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

+ **CS(COMM) 771/2022 & I.A. Nos. 3424/2025 & 3425/2025**

USHA INTERNATIONAL LIMITED

.....Plaintiff

Through: Mr. Aadhar Nautiyal, Ms. Shivangi
Kohli, Advocates (M: 7042430082)

versus

**POOJA DUA TRADING AS NAMAN SEWING MACHINE CO
NSM CO**

.....Defendants

Through: None.

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

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10.02.2025

I.A. 3424/2025 & I.A. 3425/2025

1. The present application has been filed under Order I Rule 10 read with Section 151 of Code of Civil Procedure, 1908 ("CPC").
2. Learned counsel for the plaintiff submits that the present suit has been filed against defendant nos.1 and 2, seeking an order *inter-alia* of permanent injunction restraining the defendants from using in any manner the trade marks/ trade dress of the plaintiff.
3. It is submitted that vide order dated 10th November, 2022, this Court had passed an order of *ex-parte ad interim* injunction in favour of the plaintiff and against the defendants.
4. Further, by order dated 25th April, 2023, the injunction order in favour of the plaintiff was made absolute, after recording the statement of the defendants' counsel.
5. It is submitted that in the last week of September, 2024, the plaintiff



learnt from its market sources that the defendants are continuing to sell its products under the mark 'BADDAN' and the impugned trade dress in the local markets of Uttar Pradesh. To verify this information, the plaintiff immediately instructed its representatives to visit the local markets of Uttar Pradesh.

6. It is submitted that subsequent enquiries revealed that despite the orders passed by this Court, two entities are continuing to sell sewing machines manufactured by the defendants under the trade mark 'BADDAN'



and the impugned trade dress/ packaging, which is deceptively and confusingly similar to the plaintiff's 'BANDHAN' trade dress. The two entities, as given in the application, are as follows:

- (i) **Prem Narayan & Co.**
Civil Line,
Behind Kotwali, Galla Mandi
Sultanpur, U.P - 228001
(hereinafter "proposed Defendant No. 3")

- (ii) **Virendra Traders**
Yusuf Ganj Barahdwari,
Barahdwari Road,
Mahavir Ganj,
Aligarh - 202001
Mob: 9456804401
(hereinafter "proposed Defendant No. 4")

7. It is further submitted that the plaintiff's representatives purchased a sewing machine, which was being sold without any packaging and which



bore marks D.U.S.A/U.S.A and BADDAN from the proposed defendant no. 3.

8. It is further submitted that the plaintiff's representatives also purchased a sewing machine from proposed defendant no. 4. It is submitted that the trade dress/ packaging of the sewing machine sold by defendant no. 4 is deceptively and confusingly similar to the plaintiff's 'BANDHAN' trade dress, which is subject matter of the present suit.

9. Thus, it is submitted that defendants have slavishly copied the entire trade dress, get up, look and feel of the plaintiff's 'BANDHAN' trade dress. In addition to the identical yellow coloured packaging, the placement of various elements, images, fonts on the packaging of the plaintiff and defendants are virtually identical to each other.

10. Thus, it is submitted that by selling the products under the mark 'BADDAN' and 'NISHA' trade dress, the defendants are continuing to violate the orders of this Court and infringing the plaintiff's statutory and common law rights.

11. It is further submitted that the proposed defendants who are selling the defendants' products under the mark 'BADDAN' and the 'NISHA' trade dress are actively involved in the violation of the plaintiff's rights.

12. Thus, it is submitted that the proposed defendants are hand in glove with the defendants and are actively involved in the chain of infringement. It is further submitted that considering the fact that the present suit is at initial stages and the parties have not yet led their evidence, no prejudice will be caused to the defendants or anyone if the proposed defendants are impleaded in the suit.

13. It is submitted that in view of the aforesaid actions of the proposed



defendant nos. 3 and 4, it is imperative that the order of injunction dated 10th November, 2022, read with order dated 25th April, 2023, passed by this Court be also extended to the proposed defendants.

14. It is submitted that the plaintiff has suffered and is likely to suffer irreparable harm and injury, leading to damage and dilution to its exclusive proprietary rights and goodwill in the mark BANDHAN/



and the BANDHAN packaging.

15. Accordingly, the plaintiff has demonstrated a *prima facie* case for grant of injunction and in case no *ex parte ad interim* injunction is granted, the plaintiff will suffer an irreparable loss. Further, the balance of convenience also lies in favour of the plaintiff and against the proposed defendants.

16. This Court further notes, that this Court has already protected the trade mark and trade dress of the plaintiff by way of orders dated 10th November, 2022 and 25th April, 2023.

17. This Court further notes that none appears for the proposed defendant nos. 3 and 4, despite advance service.

18. Accordingly, it is directed that the order dated 10th November, 2022, read with order dated 25th April, 2023, shall extend to the proposed defendant nos. 3 and 4.

19. Issue notice to the defendants, including, the proposed defendants, by all modes.

20. Let reply be filed within four weeks. Rejoinder thereto, if any, be



filed, within a period of two weeks, thereafter.

21. Re-notify on the date already fixed, i.e., 18th March, 2025.

MINI PUSHKARNA, J

FEBRUARY 10, 2025

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