS:



Tractor Trolley Check Nut



All Types Of Thresher Pullys Available....



Toplink Assembly Mahindra
INTER DI REDUCE TYPE



Thresher Seap Bolt 6304 /
6205

7. These are sample illustrations of a home list of screenshots from these websites which showing the use by the defendant of the plaintiff's marks.

8. In this view of the matter, in the opinion of this Court, plaintiff has made out a *prima facie* case for grant of an *ex-parte ad interim* injunction till the next date of hearing. Balance of convenience lies in favour of plaintiff, and plaintiff is likely to suffer irreparable harm in case the injunction, as prayed for, is not granted.

9. Accordingly, till the next date of hearing, *ex-parte ad interim* injunction is passed in favour of the plaintiff and against the defendant in the following terms:

a) Defendant and all those acting for and on their behalf are restrained from manufacturing, marketing, advertising, promoting agricultural products namely Rotavators Blade and/or any other cognate and allied product using



the plaintiff's trademark 'SHAKTIMAN'.

10. 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.

11. Reply, if any, 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.

12. Compliance with Order XXXIX Rule 3 of CPC be effected within a week from today.

13. List on 07th October, 2024.

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

ANISH DAYAL, J

MAY 31, 2024/MK/ig