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

+ **CS(COMM) 796/2025 & I.As. 18903-05/2025**

MEBIGO LABS PRIVATE LIMITED

.....Plaintiff

Through: Mr. Saikrishna Rajagopal, Mr. Y. Garg, Ms. Disha Sharma, Mr. Akshay and Mr. Priyansh Kohli, Advocates

versus

GREENHORN WELLNESS PRIVATE LIMITED & ORS.

.....Defendants

Through: Mr. Varun Pathak, Advocate for D-2
Mr. Aditya Gupta, Adv. for D-3

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **05.08.2025**

I.A. 18904/2025 (Application under Order XI Rule 1(4) (as amended by the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Ordinance, 2015) read with Section 151 CPC, 1908 seeking leave to file additional documents)

1. This is an application seeking leave to file additional documents under Order XI Rule 1(4) of the Code of Civil Procedure, 1908 (CPC) [as amended by the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 ('Commercial Courts Act')] read with Section 151 CPC, within thirty (30) days.

2. The Plaintiff, if it wishes to file additional documents will file the same within thirty (30) days from today, and it shall do so strictly as per the provisions of the Commercial Courts Act and the Delhi High Court (Original Side) Rules, 2018 ('DHC Rules').



3. For the reasons stated in the application, the same is allowed.

4. Accordingly, the application is disposed of.

I.A. 18905/2025 (Application under Section 151 of the Code of Civil Procedure, 1908 seeking exemption from invoking pre-institution mediation under Section XII-A of the Commercial Courts Act, 2015)

5. The present application has been filed under Section 151 of the CPC by the Plaintiff seeking exemption from instituting pre-litigation mediation as per Section 12A of the Commercial Courts Act, 2015.

6. Having regard to the facts that the present suit contemplates urgent interim relief and in light of the judgement of the Supreme Court in **Yamini Manohar v. T.K.D. Kreethi**¹, exemption from the requirement of pre-institution mediation is granted to the plaintiff.

7. Accordingly, the application stands disposed of.

CS(COMM) 796/2025

8. Let the plaint be registered as a suit.

Summons to Defendant No.1

9. Upon steps being taken by the Plaintiff, issue summons to Defendant No.1 through all modes. Affidavit of service of be filed within two (2) weeks.

10. The summons shall indicate that written statement must be filed within thirty (30) days from the date of receipt of summons. The Defendant No.1 shall also file affidavits of admission/denial of the documents filed by the Plaintiff, failing which the written statements shall not be taken on record.

11. The Plaintiff is at liberty to file replication thereto within thirty (30)

¹ (2024) 5 SCC 815.



days after filing of the written statement. The replication shall be accompanied by affidavits of admission/denial in respect of the documents filed by the Defendant No.1, failing which the replication shall not be taken on record.

12. It is made clear that any unjustified denial of documents may lead to an order of costs against the concerned party.

13. Any party seeking inspection of documents may do so in accordance with the Delhi High Court (Original Side) Rules, 2018.

14. No summons is being issued to Defendant Nos. 2 and 3 as the said defendants have only been impleaded for ensuring compliance of the orders passed.

15. List before the learned Joint Registrar for completion of service and pleadings on **16.09.2025**.

16. List before the Court on **17.12.2025**.

I.A. 18903/2025 (Application under Order XXXIX Rule 1 and 2 CPC)

17. The present application has been filed by the Plaintiff under Order XXXIX Rules 1 and 2 of CPC, seeking the following reliefs:

- a) Pass an order of interim/ temporary injunction restraining Defendant No.1 (and their such other unknown individuals/entities which are discovered during the course of the proceedings to have been engaged in infringing activities), by themselves, their owners, proprietors, partners, servants, employees, and all others in capacity of principal or agent acting for and on behalf, or anyone claiming through, by or under it, from using or displaying any part of the Plaintiff's original copyrighted audio or video or audiovisual content, including but not limited to clips, episodes, trailers, artwork, branding elements, or promotional material, in any advertisement, online campaign, digital platform, or material, amounting to the infringement under the Copyright Act, 1957;



- b) Pass an interim/ temporary injunction restraining Defendant No. 1 (and such other individuals/entities as may be discovered during the course of the proceedings to have engaged in infringing activities), by themselves, their owners, proprietors, partners, servants, employees, agents, or any other persons acting for and on their behalf, or claiming through, by or under them, from using, directly or indirectly, the Plaintiff's trademarks, particularly use of the Plaintiff's



distinctive “k” () mark, or in any manner using any other mark identical/deceptively similar to the Plaintiff's Kuku brand and trademarks amounting to passing off;

- c) Pass an interim/ temporary injunction restraining Defendant No. 1 (and such other individuals/entities as may be discovered during the course of the proceedings to have engaged in infringing activities), by themselves, their owners, proprietors, partners, servants, employees, agents, or any other persons acting for and on their behalf, or claiming through, by or under them, from using, directly or indirectly, the Plaintiff's trademarks, particularly use of the Plaintiff's



distinctive “k” () mark, or in any manner using any other mark identical/deceptively similar to the Plaintiff's Kuku brand and trademarks amounting to unfair competition, misappropriation, dilution and tarnishment of the Plaintiff's trademarks;

- d) Pass an Order directing Defendant No. 2 (Meta Platforms, Inc.), their directors, partners, proprietors, officers, affiliates, servants, employees, and all others in capacity of principal or agent acting for and, on their behalf, or anyone claiming through, to suspend the Impugned Advertisements identified at Document 8A9 appearing on Facebook and their associated Facebook accounts. Also to take down the Impugned Advertisements as alleged to be available on Instagram, Messenger, Audience Network or any other platform under its control and any future infringing material notified by the Plaintiff;



18. Learned counsel Plaintiff states that Plaintiff owns/operates a leading digital content platform under the brand name ‘KUKU FM’ which is accessible *via* the official website i.e., <https://kukufm.com> and also through its mobile application i.e., ‘KUKU FM’.

18.1. He states that ‘KUKU FM’ has achieved a significant reach with over 100 million downloads on the Google Play Store and 10,000 user rating on Apple App Store.

18.2. He states that the Plaintiff expanded into video content under the brand ‘KUKU TV’, accessible *via* its website i.e., <https://tv.kukufm.com> and also on the mobile app available on Google Play Store. He states that the said ‘KUKU TV’ streams original and licensed shows.

18.3. He states that the Plaintiff invests substantial creative, technical and financial resources into the development, production and dissemination of content as mentioned above, which is made available to the consumers/users/viewers under Plaintiff’s established brand and associated mark i.e., ‘KUKU’.

18.4. He states that the content on ‘KUKU FM’ and ‘KUKU TV’ belongs to the Plaintiff having exclusive distribution rights. He states that the said contents are protected as ‘Cinematograph Film’ under Section 2(f) read with Section 13 of the Copyright Act, 1957.

18.5. He states that the Plaintiff operates under a established and registered



device mark i.e., ‘’. He states that the Plaintiff has adopted various logos/labels and extensively use the same. The said logos/labels are;



(i) ''; (ii) ''; and (iii) '.

18.6. He states that the list of the trademarks of the Plaintiff's reads as under:

Date of Application	Trade Mark	Application No.	Class	Status
18/12/2024		6763305	41	Application accepted by the Hon'ble Trademark Registry. In the process of being published in the Trademarks Journal
17/10/2019		4323505	41	Registered on 17.10.2019
18/12/2024		6763304	41	Filed for registration. Application under process
31/07/2025		7152471	41	Filed for registration. Application under process

18.7. He states that Plaintiff recently discovered that the Defendant No.1 which owns and operates a mobile application i.e., 'Story TV' and maintains a website i.e., <https://storytv.asia/>, is engaged in a defrauding unlawful scheme involving the unauthorised use and misappropriation of the Plaintiff's copyrighted content.

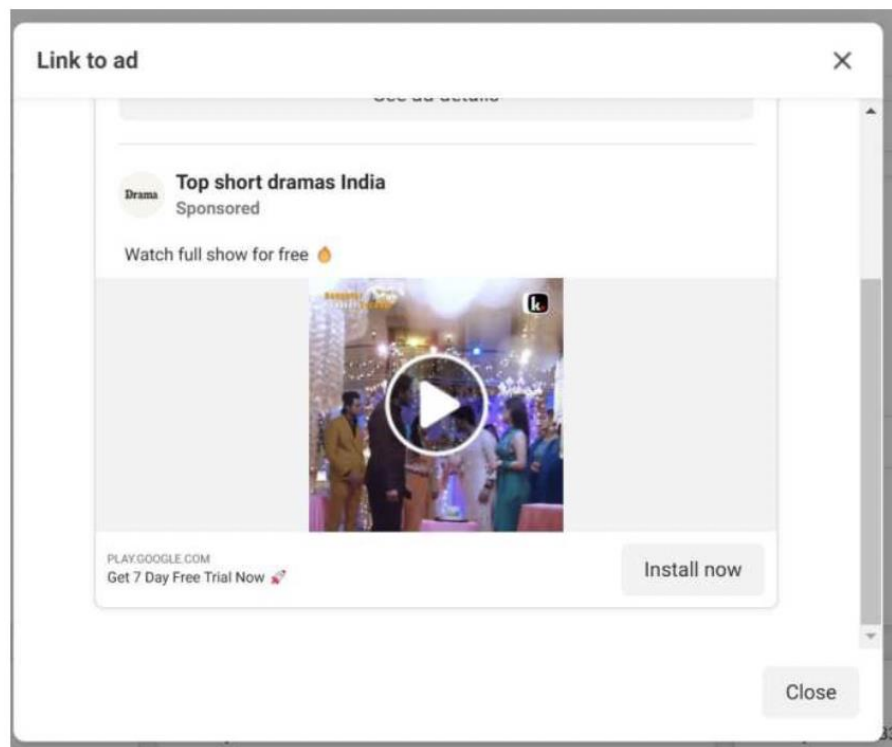
18.8. He states that the Defendant No.1 has been advertising on various platforms and majorly on Facebook. He states that the said advertisement features clips of Plaintiff's original copyrighted shows and the said clips

bears the Plaintiff's logo i.e., '' and '.



said advertisement calls upon the viewer to ‘Install Now’ the application and also offers a seven-day free trial. He states that this call to install misleads

the viewers/users to believe that Plaintiff’s content with a mark ‘’, is available on the Defendant No.1’s platform i.e., ‘Story TV’ as the said advertisement/link leads to installation of application of the Defendant No.1 i.e., ‘Story TV’ on the Google Play Store i.e., Defendant No.3. He states that the said act of the Defendant No.1 would amount to ‘engagement farming’ and/or ‘traffic diversion’, which means that the content and goodwill, reputation and recognisability of a established brand are unlawfully exploited to induce user engagement and drive illegitimate application installations. The relevant visuals of the advertisement and application is reproduced as under:



18.9. He states that upon independent verification, none of Plaintiff’s



copyrighted content is actually available on the application of the Defendant No.1, after its download. He fairly states that at this ex-parte stage he is not pressing for relief at prayer clauses (e) and (f).

18.10.He states that the manner in which the Defendant No.1's 'Story TV' application is operated it is fundamentally misleading, dishonest and violative of the Plaintiff's proprietary rights in its content including its mark. He states that the said conduct of the Defendant No.1 squarely falls within the meaning of infringement as envisaged under Section 51 of the Copyright Act, 1957.

18.11.He states that the Defendant No.1 is engaged in the same line of business as that of the Plaintiff, operating within the same trade and targeting a similar customer base. He states that in such circumstances, the deliberate use of the Plaintiff's proprietary content and brand identity by Defendant No.1 cannot be viewed as innocent or inadvertent. He states that on contrary, it is a calculated attempt to misappropriate the Plaintiff's goodwill and deceive the public into believing there is an association or affiliation between the Plaintiff and the Defendant No.1. He states that such conduct is clearly intended to divert the Plaintiff's customers, increase Defendant No.1's own subscriber base, and gain an unfair commercial advantage.

18.12.He states that the dissemination of the impugned content is happening on the platform of Defendant No.2 through the ad delivery systems and display algorithms and therefore, the said Defendant No.2 is impleaded in the present suit.

18.13.He however, fairly concedes that he did not write to the Defendant No.2 w.r.t. the unlawful acts of the Defendant No.1.



18.14. He states that an advance copy of the paper-book has been served on Defendant No. 1 as per the Rules.

19. This Court has heard the learned counsel for the Plaintiff and perused the record.

20. None appears on behalf of Defendant No 1 despite advance service.

21. The Plaintiff is the registered owner of the trademark i.e.,



‘KUKU FM’ and has recently started ‘KUKU TV’ a platform which provides drama, romance, and action content, primarily in vertical format for mobile viewing. It runs bite-sized episodes, intended for on-the-go entertainment of the users. The said new venture of the Plaintiff i.e., ‘KUKU



TV’ has a distinct label/mark i.e., ‘KUKU TV’.



21.1 The said distinct label/mark of the Plaintiff i.e., ‘KUKU TV’ appears in the advertisement images published on the platform of Defendant No.2 at the hands of Defendant No.1. The Plaintiff has asserted in the plaint that the said images forms part of the copyrighted content owned by the Plaintiff and Defendant No. 1 has not been authorized to use the image or the content.

21.2 The Defendant No.1 owns an application ‘Story TV’ which as well is a short drama application available on the Google Play Store. The product category of the Defendant No.1’s application i.e., ‘Story TV’ is similar to that of the Plaintiff’s application ‘KUKU TV’.

21.3 In the considered opinion of this Court the advertisement being published by the Defendant No.1 on the platform of Defendant No.2 with



the unauthorized use of copyrighted content of the Plaintiff along with the



distinct mark/label i.e., ‘’, would squarely fall within the definition of copyright infringement as given under Section 51 of the Copyright Act, 1957.

22. Based on the averments made in the plaint and the documents filed therewith, the Plaintiff has established its statutory right over the subject



mark i.e., ‘KUKU TV’, and/or ‘’, as well as the copyright content.

23. In view of the above, a *prima facie* case of infringement and passing off is made out on behalf of the Plaintiff in its favour. Clearly, an attempt has been made by the Defendant No.1 to create an impression to the users that the advertisement leading to the application of the Defendant No.1 i.e., ‘Story TV’ is associated with the Plaintiff.

24. Balance of convenience is in favour of the Plaintiff and against the Defendant No.1. Irreparable loss, harm and injury would be caused to the Plaintiff if the Defendant No.1’s advertisement continues to remain online/live. Prejudice would also be caused to the public as the said advertisement are likely to cause confusion in the market/targeted audience.

25. Accordingly, the Plaintiff has made out a *prima facie* case for grant of an ad- interim ex-parte injunction in terms of prayer clauses (a) to (d) of the captioned application. Therefore, the relief as prayed for in prayer clauses (a) to (d) is granted in favour of the Plaintiff.

26. The prayer clause (d) seeks direction to Defendant No. 2 to suspend the impugned advertisements identified at Document A, filed with the paper-



book. Let necessary compliance be done by Defendant No.2 within one (1) week. and an affidavit of compliance be filed before this Court within four (4) weeks. Document A is annexed with the order.

27. Issue Notice, learned counsel for the Defendant No. 2 and 3 accepts notice. Let the reply be filed by the said Defendant(s) within a period of two (2) weeks. Rejoinder thereto if any be filed within two (2) weeks thereafter.

28. Issue Notice to the Defendant No.1 through all modes, including e-mail. Reply be filed by the Defendant No.1 in two (2) weeks. Rejoinder thereto, be filed within two (2) weeks thereafter.

29. Compliance of Order XXXIX Rule 3 of CPC be done within a period of two (2) weeks from today.

30. List before the learned Joint Registrar (J) for completion of service and pleadings on **16.09.2025**.

31. List before the Court on **17.12.2025**.

MANMEET PRITAM SINGH ARORA, J

AUGUST 5, 2025/rhc



DOCUMENT – A (LIST OF FACEBOOK URLs)

LIST OF FACEBOOK URLs		
S. No.	Link	Library ID
1.	https://www.facebook.com/ads/library/?id=2482576185460129	2482576185460129
2.	https://www.facebook.com/ads/library/?id=1037884461838275	1037884461838275
3.	https://www.facebook.com/ads/library/?id=1261075562070778	1261075562070778
4.	https://www.facebook.com/ads/library/?id=754884753716202	754884753716202
5.	https://www.facebook.com/ads/library/?id=677258835380973	677258835380973
6.	https://www.facebook.com/ads/library/?id=1888234958632877	1888234958632877
7.	https://www.facebook.com/ads/library/?id=1092247242803930	1092247242803930
8.	https://www.facebook.com/ads/library/?id=1274018920749856	1274018920749856
9.	https://www.facebook.com/ads/library/?id=1426462675240394	1426462675240394
10.	https://www.facebook.com/ads/library/?id=768138635651052	768138635651052
11.	https://www.facebook.com/ads/library/?id=1115659847072117	1115659847072117
12.	https://www.facebook.com/ads/library/?id=1885969748857354	1885969748857354
13.	https://www.facebook.com/ads/library/?id=992405412846246	992405412846246
14.	https://www.facebook.com/ads/library/?id=1283550733402856	1283550733402856
15.	https://www.facebook.com/ads/library/?id=606707822098466	606707822098466
16.	https://www.facebook.com/ads/library/?id=1149573377207838	1149573377207838
17.	https://www.facebook.com/ads/library/?id=674195055648184	674195055648184
18.	https://www.facebook.com/ads/library/?id=605904955900239	605904955900239
19.	https://www.facebook.com/ads/library/?id=1113649920669865	1113649920669865
20.	https://www.facebook.com/ads/library/?id=629180876865472	629180876865472
21.	https://www.facebook.com/ads/library/?id=1297125018783952	1297125018783952
22.	https://www.facebook.com/ads/library/?id=3950687958580168	3950687958580168
23.	https://www.facebook.com/ads/library/?id=1123861162887494	1123861162887494
24.	https://www.facebook.com/ads/library/?id=1111129850903646	1111129850903646
25.	https://www.facebook.com/ads/library/?id=1425600775347467	1425600775347467
26.	https://www.facebook.com/ads/library/?id=1082917523301171	1082917523301171
27.	https://www.facebook.com/ads/library/?id=24028636686762971	24028636686762971
28.	https://www.facebook.com/ads/library/?id=1516571366256298	1516571366256298