



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

**INTERIM APPLICATION (L) NO. 39393 OF 2025**  
**IN**  
**COMMERCIAL IP SUIT (L) NO. 39275 OF 2025**

Kamat Hotels India Ltd ...Applicant/Plaintiff

**Versus**

Express Towers Pvt Ltd and Others ...Respondents

\_\_\_\_\_  
*Mr. Murlidhar Khadilkar, Mr. Chinmay Page, Mr. Ashitosh Pawar for Applicant/Plaintiff.*  
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**Coram : Sharmila U. Deshmukh, J.**

**Date : 19<sup>th</sup> December, 2025.**

**P. C. :**

1. This is an action for infringement of trade mark and passing-off.
2. As leave under Clause XIV of Letters Patent (Bombay) is not obtained, learned counsel for the Plaintiff would confine his reliefs only in respect of infringement of trade mark. He would seek to move without notice for the reasons set out in paragraph 36 of the Plaint. I am convinced that the object of grant of injunction will be defeated by delay, for the reasons set out in paragraph 36 of the Plaint.
3. It is submitted that the Plaintiff was incorporated on 21<sup>st</sup> March, 1986 with the object of setting up and running of hotels and related

business. The Plaintiff adopted the mark "THE ORCHID/ ORCHID" in or about December, 1995 for use in relation to its five star hotels and since then has been using the said trade mark in respect of the Plaintiff's hotels situated at various places.

4. Learned counsel for the Plaintiff would point out to the registration obtained by the Plaintiff in respect of the trade mark "THE ORCHID", with the earliest registration being applied in the year 1997 with user claim of 1<sup>st</sup> January, 1997. He would submit that the Plaintiff has been continuously and extensively using the trade mark "ORCHID/ THE ORCHID" in respect of its services and businesses. He submits that the goodwill and reputation garnered by the Plaintiff is demonstrated from the sales turn over and advertisement expenses which are set out in paragraph 9 of the Plaint.

5. Learned counsel appearing for Plaintiff submits that in the first week of July, 2025, the Plaintiff learnt that the Defendant No. 1 is running hotel services under the impugned names "ORCHID HERITAGE" and "HARE KRISHNA ORCHID". He submits that the Plaintiff conducted an internet search and learnt that the booking of Defendant No. 1- hotel can be done from Defendant Nos. 2 to 6's websites and URL's are identified and annexed to the Plaint. He submits that in July, 2025, cease-and-desist notice came to be issued to Defendant No. 1, to which there was no response. He submits that the Plaintiff also conducted

search of the website of Trade Marks Registry which showed that on 23<sup>rd</sup> October, 2023, one of the directors of the Defendant No. 1 had filed an application for registration of the trade mark, "THE ORCHID HERITAGE" and "ORCHID HERITAGE" on a proposed to be used basis which was opposed by the Plaintiff and as the counter-statement was not filed within the prescribed time, the mark is deemed to have been abandoned.

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

7. The rival marks are "THE ORCHID" and "ORCHID HERITAGE/HARE KRISHNA ORCHID". The Plaintiff's proprietary right in the registered trade mark "ORCHID" is *prima facie* demonstrated from the registration certificate placed on record. The leading essential and prominent features of the Plaintiff's registered mark is the word "ORCHID" which has been permitted registration by the Trade Marks Registry without any disclaimer. The Plaintiff is entitled to the exclusive right to use the mark "ORCHID". The Defendant No. 1 has adopted the impugned marks by copying the leading essential feature of the Plaintiff's registered mark i.e. the word "ORCHID". Despite the cease-and-desist notice issued by the Plaintiff, there is no response by the Defendant and the fact that the registration applications of the Defendant were opposed by the Plaintiff shows that the Defendant is aware of the existence of the Plaintiff's mark and despite thereof are

using the impugned mark which *prima facie* infringes the Plaintiff's registered trade mark.

8. There is no probable defense which would be available to the Defendant No. 1 for using the identical/deceptively similar trade mark by copying the leading and essential features of the Plaintiff's registered trade mark, which registered trade mark has achieved distinctiveness by reason of longstanding continuing use. The reputation and goodwill is *prima facie* demonstrated from the sales turn over and the advertisement expenses, which are placed on record. Considering that the websites of the Defendant Nos. 2 to 6 are used for the purpose of booking of Defendant No. 1's hotel, ad-interim relief is required to be granted against the Defendant Nos. 2 to 6. A strong *prima facie* case is made out for grant of ad-interim relief in terms of prayer clauses (a), (c) and (d), which reads 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 from infringing the Plaintiff's registered trade marks, details whereof are set out at Exhibit 'E and F to F8' to the plaint, by the use of the impugned trade mark / hotel names “**ORCHID HERITAGE**” and “**HARE KRISHNA ORCHID**”, as shown in Exhibit-“J”, “K” to “K4”, “L”, “O” and “P” to the plaint and/or any other trade mark identical with and/or deceptively similar to the Plaintiff's registered trade mark, details whereof are set out at Exhibit '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 directed to takedown the listings of the Defendant No.1's hotel bearing the impugned trade mark / hotel names "**ORCHID HERITAGE**" and "**HARE KRISHNA ORCHID**", from 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, 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."

9. List the Interim Application for further consideration on **14<sup>th</sup> January, 2026.**
10. Ad-interim relief granted to continue till the next date.

**[Sharmila U. Deshmukh, J.]**