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

+ **CS(COMM) 852/2022 & I.A. 20718/2022**

M/S TEJ RAM DHARAM PAUL & ANR. Plaintiffs

Through: Mr. Saurabh Kirpal, Senior Advocate
with Mr. Anirudh Bhakru, Mr.
Shailen Bhatia, Mr. Arnav Chatterjee,
Mr. Sheril Bhatia and Ms. Nandini
Agarwal, Advocates.

versus

M/S OM SHIVA PRODUCTS INC & ORS. Defendants

Through: Mr. Rajshekhar Rao, Senior Advocate
with Mr. Ankur Sangal, Mr. Ankit
Arvind and Mr. Kiratraj Sadana,
Advocates.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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08.12.2022

**I.A. 20719/2022 (under Section 12A of Commercial Courts Act, 2015 r/w
Section 151 of the Code of Civil Procedure, 1908 seeking exemption from
pre-mediation proceedings)**

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.**,¹ exemption from attempting pre-
institution mediation is allowed.

2. Accordingly, the application stands disposed of.

¹ Neutral citation: 2022/DHC/004454.



I.A. 20720/2022 (under Section 151 of CPC seeking exemption from advance service to the Defendants)

3. Exemption allowed, subject to all just exceptions.
4. Application is disposed of.

I.A. 20721/2022 (under Order XI r/w Section 151 CPC seeking exemption from filing original/certified copies/ better copies)

5. Exemption is granted, subject to all just exceptions.
6. Plaintiffs shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.
7. Accordingly, the application stands disposed of.

CS(COMM) 852/2022

8. Let the plaint be registered as a suit.
9. Issue summons. Mr. Ankur Sangal, Advocate accepts the same on behalf of the Defendants. Written statement(s) shall be filed by the Defendants within 30 days from today. Along with the written statement(s), the Defendants shall also file affidavit(s) of admission/ denial of the documents of the Plaintiffs, without which the written statement(s) shall not be taken on record.
10. Liberty is given to the Plaintiffs to file replication(s) within 15 days of the receipt of the written statement. Along with the replication(s), if any, filed by the Plaintiffs, an affidavit of admission/ denial of documents of the Defendants, be filed by the Plaintiffs, without which the replication(s) 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.



11. List before the Joint Registrar for marking of exhibits on 06th February, 2023. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

12. List before Court for framing of issues thereafter.

I.A. 20717/2022 (under Order XXXIX Rules 1 and 2 r/w Section 151 of CPC)

13. Plaintiffs are the registered proprietor of “COOL LIP” and “LIP” marks and certain stylised variants thereof. They are aggrieved by use of “LIP LOCK” mark by Defendants. The Court has heard Mr. Saurabh Kirpal, Senior Counsel for Plaintiffs, at sufficient length.

14. Mr. Rajshekhar Rao, Senior Counsel for Defendants, has also made some submissions. He states that Defendants became aware of listing of present suit last evening, when they saw name of the parties in the cause list and their request for copy of plaint was not acceded to. Mr. Kirpal has handed over a copy of paper-book to Mr. Rao during the hearing. Mr. Rao seeks a short accommodation to go through the same and address arguments.

15. Let reply, if any, be filed on or before 10th December, 2022, copies thereof shall also be e-mailed to Plaintiffs/ Applicants and the Court Master. Rejoinder thereto, if any, be handed over on the next date of hearing, with an advance copy to counsel for Defendants.

16. Within a period of one week from today, Defendants are directed to file following documents:

- (i) an inventory of goods available with them and sold under the mark in respect of which infringement is claimed.
- (ii) details of parties to whom the afore-said products are supplied along



with quality so sold/ supplied.

- (iii) books of accounts, cash book, ledgers and stock registers pertaining to manufacture and sale of impugned goods, for the last three years.

17. List on 12th December, 2022.

SANJEEV NARULA, J

DECEMBER 8, 2022

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