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

+ CS(COMM) 1024/2024 with I.A. 45279/2024, I.A. 45280/2024, I.A. 45281/2024, I.A. 45282/2024, I.A. 45283/2024 and I.A. 45284/2024

**GTV ASSET MANAGEMENT SPOLKA Z OGRANICZONA
ODPOWIEDZIALNOSCIA**

.....Plaintiff

Through: Mr. Urfee Roomi, Ms. Janaki Arun,
Mr. Anuja Chaudhary, Mr. Ritesh
Kumar, Mr. Ayush Dixit,
Mr. Jaskaran Singh and Ms. Chahat
Bhatia, Advocates

versus

SHILPA NISCHAL GUPTA AND ORS.

.....Defendants

Through:

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

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19.11.2024

I.A. 45280/2024 (O-XI R-1(4) of the Commercial Courts Act)

1. The present application has been filed on behalf of the plaintiff seeking leave to file additional documents under the Commercial Courts Act, 2015.

2. The plaintiff is permitted to file additional documents in accordance with the provisions of the Commercial Courts Act, 2015 and the Delhi High Court (Original Side) Rules, 2018.

3. Accordingly, the application is disposed of.

I.A. 45281/2024 (exemption from filing translated documents)

4. The plaintiff is given thirty (30) days' time to file English translation



of the documents filed in Polish language.

5. The application stands disposed of.

I.A. 45284/2024 (seeking exemption from advance service to defendant)

6. The plaintiff seeks urgent interim relief against counterfeit products and for this purpose, an *ex-parte* appointment of Local Commissioner is also sought to confiscate the goods. It is submitted that there is a probability that the defendants may remove the counterfeit products if the defendants are given advance service of the plaint paper book. Therefore, in the peculiar facts and circumstances of this case, exemption from effecting advance service upon the defendants is granted.

7. The application is disposed of.

I.A. 45283/2024 (u/s 12A of Commercial Courts Act, 2015)

8. As the present suit 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.

9. The application stands disposed of.

CS(COMM) 1024/2024

10. Let the plaint be registered as a suit.

11. Issue summons.

12. Summons be issued to the defendants through all modes. The summons shall state that the written statement(s) shall be filed by the defendants within thirty days from the date of the receipt of summons. Along with the written statement(s), the defendants shall also file affidavit of admission/denial of the documents of the plaintiff, without which the written statement(s) shall not be taken on record.



13. Liberty is given to the plaintiff to file replications, if any, within thirty days from the receipt of the written statement(s). Along with the replication filed by the plaintiff, affidavit of admission/denial of the documents of the defendants be filed by the plaintiff.

14. The parties shall file all original documents in support of their respective claims along with their respective pleadings. In case parties are placing reliance on a document, which is not in their power and possession, its detail and source shall be mentioned in the list of reliance, which shall also be filed with the pleadings.

15. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

16. List before the Joint Registrar on 28th January, 2025 for completion of service and pleadings.

17. List before the Court on 07th March, 2025.

I.A. 45279/2024 (u/O-XXXIX Rule 1 & 2 of Code of Civil Procedure, 1908)

18. The present suit has been filed seeking relief of permanent injunction restraining the defendants from infringing the trademark and copyright, passing off their goods as that of the plaintiff along with ancillary reliefs.

19. The case set up in the plaint is that the plaintiff is a Polish company engaged in design manufacture, marketing and sale of products including lighting and furniture accessories. The plaintiff company began its operation in 1990 and has been selling its products across the world including India.

20. It is contended that the plaintiff is the proprietor of the mark “GTV” which is also the plaintiff’s house mark and corporate name and has been used by the plaintiff on a worldwide basis, on and in relation to its goods.



The trademark 'GTV' and its formative marks used by the plaintiff are given below:



21. It is stated that as early as the year 2006, the plaintiff used the term 'GTV' as a trademark in respect of lighting equipment and furniture accessories in Poland. Since then, the plaintiff has been continuously using the 'GTV' trademark. Over the years, the Plaintiff has obtained trademark registrations for the Plaintiffs 'GTV' name and marks, in various jurisdictions around the world, including India, Armenia, China, European Union, Kazakhstan, Moldova, Romania, Russia, Turkey, Turkmenistan, Ukraine, United Kingdom, Uzbekistan, *etc.*, detailed at Document-17 of Plaintiff's document.

22. It is further stated that the plaintiff owns a registration for 'GTV' device mark covering goods in classes 6, 9, 11 and 20 in India. This registration was designated to India on 21st September, 2022 and claims a date of priority from its application in the European Union on 22nd November, 2017.

23. Mr Urfee Roomi, counsel appearing on behalf of the plaintiff draws



the attention of the Court to the registration granted to the plaintiff by the Trade Marks Registry in India. The certificate shows that the mark was published on 6th November, 2023 and no opposition has been filed thereto. Hence, it is submitted that the mark may be taken to be registered.

24. In the year 2006, the plaintiff registered the domain name GTV.COM.PL. The aforesaid website provides information about the plaintiff and its history as well as features and information about the goods and services of the plaintiff offered under the plaintiff 'GTV' name and marks.

25. The plaintiff claims copyright in respect of the distinctive layout of its website which is unique and original to the plaintiff. The plaintiff also claims copyright in respect of the photographs of the plaintiff's manufacturing plants as well as products as depicted on the website as well as textual material thereon.

26. Paragraph 15 of the plaint details the net revenue of goods selling under the plaintiff 'GTV' name and mark. In the year 2023, the plaintiff had a net revenue of Rs.1390,14,69,055.62. The plaintiff also extensively promotes its goods and services and the details of advertising expenditure incurred by the plaintiff is given in paragraph 16 of the plaint.

27. The defendant no.1 is an Indian citizen trading as GTV Hardware India and is the registrant of the 'GTV' device mark in India. The registration of the device mark 'GTV' was granted in favour of defendant No.1 w.e.f. 30th January, 2021, on a '*proposed to be used*' basis.

28. The defendant no.2 is a subsidiary of a company incorporated in Hong Kong and is engaged in the furniture business. The defendant no.3 is one of the directors of the defendant no.2 company.



29. The defendant no.4 runs a WhatsApp business account and LinkedIn page through which the impugned products are sold.

30. As per the averments made in the plaint, the defendants no.1 to 4 are collectively running business under the name 'GTV furniture accessories' which is manufacturing, marketing and selling furniture accessories bearing the mark 'GTV'. The defendants are also operating the websites www.gtvindia.in and www.gtvindia.com.

31. Upon investigation being conducted on behalf of the plaintiff it came to light that the defendants are selling and distributing products bearing the mark GTV all across the country. The products being sold are inferior quality versions of the products of the plaintiff.

32. The comparison of the marks of the defendants and plaintiff is set out below:

Defendants' GTV marks	Plaintiff's GTV Name and Marks
	

33. The above comparison makes it evident that the impugned mark of the defendant (*bearing colours blue and white*) is a slavish imitation of the plaintiff's GTV mark.

34. The sample of defendants' goods obtained by the investigator is given in paragraph 40 of the plaint, an affidavit has been by the investigator



attesting the use of the impugned mark by the defendant.

35. The counsel for the plaintiff has produced samples of infringing products in Court to demonstrate that the manner in which the mark is being used by the defendants is identical to that of the plaintiff.

36. The comparison of the website of the plaintiff and the defendants is filed as Document-31. A perusal of the same would show that the entire layout of the website as well as the photographs used in the website and the text used in the website is identical to that of the plaintiff.

37. It is the case of the plaintiff that the defendants are using the plaintiff's registered mark 'GTV' without any authorisation, in identical packaging. They are selling inferior quality counterfeit products under the plaintiff's 'GTV' trademark, causing confusion and deception among customers.

38. Based on the averments made in the plaint and submissions made on behalf of the counsel for the plaintiff, a *prima facie* case is made out in favour of the plaintiff.

39. The counterfeit goods sold by the defendants is likely to cause confusion in the market as the public at large would associate the goods being sold by the defendants with the plaintiffs. Balance of convenience is in favour of the plaintiffs and against the defendants. Irreparable injury would be caused to the plaintiff if the defendants continue to sell the impugned products.

40. Consequently, till the next date of hearing, the defendants/non-applicants, any other individuals, directors, officers, managers, employees, agents, dealers, licensees, related/affiliated companies/entities, retailers, wholesalers, distributors or any persons/entities that are under the control of



the defendants/non-applicants or are related or affiliated to the defendants/non-applicants, as the case may be, and all others, acting for and on behalf of the defendants/non-applicants, are restrained from manufacturing, exporting, offering for sale, selling, displaying, advertising, marketing, whether directly or indirectly, and whether on the internet or otherwise, furniture accessories, lighting fixtures and home decor and any other similar/related/allied/cognate goods bearing the Plaintiff's GTV Name and Marks, and any marks that are identical/deceptively similar to the

plaintiff GTV Name and Marks, including  , , , , , , , , whether directly or

indirectly, whether on the internet or otherwise, on any goods and services; as a part of the corporate name or corporate logo; as a part of the defendants' domain names GTVINDIA.COM and GTVINDIA.IN; as a part of the defendants' email addresses; as a part of the defendants' social media account profile names and handles; and on the defendants/non-applicants' business incidentals, or in any manner whatsoever.

41. In view of the fact that the plaintiff has sought appointment of a Local Commissioner to seize the counterfeit goods, the very purpose of grant of *ex-parte ad interim* injunction would be defeated if the defendants are given notices contemplated in Order XXXIX Rule 3 of Code of Civil Procedure, 1908 (hereinafter "CPC") prior to the execution of the commission. Hence,



it is directed that the plaintiff shall serve notices under Order XXXIX Rule 3 of CPC at the time of execution of the commission which shall not be later than ten (10) days from today.

42. Issue Notice.

43. Notice be issued to the defendants *via* all permissible modes, including e-mail.

44. Reply(ies) be filed within four (4) weeks.

45. Rejoinder(s) thereto, if any, be filed within two (2) weeks thereafter.

46. List before the Joint Registrar on 28th January, 2025, for completion of service and pleadings.

47. List before the Court on 07th March, 2025.

I.A. 45282/2024 (O-XXVI R-9 of CPC)

48. The present application has been filed under Order XXVI Rule 9 of the CPC seeking appointment of Local Commissioner to visit the premises of the defendants, make an inventory of all the goods having the counterfeit goods and effect seizure of the same.

49. In view of what is stated above, the plaintiff has made out a case for appointment of a Local Commissioner.

50. Accordingly, Ms Raji Gururaj, Advocate (Mobile No. +91-9704847263) is appointed as Local Commissioner to visit the premises of the defendants situated in:

House No. 292, Block-A,

DSIDC Narela, New Delhi- 110040

51. The following directions are passed in this regard:

- i. The Local Commissioner, along with a representative of the plaintiff and their counsel, shall be permitted to enter upon the



premises of the defendants mentioned above or any other location/premises that may be identified during the course of commission, in order to conduct the search and seizure.

- ii. The Local Commissioner shall conduct a search and seize all the infringing products including but not limited to label/packaging material and promotional material (*hereinafter referred to as 'infringing material'*).
- iii. After seizing infringing material, the same shall be inventoried, sealed and signed by the Local Commissioner, in the presence of the parties, and released on *superdari* to the defendants on their undertaking to produce the same as and when further directions are issued in this regard.
- iv. The Local Commissioner shall also be permitted to make copies of the books of accounts including ledgers, cash registers, stock registers, invoices, books, etc. insofar as they pertain to the infringing material.
- v. The defendants and its representatives are directed to provide full assistance to the Local Commissioner for executing the present commission.
- vi. In case, the aforesaid premises of the defendants or any part thereof is found locked, the Local Commissioner is permitted to break open the locks and doors for execution of the commission.
- vii. To ensure an unhindered and effective resolution of this order, the SHO of the local police station having jurisdiction of the aforesaid premises and the DCP concerned are directed to



render the necessary protection and assistance to the Local Commissioner, if and when sought.

52. The Local Commissioner shall have the liberty to take photographs and/or videos of the stock seized of the infringing products to be filed along with the Report. The Local Commissioner shall file its Reports within two (2) weeks of executing the commission, along with photographs taken and photocopies of the books of account and stock and the inventory procured pursuant thereto.

53. The fees of the Local Commissioner, to be borne by the plaintiff, is fixed at Rs.1,00,000/-. The plaintiff shall also bear expenses for travel and other miscellaneous out-of-pocket expenses for the execution of the commission.

54. The application stands disposed of in the above terms.

55. The order passed today shall not be uploaded for a period of two (2) weeks from today.

56. Copy of this order be given *dasti* under the signatures of the Court Master.

AMIT BANSAL, J

NOVEMBER 19, 2024

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