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

+ **CS(COMM) 769/2024**

LOUIS VUITTON MALLETTIER

.....Plaintiff

Through: Mr. Ashim Sood, Ms. Akanksha
Singh, Mr. Prateek Kundu and Ms.
Shubhanshi Pohani, Advocates

Versus

ASHOK KUMAR & ORS.

.....Defendants

Through: None

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

% **09.09.2024**

I.A. 38828/2024 (*pre-litigation mediation*)

1. The plaintiff, *vide* the present application, is seeking exemption from instituting pre-litigation mediation.
2. Considering the averments made therein and as the plaintiff is seeking an urgent ad-interim relief and in view of the orders passed in ***Yamini Manohar v. T.K.D. Krithi*** 2024 (5) SCC 815 and ***Chandra Kishore Chaurasia vs. R. A. Perfumery Works Private Limited*** 2022:DHC:4454-DB, the plaintiff is exempted from instituting pre-litigation mediation.
3. Accordingly, the present application is allowed and disposed of.

I.A. 38832/2024 (*exemption*)

4. Exemption as sought is granted, subject to all just exceptions.
5. Applicant shall file legible, clear, and original copies of the documents on which the applicant may seek to place reliance upon within *four weeks* from today or before the next date of hearing, whichever is earlier.

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6. Accordingly, the application stands disposed of.

I.A. 38831/2024 (*additional documents*)

7. The plaintiff, *vide* the present application under Order 11 Rule 1(4) of the Code of Civil Procedure, 1908 as applicable to commercial suits under the Commercial Courts Act, 2015 is seeking to place on record additional documents within thirty days.

8. The plaintiff will be at liberty to file additional documents within thirty days, *albeit*, strictly as per the provisions of the Commercial Courts Act, 2015 and the DHC (Original Side) Rules, 2018.

9. Accordingly, the present application is allowed and disposed of.

I.A. 38829/2024 (*exemption from advance service on D-1*)

10. The plaintiff, *vide* the present application, is seeking exemption from advance service upon the defendant no.1.

11. Learned counsel for the plaintiff submits that considering the position involved, particularly since the details of the defendant no.1 are unknown, therefore, an exemption from effecting advance service is necessary.

12. For the reasons stated in the application as also taking into account the aforesaid factors and in the interest of justice, the plaintiff is granted exemption from effecting advance service upon the defendant no.1.

13. Accordingly, the present application is allowed and disposed of.

I.A. 38830/2024 (*u/Section 80 of CPC*)

14. The plaintiff *vide* the present application, is seeking exemption from issuing notice to defendant no.3.

15. Learned counsel for the plaintiff submits that the defendant no.3 is only impleaded as a defendant to ensure compliance of this Court's orders



therefore, the provisions of Section 80 of the Code of Civil Procedure Code, 1908 are not attracted *qua* defendant no.3.

16. He further submits that since the relief being claimed against the defendant no.3 i.e., Department of Telecommunications is limited to disclose the KYC details associated with the mobile phone no. +91 8860049079 for the purpose of identification of defendant no.1 and issue necessary directions to the relevant telecom service provider to permanently delete/ remove access to defendant no.1.

17. For the reasons stated in the application as also taking into account the aforesaid factors and in the interest of justice, the plaintiff is granted exemption from effecting advance service upon the defendant no.3.

18. Accordingly, the present application is allowed and disposed of.

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19. The plaintiff has instituted the present suit seeking a decree of permanent injunction for infringement of trademark, passing off, infringement of copyright, delivery up, rendition of accounts and damages against the defendants.

20. Let the plaint be registered as a suit.

21. Upon filing of the process fee, issue summons of the suit to the defendants through all permissible modes returnable before the Joint Registrar on 10.12.2024.

22. The summons shall state that the written statement(s) be filed by the defendants within a period of *thirty days* from the date of the receipt of the summons. Written statement(s) be filed by the defendants along with affidavit(s) of admission/ denial of documents of the plaintiff, without which the written statement(s) shall not be taken on record.



23. Replication(s) thereto, if any, be filed by the plaintiff within a period of *fifteen days* from the date of receipt of written statement(s). The said replication(s), if any, shall be accompanied by with affidavit(s) of admission/ denial of documents filed by the defendants, without which the replication(s) shall not be taken on record within the aforesaid period of *fifteen days*.

24. If any of the parties wish to seek inspection of any document(s), the same shall be sought and given within the requisite timelines.

25. List before the Joint Registrar for completion of pleadings on 10.12.2024. It is made clear that if any party unjustifiably denies any document(s), then it would be liable to be burdened with costs.

26. List before the Court on 16.01.2025.

I.A. 38827/2024 (u/Order XXXIX rule 1 & 2 CPC, 1908)

27. The plaintiff vide the present application is seeking to restrain the defendants and all those acting on their behalf from infringing upon the

trademarks namely LV, , ,  and/ or any other

identical or deceptively similar mark and copyrighted artwork ,



registered in the plaintiff's name.

28. As per pleadings before this Court and arguments addressed in support thereof by the learned counsel for plaintiff, the case of the plaintiff is as under:-

28.1 The plaintiff i.e., Louis Vuitton Malletier is a company organized



and existing under the laws of France, Paris, carrying out an established business of manufacture, sale and distribution of high quality and high value handbags, luggage, trunks, wallets, footwear, clothing, fashion accessories including watches, sunglasses, jewellery, etc. all featuring its well-known marks.

28.2 The plaintiff traces its history to the year 1854, when its eponymic founder, Mr. Louis Vuitton, a valued craftsman in the artisanal industry, established his own business, Louis Vuitton Malletier, for custom designing boxes, cases and trunks. Over the years, the plaintiff has risen to an iconic status in the world of luxury leather, fashion and lifestyle brands. Presently, the plaintiff is a subsidiary of Louis Vuitton Moët Hennessy (LVMH), a French conglomerate. LVMH owns a portfolio of more than 75 of the most prestigious luxury brands in the world including but not limited to Louis Vuitton, Berluti, Celine, Emilio Pucci, Fendi, Givenchy, Kenzo, Loewe, and Marc Jacobs, to name a few.

28.3 In the year 1896, to deter imitators and counterfeiters, Mr. Georges Vuitton, Mr. Louis Vuitton's son, created the highly distinctive LV



Monogram canvas/ design featuring the interlocking of the string



of letters L and V, with a floral pattern.

28.4 The above design, known as the Toile Monogram Design, is partly inspired by roman fonts and comprises the interlocked LV logo and three distinctive design elements, a four petal flower inside a diamond, a four pointed star, and a four petal flower inside a circle, has been used



continuously and extensively throughout the world since 1896 on the plaintiff's leather goods, handbags, trunks, footwear, watches, jewellery and other accessories.

28.5 The plaintiff's mark LOUIS VUITTON, Toile Monogram Design



and also the interlocking LV logo are the most recognizable symbols/ marks in the world and form an inextricable part of the plaintiff's brand identity.

28.6 The plaintiff has acquired significant goodwill and recognition in the market *qua* the registered trademark 'LOUIS VUITTON'. In fact, in order to strengthen the same, has also acquired registrations of the said trademark and its variations in India under Class(s) 3, 14, 18, 25, 26 and 99 as entailed in paragraph 13 of the captioned suit wherein the earliest registration dating back to the early 08.08.1985.

28.7 The plaintiff's corporate name 'Louis Vuitton' has over time been consistently shortened to "LV" in reference to its business activities and as part of the LVMH group, owns over 75 prestigious brands with close to 79.2 Billion Euros revenue in 2022, a retail network of over 5,000 stores worldwide and a brand value of approximately USD 47.2 Billion.

28.8 In addition to trademark rights, the plaintiff is also the owner of the copyright subsisting in the original artworks namely the "Multicolor



Monogram White Print"/, the "Multicolor Monogram Black



Print”/ and the “Damier Print”/ . The above artworks featuring the LV logo and the Toile Monogram Design are registered with the Copyright Office of the United States of America as artistic works, and by virtue of the Copyright Act, 1957 read in conjunction with the International Copyright Order, 1999 are valid and subsisting copyrights in India in favour of the plaintiff.

28.9 In India, the plaintiff opened its first exclusive retail store in the year 2003 at the Oberoi Hotel in New Delhi and subsequently opened stores in Bangalore and Mumbai. At present, the plaintiff’s store in Delhi is located in DLF Emporio Mall, Vasant Kunj and these are the only 3 stores that are authorised by the plaintiff to sell its products in India.

28.10 Ever since its inception, the plaintiff has spent tremendous time, effort, and resources for extensively promoting and advertising its registered trademark ‘LOUIS VUITTON’ nationally and internationally via fashion magazines, TV commercial, models, musicians, actors, etc.

28.11 The plaintiff’s mark ‘LOUIS VUITTON’ has since been recognized as a well-known trademark under Section 2(zg) of the Trade Marks Act, 1999 as per the list of well-known marks published by the Trade Marks Registry and as per various judgments of this Court.

28.12 It was in April, 2024 that the plaintiff came across a WhatsApp Community, called LUSTERBAGS, through an invitation link at <https://chat.whatsapp.com/I8WASocHy4fLpyNH2HAYZP> and learned that the defendant no.1, the creator and administrator of the Community is engaged in the unauthorized sales of a variety of products including but



not limited to bags, wallets, footwear, accessories such as sunglasses, scarves, etc. bearing the plaintiff's LV marks and copyrights. Further, the defendant no.1 created the aforementioned Community on 28.01.2023 and has been carrying out its infringing activities *via* the defendant no.2's platform WhatsApp.

28.13 The description section of the said Community expressly states that LUSTERBAGS offers next to original handbags, stoles, belts, and various branded accessories at best prices, making it abundantly clear the said products are counterfeit and not genuine.

28.14 The defendant no.1 not only infringes upon the plaintiff's LV copyrights and marks by offering for sale/ selling infringing products but also misuses these marks on its packaging. The aforementioned counterfeit bag sold by defendant no.1 came with packaging that slavishly copies the plaintiff's packaging and trade dress, falsely suggesting authenticity. The photographs of packaging used by defendant no.1 are reproduced below:



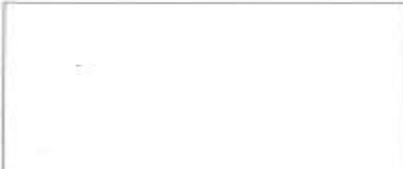
29. In the wake of the above, the plaintiff has instituted the captioned suit against the defendants.

30. This Court has heard the submissions advanced by the learned



counsel for the plaintiff and gone through the pleadings as also perused the documents on record.

31. Based on what is before this Court, given hereinbelow is the comparative table of the competing marks of the parties:-

PLAINTIFF'S ORIGINAL PRODUCT	COUNTERFEIT PRODUCT PURCHASED FROM DEFENDANT NO.1
	
	

32. Interestingly, the defendant no.1 is brazenly and blatantly offering/selling the impugned products admitting them to be next to original and genuine, this, of course cannot be since the said defendant no.1 has not sought any authorisation/ permission/ sanction from the plaintiff. The said defendant no.1 is openly duping the public by offering them cheap imitations/ lookalikes, which is not, in fact, far from the actual. This can only be with the sole purpose of the defendant no.1 to derive maximum possible benefit without spending any money of its own and riding upon the goodwill of the plaintiff.



33. Though the cause of action arose in favour of the plaintiff and against the defendant no.1 in April 2024, however, considering the aforesaid factual matrix involved, especially as the long established trade mark ‘LOUIS VUITTON’ of the plaintiff has already been declared as a well-known mark and also since the acts of the defendant no.1 is causing continuous harm, loss and injury to the plaintiff as also bearing in mind the dicta in ***Bengal Waterproof Ltd. v. Bombay Waterproof Mfg. Co.***, (1997) 1 SCC 99 and ***Midas Hygiene Industries (P) Ltd. v. Sudhir Bhatia***, (2004) 3 SCC 90, a well reputed/ well-known entity like the plaintiff who is holding the registered trademark ‘LOUIS VUITTON’ in its name, the plaintiff has made out a *prima facie* case for grant of an *ad interim ex parte* injunction in its favour. More so, since the defendant no.1 cannot be permitted to continue doing so as it shall tantamount to eroding the intellectual property rights of the plaintiff in and to the trademark ‘LOUIS VUITTON’ and the copyrights therewith, which it has painstakingly built over the last decades.

34. In view of the pleadings and submissions advanced thereto by the learned counsel for the plaintiff as also what is held hereinabove, the plaintiff has been able to make out a *prima facie* case in its favour and against the defendants with the *balance of convenience* and probabilities tilting in its favour for grant of an *ex parte ad interim* injunction. Under such circumstances, allowing the defendants to continue using the impugned marks and copyrights, which are identically similar to that of the registered trademark ‘LOUIS VUITTON’ of the plaintiff is prone to cause *irreparable harm, loss and injury* to the plaintiff.

35. Accordingly, till the next date of hearing, the defendants, and all



those acting on their behalf are restrained from manufacturing, using, advertising, marketing, selling and/ or offering for sale, distributing or directly or indirectly dealing in products featuring the LV Marks, more

specifically the LOUIS VUITTON, ,  and  marks which is identical, virtually identical or deceptively and/ or confusingly similar to the plaintiff's prior registered and well-known LV trademarks and copyrights, in any manner whatsoever as the same is/ are identical with or confusingly/ deceptively similar to the plaintiff's registered and well known trademark.

36. Upon filing of the process fee, issue notice to the defendants by all permissible modes returnable before the Joint Registrar on 10.12.2024.

37. Reply, if any, be filed within a period of *thirty days* from the date of service. Rejoinder thereto, if any, be filed within a period of *fifteen days* thereafter.

38. The provisions of Order XXXIX Rule 3 CPC be complied within one week of receipt of this order.

39. List before the Court on 16.01.2025.

Dasti.

SAURABH BANERJEE, J

SEPTEMBER 9, 2024/akr