



\$~36

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

+ **CS(COMM) 892/2025 & CAV 322/2025**

NOVARTIS AG & ANR.

.....Plaintiffs

Through: Ms. Mamta R. Jha, Ms. Anupriya
Shyam and Ms. Anjeeta Rani,
Advocates.

versus

**NOVASIS HEALTHCARE PRIVATE LIMITED
& ANR.**

.....Defendants

Through: Mr. Aman Jha, Mr. Rishi Toto, Mr.
Srijan Sahu and Mr. Kshitij Mayank,
Advocates.

CORAM:

HON'BLE MR. JUSTICE TEJAS KARIA

ORDER

%

26.08.2025

I.A. 20834/2025(Exemption)

1. Exemption is allowed, subject to all just exceptions.
2. The Application stands disposed of.

I.A. 20832/2025(Additional Documents)

3. The present Application has been filed on behalf of the Plaintiffs under Order XI Rule 1(4) of the Code of Civil Procedure, 1908 (“CPC”) as applicable to Commercial Suits under the Commercial Courts Act, 2015 (“CC Act”), seeking leave to place on record additional documents.
4. The Plaintiffs are permitted to file additional documents in accordance with the provisions of the CC Act and the Delhi High Court (Original Side) Rules, 2018.
5. Accordingly, the Application stands disposed of.

I.A. 20833/2025(Exemption from pre-institution Mediation)

6. This is an Application filed by the Plaintiffs seeking exemption from



instituting pre-litigation Mediation under Section 12A of the CC Act.

7. As the present matter contemplates urgent interim relief, in light of the judgment of the Supreme Court in *Yamini Manohar v. T.K.D. Krithi*, 2023 SCC OnLine SC 1382, exemption from the requirement of pre-institution Mediation is granted.

8. The Application stands disposed of.

CS(COMM) 892/2025

9. Let the Complaint be registered as a Suit.

10. Issue Summons. The learned Counsel for the Defendants accepts Summons.

11. The Defendants are directed to file the Written Statement(s) within 30 days from the date of the receipt of Summons. Along with the Written Statement(s), the Defendants shall also file an Affidavit of Admission / Denial of the documents of the Plaintiffs, without which the Written Statement(s) shall not be taken on record.

12. Liberty is granted to the Plaintiffs to file Replication(s), if any, within 30 days from the receipt of the Written Statement(s). Along with the Replication(s) filed by the Plaintiffs, an Affidavit of Admission / Denial of the documents of Defendants be filed by the Plaintiffs, without which the Replication(s) shall not be taken on record.

13. In case any Party is placing reliance on a document, which is not in their power and possession, its details and source shall be mentioned in the list of reliance, which shall also be filed with the pleadings.

14. If any of the Parties wish to seek inspection of any documents, the same shall be sought and given within the prescribed timelines.

15. List before the Joint Registrar on 14.10.2025 for completion of



service and pleadings.

I.A. 20831/2025(U/O XXXIX Rule 1 and 2 of the CPC)

16. Issue Notice. The learned Counsel for the Defendants accepts Notice.

17. The present Suit has been filed for permanent injunction restraining infringement of the registered Trade Mark, 'NOVATRIS' and

‘ NOVARTIS’ along with other ancillary reliefs.

18. Plaintiff No. 1, Novartis AG is company incorporated under the laws of Switzerland and is one of the leading companies in the world carrying on business through its affiliates, *inter alia*, of manufacturing, marketing, research, and development of pharmaceutical and services in relation thereto. The products that are produced by Plaintiff No. 1 are marketed and sold by its whole subsidiary, Plaintiff No. 2, Novartis Healthcare Private Limited, in India under their Trade Mark / Trade Name, 'NOVARTIS'.

19. The learned Counsel for the Plaintiffs submitted that the Plaintiffs adopted the Trade Mark 'NOVARTIS' in the year 1996 and have continuously and extensively been using the said Trade Mark since then, internationally as well as in India. It is further submitted that as a consequence of high standard of quality of the medicines and allied products, the Mark 'NOVARTIS' has gained enviable and widespread reputation and goodwill in the market.

20. The learned Counsel for the Plaintiffs submitted that the Plaintiffs' Trade Mark 'NOVARTIS' connotes and denotes the source and the origin of goods from the Plaintiffs and none else, the world over, including, India and the said Trade Mark is the key and distinguishing feature of the Novartis Group Companies.



21. The learned Counsel for the Plaintiffs submitted that the Plaintiffs also have several domain name registrations reflecting the name 'NOVARTIS'. Several domain name registrations which are actively being used in several jurisdictions for dealing in goods and services originating from the Novartis Group Companies, including the Plaintiffs are in use since 1996.

22. The learned Counsel for the Plaintiffs submitted that the Trade Mark 'NOVARTIS' is a registered Trade Mark internationally, as well as in India. The details of the Trade Mark 'NOVARTIS' registered in the year 1996 and 2015 in India, as set out in Paragraph No. 21 is reproduced hereunder:

Trade Mark	Registration No. & Date of Application	Classes	Status
NOVARTIS	700020 28/02/1996	05	Registered & valid upto 28/02/2026
NOVARTIS	IRDI-3050272 28/04/2015	01, 03, 05, 09,10, 16, 29, 30, 31, 32, 35, 40, 41, 42 and 44	Protection Granted

23. The learned Counsel for the Plaintiffs submitted that the aforesaid Trade Marks have been renewed from time to time and are valid and subsisting in the name of Plaintiff No. 1. The Plaintiffs have the exclusive right to use such Trade Marks in relation to the goods and services that emanate from the Plaintiffs.

24. The learned Counsel for the Plaintiffs further submitted that on account of long and continuous use, extensive advertising campaign, high



sales figures and strong quality control, the Trade Mark ‘NOVARTIS’ has acquired significant goodwill and reputation in the Indian market.

25. Defendant No. 1, Novasis Healthcare Pvt. Ltd., based out of Mumbai, Maharashtra is engaged in the business of manufacturing and selling pharmaceutical goods and services through its website, www.novasishealthcare.com which is interactive in nature. Defendant No. 2, Novosys Biogen LLP, is based out of Bharuch, Gujarat. Both Defendants have common Directors / Partners and common economic unit.

26. The Defendants are collectively engaged in the business of manufacturing and selling of pharmaceuticals. The Defendants have adopted

the Marks ‘NOVASIS’ / ‘NOVASYS’ / ‘NOVATICS’ /  , /  , /  , /  , /  , (“**Impugned Trade Marks**”) which are phonetically

and visually similar to the Plaintiffs’ prior adopted and registered Trade Mark ‘NOVARTIS’ and .

27. The learned Counsel for the Plaintiffs submitted that the said adoption of the deceptively similar Impugned Trade Marks by the Defendants is *ex-facie* dishonest. The competing Trade Marks of the Parties are reproduced hereunder:



Competing Marks



28. The learned Counsel for the Plaintiffs further submitted that Defendant No. 1 has filed several Trade Mark Applications before the Trade Marks Registry for the Impugned Trade Marks as the same are set out in Paragraph No. 30 of the Plaint, as reproduced hereunder:

S. No.	Trade mark	Application & Date	Class	User	Status
1		6778352 28/12/2024	5	Proposed to be used	Formalities Check Pass
2		6778353 28/12/2024	44	Proposed to be used	Accepted & Advertised
3		6778354 28/12/2024	5	Proposed to be used	Formalities Check Pass
4		6778355 28/12/2024	5	Proposed to be used	Opposed by Novartis AG
5		6778356 28/12/2024	5	Proposed to be used	Formalities Check Pass



6		6780083 30/12/2024	5	Proposed to be used	Formalities Check Pass
---	---	-----------------------	---	---------------------------	------------------------------

29. The learned Counsel for the Plaintiffs submitted that in the month of March 2025, the Plaintiffs came across the Trade Mark Application Nos. 6778352, 6778353, 6778354, 6778355, 6778356 and 6780083 filed by Defendant No. 1 for the Impugned Trade Marks and issued a legal notice dated 28.03.2025 (“**Legal Notice**”) to Defendant No. 1 *via* courier and e-mail to cease and desist from unauthorized and illegal use of the Impugned Trade Marks and withdraw the Trade Mark Applications. Defendant No. 1 through its Counsel replied to the Legal Notice on 04.01.2025 wherein the Defendants acknowledged in engaging in the marketing and distribution of pharmaceutical products, Defendant No. 1 denied all claims of Trade Mark infringement and refused to cease and desist from its infringing activities. Thereafter, the Plaintiffs issued a rejoinder notice dated 16.02.2025 (“**Reminder Notice**”) reiterating its position and resolve the dispute by giving an undertaking in terms of the Legal Notice.

30. The learned Counsel for the Plaintiffs further submitted that Defendant No. 1 sent its response on 16.06.2025 to the Reminder Notice, refusing to comply with the requisitions. Subsequently, Defendant No. 1 filed Caveat Petition No. 974/2025 on 19.06.2025 before the Bombay High Court and Caveat Petition on 20.06.2025 before this Court.

31. The learned Counsel for the Plaintiffs submitted further in the month of April, 2025 came across the incorporation of Defendant No. 2 having adopted a phonetically identical Trade Mark / Trade Name ‘NOVOSYS’ and a common Director / Partner with Defendant No. 1. The Plaintiffs issued



a legal notice dated 14.04.2025 *via* courier and e-mail to Defendant No. 2, to immediately cease and desist from using the Impugned Trade Marks ‘NOVOSYS’ and take steps to change the name ‘NOVOSYS’ as part of its partnership concern. The Plaintiffs gave 15 days to Defendant No. 2 to respond. However, no response to the same has been received by the Plaintiffs till date.

32. The learned Counsel for the Plaintiffs submitted that the Plaintiffs hired an independent investigator to ascertain further details of the business and operations of the Defendants. The investigator visited the premises of Defendant No. 1 which was found in a multi-storey commercial building. The investigator found the premises to be closed and could not conduct a physical search but contacted a representative of Defendant No. 1 on the phone number available. Upon being enquired if the products of Novasis Healthcare could be delivered in Delhi, the individual answered in affirmative. Upon request for a meeting, the individual asked the investigator to email the requirements, to which no response was received, and no further contact could be established.

33. The learned Counsel for the Defendants submitted that the Defendants have applied for multiple Trade Marks in the Trade Marks Registry for registration. Plaintiff No. 1 in the Trade Mark Application No. 6778355 for



the Mark ‘’ in Class 5 has already filed notice of opposition *vide* Opposition No. 1385899 dated 19.05.2025. Defendant No. 1 has filed its counter statement on 08.07.2025, which has been served upon the Plaintiffs *vide* notice dated 24.07.2025. The Plaintiffs are in the process of filing the evidence in support of the opposition.



34. The learned Counsel for the Defendants submitted that the as per the Plaintiffs, an investigator had a telephonic conversation enquiring about the products of the Defendants, but the Defendants have denied having any telephonic conversation with the investigator of the Plaintiffs.

35. The learned Counsel for the Defendants relied upon the decision in ***K. Narayanan and Another v. S. Murali***, (2008) 10 SCC 479 wherein it was held that filing of an application for registration of a trade mark does not constitute a part of cause of action in a suit for passing off.

36. The learned Counsel for the Defendants submitted that the distinctiveness of the Impugned Trade Marks are that:

36.1. They are independently conceived, distinct, and have no phonetic, visual, or conceptual similarity as otherwise alleged.

36.2. The suffix “-ARTIS” in ‘NOVARTIS’ differs significantly from the use of “-ASIS”, “-OSYS”, and “-ATICS” in the Impugned Trade Marks and the Trade Name. The addition of descriptive terms such as “Pharmaceuticals”, “Healthcare Pvt. Ltd”, “Biotech” and “Biogen” further distinguishes the Marks; and the Marks and the Trade Name of the Defendants have distinct syllabic emphasis and pronunciation whence compared with the Plaintiff’s Trade Marks. The phonetic structure of both names is clearly different and manifestly distinct, thereby, eliminating any potential for confusion.

36.3. The alleged similarity in the colour scheme is merely a bald allegation which would not be countenanced with even by an unwary consumer of average intelligence and imperfect recollection inasmuch as no element of orange has been used in the Defendant’s Marks and the allegation to the contrary in the captioned notice is manifestly



fastidious. Further, the color scheme adopted by the Defendants in its

Trade Name and the Trade Marks (‘’, and ‘’)

’) has no similarity with the colour scheme adopted by the Plaintiffs in its Trade Mark. In relation to the Marks

‘’, ‘’, and ‘’, the

colour scheme therein is also manifestly distinct inasmuch as the Defendants have consciously ingrained the colour yellow with the objective to make it clearly visible to naked eye, whereas, the colour “yellow” employed in the Plaintiff’s Trade Mark does not readily attract attention and remains conveniently unnoticed to the naked eye.

Further, unlike the Plaintiff’s employment of shapes (‘’) before the Trade Mark ‘NOVARTIS’, the Defendants have not punctuated the Impugned Trade Marks with any shape, thereby, carving out yet another layer of distinctiveness.

36.4. The logo of ‘NOVASIS’ is entirely different from that of ‘NOVARTIS’, further eliminating any likelihood of brand confusion among consumers. Unlike the Plaintiffs’ Trade Mark, the Defendant’s Marks and Trade Name are in Title Case, whereas the Plaintiffs’ Trade Mark is in UPPERCASE, thereby, further eliminating potential of visual similarity.

36.5. The Plaintiffs focuses on research, development, and manufacturing, whereas the Defendants specializes in marketing and



commercialization. Further, the Plaintiffs are not engaged in pharmaceutical R&D or high-scale drug manufacturing; its primary focus is marketing and distribution of pharmaceutical products, target consumer base whereof would primarily be individuals / entities having prior experience, presence, and versatility in the pharmaceutical industry. While both companies cater to the pharmaceutical industry, their core business models and operational focus differ significantly, thereby, rendering the yardstick of ascertaining “confusion” i.e. “an unwary consumer of average intelligence and imperfect recollection” redundant.

37. Having considered the submissions advanced by the learned Counsel for the Parties, the pleadings and the documents on record, a *prima facie* case has been made out by the Plaintiffs for grant of an *ad-interim* injunction. Balance of convenience is in favour of the Plaintiffs and against the Defendants. Irreparable injury would be caused to the Plaintiffs if the Defendants are allowed to continue the use of the Impugned Trade Marks.

38. This is a case of triple identity where the Mark is identical, the product category is identical and the trade channel as also the consumer base is identical. The Plaintiffs being the prior user, adopter and the registered owner of the Mark ‘NOVARTIS’ is entitled to protection. The identity in the Mark is so close that the two products are indistinguishable. The Impugned Trade Marks adopted and used by the Defendants is visually, phonetically, structurally and deceptively similar to the Plaintiffs’ Trade Mark ‘NOVARTIS’. To an unwary consumer of average intelligence and imperfect recollection, the Marks are likely to appear identical, thereby leading to confusion regarding the source or origin of the goods.



39. Accordingly, till the next date of hearing, the Defendant, its directors, assignees in business, its associates, affiliates, franchisees, licensees, distributors, dealers, stockists, retailers and agents are restrained from manufacturing, selling, offering for sale, advertising, directly or indirectly dealing in medicinal and pharmaceutical preparations under the Marks

‘NOVASIS’ / ‘NOVASYS’ / ‘NOVATICS’ /  , /
‘’, / ‘’, / ‘’, /
‘’ or any other Trade Mark / Trade Name that may be phonetically, visually, structurally and deceptively similar to the Plaintiffs’

Trade Mark ‘NOVARTIS’ and ‘ NOVARTIS’, amounting to infringement of the said Trade Mark.

40. Let the Reply to the present Application be filed within four weeks after service of pleadings and documents. Rejoinder thereto, if any, be filed before the next date of hearing.

41. The compliance of Order XXXIX Rule 3 of the CPC be done within two weeks.

42. List before this Court on 17.12.2025.

TEJAS KARIA, J

AUGUST 26, 2025/sms