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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 1096/2025**
M/S ZAM ZAM PERFUMERS A PARTNERSHIP FIRM THROUGH
ITS PARTNER MOHD UMER SALMAN KHARODIYAPlaintiff
Through: **Mr. Umesh Mishra & Ms. Yashodhara**
Raina, Advocates.

Versus

MR. RAIYAAN KHAN PROPRIETOR OF NEW ZAM
ZAMPERFUMEDefendant
Through:

CORAM:
HON'BLE MR. JUSTICE TEJAS KARIA

ORDER
13.10.2025

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I.A. 25333/2025

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

I.A. 25334/2025

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

I.A. 25332/2025 (Exemption from pre-institution Mediation)

5. This is an Application filed by the Plaintiff seeking exemption from instituting pre-litigation Mediation under Section 12A of the Commercial Courts Act, 2015 (“CC Act”).
6. 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.

7. The Application stands disposed of.

CS(COMM) 1096/2025

8. Let the Plaint be registered as a Suit.

9. Issue Summons. Let the Summons be served to the Defendant through all permissible modes upon filing of the Process Fee.

10. The Summons shall state that the Written Statement shall be filed by the Defendant within 30 days from the date of the receipt of Summons. Along with the Written Statement, the Defendant shall also file an Affidavit of Admission / Denial of the documents of the Plaintiff, without which the Written Statement shall not be taken on record.

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

12. 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.

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

14. List before the learned Joint Registrar on 01.12.2025 for completion of service and pleadings.

I.A. 25331/2025 (O-XI R-1(4) of the Code of Civil Procedure, 1908)

15. The present Application has been filed on behalf of the Plaintiff under Order XI Rule 1(4) of the Code of Civil Procedure, 1908 (“CPC”) as



applicable to Commercial Suits under the CC Act seeking leave to place on record additional documents.

16. The Plaintiff is permitted to file additional documents in accordance with the provisions of the CC Act and the Delhi High Court (Original Side) Rules, 2018.

17. Accordingly, the Application stands disposed of.

I.A. 25330/2025 (U/O XXXIX Rule 1 & 2 of CPC)

18. Issue Notice. Notice be served through all permissible modes upon filing of the Process Fees.

19. The Plaintiff has filed the present suit seeking permanent injunction restraining the Defendant from infringing and passing off of the Plaintiff's Trade Name / Mark / Label, rendition of accounts, dilution, delivery up, damages, etc.

20. The learned Counsel for the Plaintiff made the following submissions:

20.1. The Plaintiff is using the Trade Mark / Trade Name 'ZAM ZAM' / 'ZAM ZAM PERFUMERS' word *per se*, Trade Mark



' / Device Mark 'ZAM ZAM PERFUMERS' and Device Mark / Logo 'ZAM ZAM PERFUMERS 66' /



' ("Subject Marks / Trade Name") for the business in relation to selling ittars, perfumers, fragrances. The Plaintiff has been continuously, extensively and openly using the Subject Mark / Trade Name since the year 1990. The details of



Trade Mark applications and registrations of the Plaintiff are reproduced below:

S. NO.	TRADE MARK	APPLICATION NO.	CLASS	STATUS	DATE OF APPLICATION	USER DETAIL
1.	ZAM ZAM PERFUMERS 	902129	3	Registered	February 7, 2000	Proposed to be used
2.	ZAM ZAM PERFUMERS 66	1633902	3	Registered	December 24, 2007	March 1, 2002
3.	ZAMZAM PERFUMERS	2094525	35	Opposed	February 3, 2011	April 1, 1995

20.2. By virtue of quality and efficacy of the products sold by the Plaintiff, the Subject Mark / Trade Name as well as the products sold thereunder have become associated with the Plaintiff only and the same are in great demand among the customers, public and the members of the trade. Consequently, the demand of the said products sold by the Plaintiff have extensively increased and as such the businesses as well as the sales have reached to several lakh rupees.

20.3. The Plaintiff has exclusively used 'ZAM ZAM' / 'ZAM ZAM PERFUMERS' as a prominent and dominant part of its Trade Mark / Trade Name so that it is uniformly perceived as indicative of the source of the products / services emanating from the



Plaintiff. The artistic work used by the Plaintiff is an original artistic work within the meaning of Section 2(c) of the Copyright Act, 1957. The Plaintiff has also invested substantial resources in promoting the Subject Marks / Trade Name. The Plaintiff being the owner of the Subject Marks / Trade Name holds exclusive rights in the same and is entitled to take action against its unauthorized use by third parties in relation to any class of goods or services and in any manner whatsoever.

20.4. The Plaintiff has displayed its products and services on its website at <https://zamzamperfumers.com/>. The Plaintiff has also bought the domain name <https://zamzamperfumers.com/> on 01.03.2006. The Plaintiff also has presence on the platform-Instagram since 2021 where the Instagram Handle, zamzamperfumers.official which is used for promoting its products under the Subject Marks / Trade Name.

20.5. The Plaintiff also has presence on the platform-Facebook by the name 'ZAM ZAM PERFUMERS'. The Plaintiff has a channel on YouTube wherein the Plaintiff promotes the Subject Marks / Trade Name. The YouTube channel of the Plaintiff can be accessed at <https://www.youtube.com/@zamzamperfumers>.

20.6. In addition to social media presence, the Plaintiff has also been promoting the Subject Marks / Trade Name through traditional means like newspaper publications, pamphlets and advertisements that are Urdu Times, Roznama Rashtriya Sahara, New Delhi that are accessible to the consumers at large.



- 20.7. The Defendant operates its business under the Trade Mark / Trade Name 'New ZamZam Perfumes' ("**Impugned Trade Mark / Name**").
- 20.8. In the month of February, 2024, the Plaintiff was informed of the Defendant and its infringing activities through market sources. The Defendant at that point in time was operating its shop by the Trade Name / Trade Mark 'M/s. ZamZam Perfumes' which was exactly identical to the Subject Marks / Trade Name.
- 20.9. Since, the Defendant blatantly lifted the dominant, prominent and essential brand identifier and trading name of the Plaintiff, the Plaintiff sent a legal notice dated 27.02.2024 ("**First Legal Notice**") to the Defendant demanding to cease and desist the use of the Trade Name / Trade Mark 'ZamZam Perfumes' forthwith. In reply to the First Legal Notice, the Defendant refused to stop the usage of the Trade Name / Trade Mark 'M/s. ZamZam Perfumes' calling it 'unique and non-identical logo' vide a reply dated 22.03.2024.
- 20.10. The legal notice dated 11.03.2024 ("**Second Legal Notice**") sent by the Plaintiff mentioned that the Defendant changed the Trade Name and shop name to 'New ZamZam Perfumes' but are still selling products under the Impugned Trade Mark / Name. A reply was furnished by the Defendant on 22.03.2024 to the Second Legal Notice, wherein the Defendant took the same stand refusing to stop the usage of the Trade Name / Trade Mark 'M/s. ZamZam Perfumes' again calling it 'unique and non-identical logo'.



20.11. Thereafter, the Plaintiff sent another legal notice dated 01.04.2024 (“**Third Legal Notice**”) demanding to cease and desist from the use of the Trade Mark / Trade Name ‘ZamZam Perfumes’ forthwith. The Third Legal Notice mentioned that despite the Defendant informing the Plaintiff of the change of the Trade Name and Shop name to ‘New Bombay Perfumes’, the Defendant was selling the same product under the Impugned Trade Mark / Name. The Plaintiff at this point also became aware of the Instagram account by the handle named ‘new_ zamzam perfumes_’ with the link, https://www.instagram.com/new_zamzam_perfumes/?hl=en. Accordingly, the Plaintiff also attached photographs of the Defendant’s Instagram account as well as reels along with the Third Legal Notice. In reply dated 10.04.2024 to the Third Legal Notice, the Defendant took the same stand that his shop name and style ‘ZamZam Perfumes’ was a ‘unique and non-identical logo’ and refused to stop his infringing activities. The Defendant *vide* its reply dated 10.04.2024 to the Third Legal Notice also apprised the Plaintiff that the Defendant has applied for registration of the Trade Mark ‘New ZamZam Perfume-Luxury Attar & Perfumes’.

20.12. Pursuant to the above-mentioned information, the Plaintiff made a public search on the website of the Trade Marks Registry and found that the Defendant had filed a Trade Mark Application for the registration of the Trade Mark ‘New ZamZam Perfume-Luxury Attar & Perfumes’ in Class 3 bearing No. 6366442 for the goods ‘Perfumes, Perfumeries, Perfume Water, Perfume



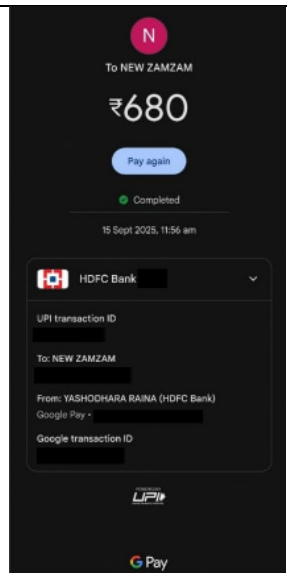
Oils, Solid Perfume, Perfumed Soaps & Synthetic Perfumery’ (“**Impugned Trade Mark Application**”). At present the Impugned Trade Mark Application is at the ‘objected’ stage and is ready for show cause hearing.

20.13. In the first week of September, 2025, the Plaintiff was further informed through its market sources that the Defendant has been selling the infringing products under the Impugned Trade Mark / Name without issuing any bills or invoices, in a clandestine manner. It is pertinent to note that the Defendant is selling its inferior quality products at a low rate causing harm to the Plaintiffs goodwill and reputation.

20.14. A side-by-side comparison of the Plaintiffs’ and the Defendants’ Trade Mark / Trade Name / Instagram handle / QR code / manner of use is reproduced below:

PLAINTIFF’S TRADE MARK/ TRADE NAME/ LABEL/ LOGO/ MANNER OF USE	DEFENDANT’S IMPUGNED TRADE MARK/ TRADE NAME/ INSTAGRAM HANDLE NAME/ QR CODE/ MANNER OF USE
<u>ZAM ZAM/ZAM ZAM</u> PERFUMERS 	NEW <u>ZAM ZAM</u> PERFUMES 



	
<u>ZAM ZAM/ ZAM ZAM</u> PERFUMERS	

20.15. The Defendant has copied all the peculiar and distinct features and brand identifiers of the Subject Marks / Trade Name and incorporated the same on their packaging with negligible modifications. The Defendant with *mala-fide* intentions has employed points of similarity to confuse the general and unwary purchasers and to give an impression that the Defendant's product is another version of the Plaintiff's product. The



Defendant is deliberately copying the prominent, dominant and essential feature of the Subject Marks / Trade Name in relation to the Plaintiffs' products and services in order to free ride upon the fame and goodwill associated with the same.

20.16. The Defendant is offering services with the ulterior motive of defrauding customers and making them believe that the Defendant's product emanates from the Plaintiff, thereby passing off its products as that of the Plaintiff. The Plaintiff has no control over the Defendant's infringing activities and in case the Defendant's infringing products causes serious damage to the consumers due to the quality issues, the same shall irreparably harm the Plaintiff's reputation.

20.17. The misappropriation of the Subject Marks / Trade Name by the Defendant amounts to false Trade description as it induces the consumers and members of the trade to falsely believe that the Defendant has a direct nexus or affiliation with the Plaintiff; or the Defendant has been granted a license to use the Subject Marks / Trade Name / Instagram Account handle / QR Code / Label / Logo in relation to the concerned class of products; or the business of the Defendant has been endorsed by the Plaintiff.

20.18. The Defendant's infringing activities has cascading repercussions on the reputation of the Subject Marks / Trade Name which is a culmination of the Plaintiff's labour, hard work, long and extensive use while being cautious of the safety standards and quality to ensure a safe, good and wholesome



experience to the consumer, which has made the Plaintiff's products well-known and popular.

20.19. The fraudulent and illegal trade activities of the Defendant is causing and will continue to cause incalculable harm and injury to the business, goodwill and reputation associated with the Subject Marks / Trade Name. All profits earned by the Defendant in pursuance of their infringing activities are the Plaintiff's losses and amount to unjust enrichment of the Defendant. The acts of the Defendants in selling ittars, perfumes under the Impugned Trade Mark / Name / Instagram Account name / QR Code name shows that the Defendant is a deliberate infringer and need to be enjoined from such blatant infringement.

20.20. The Plaintiff has a *prima facie* case and the balance of convenience tilts in favour of the Plaintiff and against the Defendant. The Plaintiff shall suffer irreparable loss and injury, if an *ex-parte ad-interim* injunction is not granted in favour of the Plaintiff.

21. The material placed on record shows that the Plaintiff is the registered proprietor of the Subject Marks / Trade Name 'ZAM ZAM PERFUMERS' and 'ZAM ZAM PERFUMERS 66' used in respect of perfumes, ittars and related products. The Subject Marks / Trade Name have been in use by the Plaintiff for considerable long time. The continuous use has enabled the Subject Marks / Trade Name to acquire distinctiveness in respect of perfumes, ittars and related products signifying the source and quality identified with the Plaintiff. The photographs and online extracts placed on record, show that the Defendant is using the Impugned Trade Mark / Name 'NEW ZAMZAM



PERFUMES' for identical goods. The overall similarity between the Subject Marks / Trade Name and Impugned Trade Mark / Name and the nature of the goods is such that an average purchaser of ordinary prudence is likely to be misled into believing that the Defendant's products originate from or are connected with the Plaintiff.

22. The use of a deceptively similar marks in respect of the same category of goods is likely to cause confusion among consumers and dilute the distinctiveness of the Subject Marks / Trade Name. The Defendant's continued use of the Impugned Trade Mark / Name also has the potential to affect the Plaintiff's trade and cause loss of goodwill associated with their business.

23. Having considered submissions advanced on behalf of the Plaintiff, a *prima facie* case is made out by the Plaintiff. The balance of convenience lies in favour of the Plaintiff, and the Plaintiff is likely to suffer irreparable injury if the Defendant is not restrained.

24. Accordingly, till the next date of hearing, the Defendant, its directors, proprietor, partners, agents, assigns, representatives, heirs, servants, dealers, distributors, franchisees and / or anyone acting for and on their behalf are restrained from manufacturing, selling, offering for sale, advertising directly and indirectly dealing in impugned goods and services included in Class 3 bearing the Impugned Trade Mark / Name 'NEW ZAMZAM PERFUMES' and / or from using any other trade mark that may be deceptively similar or even nearly identical to the Subject Marks / Trade Name 'ZAM ZAM' / 'ZAM ZAM PERFUMERS' in any form or manner amounting to passing off and the infringement of the Subject Marks / Trade Name.



25. Let the Reply to the present Application be filed within four weeks after service of Notice. Rejoinder thereto, if any, be filed before the next date of hearing.
26. The compliance of Order XXXIX Rule 3 of the CPC be done within two weeks.
27. List before this Court on 12.02.2026.

TEJAS KARIA, J

OCTOBER 13, 2025/ 'A'