



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION

INTERIM APPLICATION (L) NO. 14938 OF 2026
IN
COMMERCIAL IP SUIT (L) NO. 14801 OF 2026

Kamat Hotels India Ltd

... Applicant/Plaintiff.

Versus

Deepak Kumar Roy s/o Prasanna
Kumar Roy, Proprietor of Da Orchid
Ecotel and Ors.

... Respondents/Defendants.

*Mr. Murlidhar Khadilkar a/w. Chinmay Page and Ashitosh Pawar for the
Applicant/Plaintiff.*

Coram : Sharmila U. Deshmukh, J.

Date : May 07, 2026

P.C. :

1. This is an action for infringement of trade mark and passing off. As leave under Clause XIV of Letters Patent (Bombay) is not yet obtained, Mr. Khadilkar would confine his relief only in respect of infringement of trade mark. He seeks to move without notice to the Defendant for the reasons set out in paragraph 36 of the plaint. I am convinced that the object of grant of injunction would be defeated by delay for the reasons set out in paragraph 36 of the plaint.

2. The present application is for infringement of the Plaintiff's registered trade mark "THE ORCHID / ORCHID" and its formative

marks of which "ORCHID / THE ORCHID" forms the leading essential and distinguishing feature. It is submitted that the Plaintiff owns "THE ORCHID - Five Star Ecotel Hotel" which is Asia's first certified eco-friendly five star hotel and had conceived and adopted the trade mark "THE ORCHID / ORCHID" in or about December, 1995 in relation to its five star hotels. He submits that the Plaintiff secured registration of its mark, the earliest registration having been obtained in the year 1997.

3. He submits that in the last week of March, 2026, the Plaintiff learnt that the Defendant No.1 is running a hotel and rendering services in relation thereto under the impugned name "Da'Orchid Ecotel" of which the "ORCHID" is the prominent feature. He submits that search on the internet indicated that the booking of Defendant No.1's hotel can be done from Defendant Nos.2 to 6's websites. He submits that the cease and desist notice was issued to the Defendant No.1 and in reply, it is stated that the Defendant No.1 has adopted the mark for the first time in December, 2023. He submits that the Defendant No.1's impugned trade mark/hotel name is identical/deceptively similar to the Plaintiff's registered trade mark and is likely to show an association with the Plaintiff.

4. I have considered the submissions and perused the record.

5. The Plaintiff has secured registration of the trade mark “THE ORCHID / ORCHID” and its formative marks of which ORCHID is the leading, essential and distinguishing feature. The Plaintiff had commenced the use of the mark in the year 1995 in respect of the hotel services and has secured registration with the earliest registration in the year 1997. The mark having been in use extensively and since the year 1997, the use of deceptively similar trade mark by the Defendant should have been preceded by a search in the trade mark registry which would have revealed the registration of the Plaintiff’s mark.

6. The Defendant No.1 is rendering services under the hotel name “Da’Orchid Ecotel” and the manner in which the mark is used *prima facie* shows that ORCHID is the leading, memorable and prominent feature. There is no registration which has been obtained by the Defendant in respect of its trade mark “Da’Orchid Ecotel” and there can be no probable defence available to the Defendant. In response to the cease and desist notice, there is an admission that the mark was adopted in December, 2023, which shows that the Defendant has recently adopted the mark whereas the Plaintiff’s mark is in use since the year 1995.

7. In light of the above, *prima facie* case has been made out for

grant of ad-interim relief in terms of prayer clauses (a), (c), (d) and (e), as under:

- “(a) that pending the hearing and final disposal of the suit, the Defendant No.1, its proprietors, partners, servants, agents, assignees, licensees, franchisees and all persons claiming through and/or under it or acting on its behalf be restrained by a temporary order and injunction of this Hon’ble Court in any manner whatsoever from infringing the Plaintiff’s registered trade marks, details whereof are set out at Exhibits “C” to “C3”, “E” and “F to F8’ to the plaint, by the use of the impugned trade mark / hotel name **“Da’Orchid Ecotel”**, as shown in Exhibit-“J” and “K” to “K4” to the plaint and/or any other trade mark identical with and/or deceptively similar to the Plaintiff’s registered trade mark as shown at Exhibits “C” to “C3”, “E” and “F to F8’ to the plaint in respect of the services covered by the Plaintiff’s said registrations or similar or like services or in any manner whatsoever;
- (c) that pending the hearing and final disposal of the suit, the Defendant Nos. 2 to 6 be restrained by a temporary order and injunction of this Hon’ble Court from infringing the Plaintiff’s registered trade mark, details whereof are set out at Exhibit ‘E and F to F8’ to the plaint, by listing the Defendant No.1’s hotel under the impugned trade mark / hotel name **“Da’Orchid Ecotel”**, on their platforms as per the details set out in Exhibit-“J” and “K” to “K4” to the plaint;

- (d) that pending the hearing and final disposal of the suit, the Defendant Nos. 2 to 6 should be directed to takedown the listing of the Defendant No.1's hotel under the impugned trade mark from their platforms / websites as per the details set out in Exhibit-"J" and "K" to "K4" to the plaint;
 - (e) that pending the hearing and final disposal of the suit, by a temporary order and injunction of this Hon'ble Court, the Defendant No. 1 be directed to takedown the listing of the Defendant No.1's hotels under the impugned trade mark from any and all other online platforms / website and /or electronic and /or print media, if any;"
- 8. Stand over to **16th June, 2026**.
 - 9. Ad-interim relief granted earlier to continue till the next date.

[Sharmila U. Deshmukh, J.]