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

+ **CS(COMM) 173/2016 & I.A. 7662/2024, I.A. 45825/2024**

**MEHAR WING SERVICES
PRIVATE LIMITED & ANR**

.....Plaintiffs

Through: Mr. Sanjeev Singh, Advocate.

versus

M/S JINDAL RESTAURANT

.....Defendant

Through: Ms. Bhanita Patowary, Advocate

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

% **21.11.2024**

I.A. 45825/2024 (filed by defendant seeking condonation of delay of 42 days in filing the reply to I.A. 7662/2024)

1. For the reasons stated in the application, the delay of 42 days in filing the reply to the I.A. 7662/2024 is hereby condoned.
2. Reply is taken on record.
3. The application stands disposed of accordingly.

I.A. 7662/2024 (filed by plaintiffs u/O VI Rule 17 CPC seeking amendment in the plaint)

4. This application has been filed on behalf of the plaintiffs under Order VI Rule 17 of the Code of Civil Procedure, 1908 ('CPC') seeking amendment in the plaint.
5. The amendment which is sought to be brought about by this application is in respect of the subsequent registration of the trademarks



‘PINCH’, ‘PINCH OF’ and ‘PINCH OF SPICE’ granted in favour of the plaintiffs under different classes of the Trade Marks Act, 1999, details of which are given in paragraph 6 of the application.

6. It is an admitted position that the evidence in the suit has already been recorded and the suit is otherwise ripe for final hearing.

7. Counsel appearing on behalf of the defendant opposes the present application on the ground that it has been filed belatedly and further, it is beyond the scope of the suit. She submits that the impugned mark being used by the defendant is ‘PINCH OF SALT’, whereas the trademarks registered in favour of the plaintiffs are ‘PINCH’, ‘PINCH OF’ and ‘PINCH OF SPICE’ and the classes of their respective marks are also different.

8. I have examined the record of the case and heard the counsel for the parties.

9. Undoubtedly, the aforesaid amendment has been filed at a highly belated stage. However, taking into account the nature of the dispute between the parties, in my considered view, the amendments are relevant for adjudicating the suit. Further, the amendments do not in any way change the nature of the suit.

10. Counsel for the plaintiffs submits that he would not request to lead any additional evidence as the subject marks have already been exhibited during recording of evidence in the suit.

11. Insofar as the delay is concerned, the defendant can always be compensated with costs.

12. Accordingly, the present application is allowed subject to costs of ₹25,000/- being paid by the plaintiffs to the defendant. Costs shall be paid within two (2) weeks.



13. Statement of the counsel for the plaintiffs that no further amendment shall be made in the plaint is taken on record and the plaintiffs shall be bound by the same.

14. Amended plaint, strictly in terms of the present amendment application, shall be filed within one (1) week from today.

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15. Amended plaint shall be filed by the plaintiffs within one (1) week.

16. Liberty is given to the defendant to file written statement within 30 days.

17. List before the Joint Registrar for completion of pleadings on 15th January, 2025.

18. List the matter at the end of the board in the category of '*Final Hearing Matters*' on 24th March, 2025.

AMIT BANSAL, J

NOVEMBER 21, 2024

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