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

+ **CS(COMM) 1227/2025 & I.A. 28381/2025**

**ARQ PROVIDORES**

.....Plaintiff

Through: Mr. Neeraj Bhardwaj, Ms. Isha Gandhi, Mr. N.K. Bhardwaj, Mr. Bikash Ghorai, Ms. Krati Fagna & Mr. Salil Oberoi, Advocates.

versus

**SCHLOSS HMA PRIVATE LIMITED & ANR.** .....Defendants

Through: Mr. Amit Sibal, Senior Advocate along with Mr. Pravin Anand, Ms. Twinky Rampal, Mr. Ashutosh Upadhyaya, Mr. Darpan Sachdeva, Mr. Rajat Bector, Ms. Smriti Nair & Ms. Laiba Ahsan, Advocates.

**CORAM:**

**HON'BLE MR. JUSTICE TEJAS KARIA**

**ORDER**

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**17.11.2025**

**I.A. 28383/2025 (Exemption from pre-institution Mediation)**

1. 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**”).
2. 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.
3. The Application stands disposed of.

*CS(COMM) 1227/2025*

*Page 1 of 20*



**CS(COMM) 1227/2025**

4. Let the Plaint be registered as a Suit.
5. Issue Summons. The learned Senior Counsel for the Defendants accepts Summons.
6. The Defendants shall file the Written Statements shall be filed by the Defendants within 30 days from the date of the receipt of Summons. Along with the Written Statements, the Defendants shall also file an Affidavit of Admission / Denial of the documents of the Plaintiff, without which the Written Statements shall not be taken on record.
7. Liberty is granted to the Plaintiff to file Replications, if any, within 30 days from the receipt of the Written Statements. Along with the Replications filed by the Plaintiff, an Affidavit of Admission / Denial of the documents of Defendants be filed by the Plaintiff, without which the Replications shall not be taken on record.
8. 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.
9. If any of the Parties wish to seek inspection of any documents, the same shall be sought and given within the prescribed timelines.
10. List before the learned Joint Registrar on 12.01.2026 for completion of pleadings.

**I.A. 28382/2025 (O-XI R-1(4) of the Code of Civil Procedure, 1908)**

11. 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.

12. 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.

13. Accordingly, the Application stands disposed of.

**I.A. 28380/2025 (U/O XXXIX Rules 1 & 2 of CPC)**

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

15. The present Suit has been filed for permanent injunction restraining



infringement of the Trade Marks, 'ARQ', ' ' and ' ' ,  
 (“**Plaintiff’s Marks**”), passing off, dilution, unfair competition and seeking  
rendition of accounts / damages, delivery up, etc.

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

16.1. The Plaintiff firm consists of two partners, namely, Ms. Neha Lakhani and Mr. Ashay Dhopatkar, both of whom are culinary professionals possessing extensive qualifications and experience in their respective fields. The Plaintiff’s Marks were adopted by the Plaintiff in October 2018. The Plaintiff commenced its business operations in the year 2018 under the Plaintiff’s Marks, initially focusing on the manufacturing and sale of traditional sweets and savouries. With a commitment to quality, authenticity, and customer satisfaction, the business quickly gained popularity and established a loyal customer base. As demand for its products steadily increased, the Plaintiff identified an opportunity to



diversify and expand its offerings. In response to growing customer interest and market potential, the Plaintiff strategically extended its operations into the premium catering segment and allied hospitality services. This expansion allowed the business to provide high-end catering services for events, functions, and special occasions, further strengthening its reputation and market presence within the food and hospitality industry.

16.2. In the year 2019, during the regular course of its *bona fide* business operations, the Plaintiff established its flagship physical outlet at DLF Emporio Mall, Vasant Kunj, New Delhi which was operational till 2023. The said mall is widely acknowledged as India's most exclusive luxury shopping destination, housing premium international and Indian designer labels, fine dining restaurants, and bespoke lifestyle establishments.

16.3. On account of the continuous, extensive, and uninterrupted use of the Plaintiff's Marks coupled with substantial advertising, promotion, and the superior quality of the Plaintiff's goods and services, the Plaintiff's Marks have come to denote and be exclusively associated with the Plaintiff. Over the years, the Plaintiff's Marks have acquired an enviable reputation, wide recognition, and impeccable goodwill amongst members of the trade and the consuming public, signifying the Plaintiff's source and origin of goods, services, and business in the hospitality and confectionery industry. The Plaintiff has applied for and obtained various registrations for the Plaintiff's Marks although the



registrations obtained by the Plaintiff in Class 35 are with the disclaimer that “*Registration of this trade mark shall give no right to the exclusive use of the same;*”. The details of the registration of the Plaintiff’s Marks are as under:

| S. No. | Application number | Trademark | Class | Status     |
|--------|--------------------|-----------|-------|------------|
| 1.     | 4066306            |           | 30    | Registered |
| 2.     | 4066307            |           | 30    | Registered |
| 3.     | 4066308            |           | 30    | Registered |
| 4.     | 4072649            |           | 30    | Registered |
| 5.     | 4072650            |           | 35    | Registered |
| 6.     | 4072651            |           | 35    | Registered |
| 7.     | 4072652            |           | 35    | Registered |



|     |         |                                                                                     |    |            |
|-----|---------|-------------------------------------------------------------------------------------|----|------------|
| 8.  | 4072653 |    | 35 | Registered |
| 9.  | 6675765 |    | 30 | Pending    |
| 10. | 6790228 |    | 29 | Pending    |
| 11. | 6790229 |    | 30 | Pending    |
| 12. | 6790230 |   | 31 | Pending    |
| 13. | 6790231 |  | 32 | Pending    |
| 14. | 6790232 |  | 35 | Pending    |
| 15. | 6790233 |  | 41 | Pending    |
| 16. | 6790234 |  | 43 | Pending    |
| 17. | 7276944 | ARQ                                                                                 | 30 | Pending    |
| 18. | 7276945 | ARQ                                                                                 | 43 | Pending    |



- 16.4. The Plaintiff has, over the years, established an extensive network of collaborations and associations with prominent individuals, organizations, and institutions, thereby further enhancing the reputation and goodwill of its Trade Mark and business. The success of the Plaintiff's business and the quality of goods and services provided under the Plaintiff's Marks is evident by the coverage received by the Plaintiff's goods and services in various newspapers.
- 16.5. The Plaintiff's clientele includes reputed luxury hotels and hospitality establishments, including but not limited to The Oberoi, JW Marriott, Hyatt Centric, The Ritz Carlton, Taj Mahal Hotel and Pullman Hotel. Such collaborations, media recognition, and patronage by prominent establishments are demonstrative of the Plaintiff's commercial prominence, the distinctiveness of the Plaintiff's Marks and its variants, and the exceptional goodwill and reputation attached thereto. In the Financial Year ("FY") 2023-24, the Plaintiff spent ₹6,02,402/- as advertisement expenses and earned a revenue of ₹2,02,24,463/-.
- 16.6. The Plaintiff is further the registered owner and user of the domain name, [www.arqmithai.in](http://www.arqmithai.in) ("**Plaintiff's Website**"), which incorporates the Trade Name, 'ARQ' and showcases the Plaintiff's Marks. The Plaintiff has owned and operated the Plaintiff's Website since the year 2019. The Plaintiff's Website is interactive, which provides comprehensive information regarding



the Plaintiff's business, goods, and services offered under the Plaintiff's Marks.

16.7. In September 2025, the Plaintiff was informed through sources that some hospitality group is using an identical / deceptively similar Marks to the Plaintiff's Marks for its luxury hotels and further in October 2025, one of the Plaintiff's valued clients approached the Plaintiff expressing confusion and concern arising from the launch of the hospitality services under the Mark, 'ARQ by The Leela'. Upon receiving such information, the Plaintiff undertook a detailed and thorough investigation into the matter. Pursuant to such investigation, the Plaintiff discovered that the Defendants had commenced actual and extensive use of the Marks, 'THE ARQ', 'ARQ BY LEELA', 'ARQ by THE LEELA'



and ' ( "**Impugned Marks**" ) in relation to hospitality services. Specifically, the Plaintiff ascertained that the Defendants had publicly announced the launch of 'Arq at Pichola', purportedly an ultra-luxury offering at their Udaipur property, on or around 14.10.2024. The said announcement and use of the Impugned Marks were found on the official website of the Defendants as well as on various third-party websites and promotional platforms. A comparative table of the Plaintiff's Marks and the Impugned Marks is as under:





| PLAINTIFF'S PRIOR<br>TRADEMARKS                                                                                                                                                                                    | DEFENDANTS'<br>IMPUGNED<br>TRADEMARKS                                                                                                                                                                                               |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p style="text-align: center;"><b>ARQ</b></p>   | <p style="text-align: center;">THE ARQ</p> <p style="text-align: center;">ARQ THE LEELA</p> <p style="text-align: center;">ARQ by THE LEELA</p>  |

16.8. The Defendants have dishonestly adopted Marks, which are deceptively identical and / or confusingly similar to the Plaintiff's Marks that are prior adopted and extensively used in relation to identical and / or similar classes and services. The Defendants have also proceeded to file multiple applications before the Trade Marks Registry seeking registration of the Impugned Marks. The details of registration of the Impugned Marks are as under:



| S. No. | Trademark        | Trademark Application No. | Trademark Application Date and User Detail                    | Class |
|--------|------------------|---------------------------|---------------------------------------------------------------|-------|
| 1.     | THE ARQ          | 6554641                   | D.O.A.-01.08.2024<br><br>USER SINCE-Proposed to be used basis | 41    |
| 2.     | THE ARQ          | 6554642                   | D.O.A.-01.08.2024<br><br>USER SINCE-Proposed to be used basis | 43    |
| 3.     | ARQ THE LEELA    | 6940644                   | D.O.A.-04.04.2025<br><br>USER SINCE-Proposed to be used basis | 41    |
| 4.     | ARQ THE LEELA    | 6940645                   | D.O.A.-04.04.2025<br><br>USER SINCE-Proposed to be used basis | 41    |
| 5.     | ARQ by THE LEELA | 6940646                   | D.O.A.-04.04.2025<br><br>USER SINCE-Proposed to be used basis | 41    |
| 6.     | ARQ by THE LEELA | 6940647                   | D.O.A.-04.04.2025<br><br>USER SINCE-Proposed to be used basis | 41    |



|    |                                                                                   |         |                                                                      |    |
|----|-----------------------------------------------------------------------------------|---------|----------------------------------------------------------------------|----|
| 7. |  | 6980671 | D.O.A.-28.04.2025<br><br>USER SINCE-<br>Proposed to be used<br>basis | 41 |
| 8. |  | 6980672 | D.O.A.-28.04.2025<br><br>USER SINCE-<br>Proposed to be used<br>basis | 43 |

16.9. The Applications for registration of the Impugned Marks have been filed by the Defendants on a ‘proposed to be used’ basis. The Plaintiff has initiated Opposition Proceedings before the Trade Mark Registry against two of the Defendants’ Trade Mark Applications being Application Nos. 6940644 and 6940645 on 18.10.2025, which are pending. The Trade Mark Application No. 6554642 of the Defendants was published in Journal No. 2212-0 dated 09.06.2025 and the Plaintiff was not able to oppose the Application No. 6554642 within the prescribed period of opposition, and consequently the Application No. 6554642 was allowed on 31.10.2025. The Plaintiff has on 01.11.2025 filed Rectification Petition under Section 57 of the Trade Marks Act, 1999 before the Trade Mark Registry, which is pending.

16.10. The use of the Impugned Marks by the Defendants is without authorization, consent, or license from the Plaintiff and constitutes infringement and passing off of Plaintiff’s Marks.



Admittedly, the Defendants have adopted the Impugned Marks in October 2024, therefore the prior user of the Plaintiff is not in doubt.

- 16.11. The Defendants were aware of the Plaintiff and the Plaintiff's Marks as in the year 2020, Ms. Samyukta Nair, granddaughter of Mr. C. P. Krishnan Nair, the founder of Leela Group, had consumed Plaintiff's products under the Plaintiff's Marks and had posted an appreciation story on her Instagram account tagging the Plaintiff's Instagram account. Following the appreciation, the Plaintiff had also written to Ms. Nair expressing interest in business collaboration with her restaurants. Ms. Nair had played a vital role in administration and operations of Leela Group and was designated as Head of Design & Operations of Leela Group.
- 16.12. On 14.01.2021, the Defendants, being impressed with Plaintiff's business under the Plaintiff's Marks, approached the Plaintiff to feature in their 'The Leela Magazine' published by Defendant No. 1. The summer edition of 'The Leela Magazine' in 2021, featured the Plaintiff's business under the Plaintiff's Marks.
- 16.13. From the year 2022 till 2025, the Plaintiff and the Defendants have engaged in discussions related to business proposal pertaining to products under the Plaintiff's Marks. In the email dated 03.07.2022, the Plaintiff had written a business proposal to the Defendants' representatives at Bangalore wherein a detailed description of the Plaintiff's Marks and the Plaintiff's products was given. Recently, in the month of August, 2025 the Plaintiff



had written an e-mail to the Defendants' representative for business purposes under the Plaintiff's Marks. During the discussions, it was never disclosed by the representatives of the Defendants that they have adopted an identical Mark for its luxury hotels at Udaipur or for any other purpose.

17. The learned Senior Counsel for the Defendants made the following submissions:

17.1 The Defendants are using the Impugned Marks with respect to hospitality services, hotels and luxury villas, which are covered in Class 43. The Plaintiff is in the business of selling sweets and confectioneries, which are covered in Classes 30 and 35. The Class of goods and services of the Plaintiff and the services provided by the Defendants are completely different. Even the registration obtained by the Plaintiff for the Plaintiff's Marks in Class 35 comes with a disclaimer that "*Registration of this trade mark shall give no right to the exclusive use of the same;*". Therefore, the Plaintiff is not entitled to exclusively use the Mark 'ARQ'.

17.2 The Defendants have successfully obtained registration of the Mark, 'THE ARQ', in Class 43 under Trade Mark Application No. 6554642, therefore, the Defendants cannot be infringing the Plaintiff's Marks as long as the Defendants are the registered proprietor of the Mark, 'THE ARQ' and only a case of passing off survives. The judgments of ***Vaidya Rishi India Health (P) Ltd. v. Suresh Dutt Parashar***, 2025 SCC OnLine Del 6147 and



***Suparshva Swabs India v. AGN International***, 2025 SCC OnLine Del 8239 held that a case of infringement cannot be made out against a registered proprietor of the registered Mark and no infringement action can lie against a registered Trade Mark. Although the Plaintiff has filed Opposition Proceedings against the registration of the Mark, 'THE ARQ', under Trade Mark Application No. 6554642, the Mark, 'THE ARQ' is presently validly subsisting on the register of Trade Marks and, therefore, the Plaintiff cannot maintain a case of infringement of the Plaintiff's Marks against the Defendants. The Plaintiff's Marks were not even cited by the Registrar of Trade Marks while allowing the registration of the Mark, 'THE ARQ', in Class 43.

17.3 The Plaintiff has not received registration for the Word Mark, 'ARQ' and has only received registrations for Device Marks and as per Section 17 of the Trade Marks Act, the registration of the Device Marks does not confer upon the Plaintiffs the exclusive right to use a part of the Mark registered.

17.4 After seven years of entering into business, the Plaintiff has clocked a revenue of only ₹2,02,24,463/- for the FY 2023-24, and such revenue pan India is not sufficient to show that the Mark, 'ARQ' is exclusively associated with the Plaintiff. The Plaintiff has very poor ratings on the food delivery application 'Zomato' and the Plaintiff does not have the goodwill as claimed.

17.5 The Defendants are a large hotel chain, who have their own goodwill and need not use the goodwill of another to promote



their services. There has been no dishonest adoption on behalf of the Defendants and has been using the Impugned Marks continuously and without interruption. The Plaintiff has not entered into catering and hospitality services and has barely provided to substantiate their claim that the Plaintiff is providing catering services.

17.6 The Defendants have already commenced services under the Impugned Marks in November 2024 and the balance of convenience is with the Defendants. The Division Bench of this Court in the judgment of ***Indian Hotels Co. Ltd. v. Jiva Institute of Vedic Science & Culture***, 2008 SCC OnLine Del 1758, held that the appellants having received registration of the impugned marks without any objection from the respondents tilts the balance of convenience in favour of the appellant.

17.7 The Plaintiff has not served the Plaintiff with a cease and desist notice and has sought to bypass the mandatory provision of Section 12A of the CC Act, which is not permissible. If the Plaintiff had served the Defendants with a cease-and-desist notice, the matter could have been resolved prior to the institution of the present Suit.

17.8 Hence, no case is made out for granting *ad-interim* injunction in favour of the Plaintiff before an opportunity to file Reply to this Application is given to the Defendants.

18. Without prejudice to the above submissions, the Defendants submitted the following proposals for the consideration of this Court:



- “(i) The Defendants agree to use the house mark ‘THE LEELA’ together with the word ‘ARQ’, for so long as the word ‘ARQ’ continues to be used in respect of the trademark classes under which the Plaintiff is presently operating.
- (ii) For the ultra-luxury villas at The Leela Palace Udaipur at Udaipur, the Defendants agree to use the house mark ‘THE LEELA’ together with the word ‘ARQ’ namely ‘THE LEELA ARQ at PICHOLA’, for so long as the word ‘ARQ’ is continued to be used in relation to the said ultra-luxury villas.
- (iii) The house mark ‘THE LEELA’ will always be prominently displayed with the trademark ‘ARQ’, for so long as the word ‘ARQ’ continues to be used in respect of the trademark classes under which the Plaintiff is presently operating.
- (iv) The Defendants will discontinue the use of the logo within a



reasonable period  
mentioned logo:

and shall adopt the below



- (v) The Defendants shall not retail packaged sweets and confectionaries falling under class 30, under the mark ‘ARQ’.”

19. The learned Counsel for the Plaintiff submitted that the Plaintiff would be willing to consider the above proposal only if the Defendants agree to





change the spelling of 'ARQ' and replace the letter 'Q' with another letter such as 'C' or 'K'.

20. The learned Senior Counsel for the Defendants further submitted, on instructions, that the restaurants, providing sweets, savouries, confectionaries and catering services within the premises of the ultra-luxury villas at 'The Leela Palace Udaipur' using the Mark 'ARQ' have different names and the Mark 'ARQ' is not used with respect to sweets, savouries, confectionaries, room-service and catering services and the Defendants shall not use the Mark 'ARQ' so that there is no possibility of confusion between the goods and services of the Plaintiff and the Defendants. It was further submitted that the Defendants shall use the Mark 'ARQ' always in conjunction with 'BY THE LEELA'.

21. Having considered the submissions advanced by the learned Counsel for the Plaintiff and the learned Senior Counsel for the Defendants, the pleadings and the documents on record, it is clear that the Plaintiff is the registered proprietor of the Plaintiff's Marks. The Plaintiff has been able to establish long and continuous use of the Plaintiff's Marks with respect to sweets, savories and confectioneries. The Plaintiff has obtained registrations for the Plaintiff's Marks in Classes 30 and 35, and is engaged in sweets, savories and confectioneries under the Plaintiff's Marks and is also venturing into catering services. The Defendants are using the Impugned Marks with respect to hospitality services and providing luxury rooms and villas in Class 43 at 'The Leela Palace Udaipur'.

22. While the Classes in which the Plaintiff and the Defendants are operating are different, the goods and services of the Parties are allied and



cognate. Both the Plaintiff and the Defendants cater to high-end clients and *prima facie* the Parties cater to the same class of customers. The prior user of the Plaintiff is not challenged and it is an admitted position of the Defendants that they have started using the Impugned Marks only since November 2024, while the Plaintiff has been using the Plaintiff's Marks since 2018.

23. The Plaintiff has shown goodwill by pointing out the coverage received by the Plaintiff in the Defendants' own magazine in the summer edition of 'The Leela Magazine' in 2021, and in various newspapers such as The Indian Express, The Hindu, The Asian Age and by various physical / digital magazines, newsletters such as VOGUE, Conde Nast Traveler, ELLE, Man's world, Scroll.in, Luxebook, Peaklife and from the revenue earned by the Plaintiff. From the material placed on record it appears *prima facie* that the Defendants were aware of the Plaintiff and the Plaintiff's Marks.

24. The Defendants have successfully obtained registration for the Mark, 'THE ARQ' in Class 43. Therefore, the Defendants cannot be held to be infringing the Plaintiff's Marks as long as the Mark 'THE ARQ' registered by the Defendants is validly subsisting on the Register of Trade Marks.

25. The Division Bench of this Court in **Vaidya Rishi India Health**, (*supra*) and **Suparshva Swabs India** (*supra*) has held that no infringement can be alleged by use of a proprietor of a registered Trade Mark of the Mark in the Class in which it is registered. Neither can there be any injunction against the use of a registered Trade Mark for the class, in which it is registered, however, an action of passing off can be maintained.

26. A *prima facie* case of passing off has been made by the Plaintiffs on the basis of prior use and goodwill of the Plaintiff's Marks through the



coverage received by the Plaintiff in various newspapers and magazines including the Defendants' Magazine, considering the revenue earned by the Plaintiff since 2018. Therefore, there is a likelihood of confusion amongst the common class of consumers, which is likely to harm the reputation of the Plaintiff and dilute the Plaintiff's Marks.

27. However, since the Defendants have already commenced services under the Impugned Marks since November 2024, the balance of convenience would not be entirely in favour of the Plaintiff. Considering the submissions made and proposals submitted on behalf of the Defendants, the Defendants are required to be afforded an opportunity to file the Reply to this Application and place on record the relevant documents. No irreparable harm or prejudice is likely to be caused to the Plaintiff, if appropriate directions in terms of the proposals submitted by the Defendants are passed, in the meanwhile.

28. Accordingly, to balance the equities between the Parties, till the next date of hearing, considering the proposals submitted by the Defendants, it is directed that Defendants their directors, proprietors, partners, associates, assigns or assignee in interest, successors or successors in interest, permitted assigns, sister concerns or group companies, agents and all others acting for and on their behalf shall:

- (i) Use the Mark 'ARQ' only in conjunction with the house mark of the Defendants 'THE LEELA' along with the word 'BY' in between i.e. 'ARQ BY THE LEELA' in the same fonts, size and colour only for providing services under Class 43;



- (ii) Discontinue the use of the logo ‘’ by 15 December 2025 and shall adopt the below logo proposed by the Defendants after incorporating ‘BY’ between ‘ARQ’ and ‘THE LEELA’:



‘’; and

- (iii) Not use the Mark ‘ARQ’ with respect to sale of sweets, savouries, confectionaries or providing room-service and catering service or for any of their Restaurants within the premises of the ultra-luxury villas at ‘The Leela Palace Udaipur’ or at any other properties of the Defendants.

29. Let the Reply to the present Application be filed within a period of four weeks. Rejoinder thereto, if any, be filed before the next date of hearing. List before this Court on 16.03.2026.

**TEJAS KARIA, J**

**NOVEMBER 17, 2025/ ‘A’**