

O.A.Nos.1208 and 1209 of 2025

in C.S(Comm.Div)No.335 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 23.02.2026

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THE HONOURABLE MR. JUSTICE SETHILKUMAR RAMAMOORTHY

O.A.Nos.1208 and 1209 of 2025

in C.S(Comm.Div)No.335 of 2025

M/s.Zaitoon Multi Cuisine Family Restaurant
rep. By its Managing Partner
Mr.Noufal N K
No.1, Vantage Plaza, M.G. Road,
Thiruvanmiyur, Chennai – 600 041.

.. Applicant in
both applications

vs.

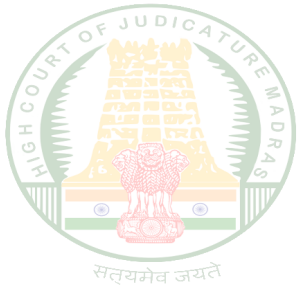
Al Zaitoon Restaurant & Frill
Opp. Frank Antony School,
Wellington Street, Richmond Town,
Bengaluru, Karnataka – 560 025.

.. Respondent in
both applications

For Applicant : Ms.T.Hemalatha
in both applications

COMMON ORDER

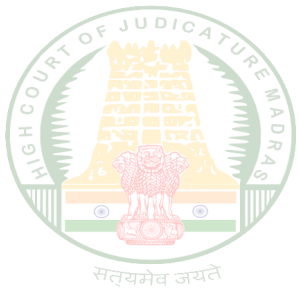
Seeking remedies in respect of alleged trade mark infringement and passing off, the present suit was instituted. Interim relief restraining such alleged infringement and passing off is requested for in these Original Applications.



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3. The plaintiff asserts that it has used the word mark ZAITOON and its variants since 11.10.2009 in relation to the restaurant business. Learned counsel relies upon legal use certificates pertaining to the registrations in Classes 43 and 35. Learned counsel also relies upon sample invoices as evidence of use. Adverting to the defendant's invoice dated 27.02.2025, learned counsel submits that the defendant is using the deceptively similar mark AL ZAITOON. Because such use is also in respect of the restaurant business, learned counsel contends that it is likely to result in deception or confusion among the relevant section of the public.



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WEB COPY 4. The legal use certificates of the plaintiff evidence that the plaintiff has obtained registrations of the word mark ZAITOON in Classes 43 and 35. Said certificates mention that use is since 11.10.2009. Evidence of use by way of sample invoices are on record. The plaintiff has also provided the certificate of a Chartered Accountant specifying the annual turn over and advertisement expenses from the financial year 2009-2010 to financial year 2023-2024. In the plaint, it is stated that the plaintiff became aware of the defendant's presence in September, 2024. The suit was instituted after issuing lawyer's notice dated 30.09.2024 and after initiating pre-institution mediation.

5. From the materials on record, it appears that the plaintiff is the prior user. The plaintiff is also the registered proprietor of word marks in Classes 35 and 43. On comparison of the plaintiff's mark and the defendant's mark, the only difference is inclusion of the word AL before the defendant's mark. Considering that the parties are engaged in the identical line of business, when viewed from the perspective of a consumer of average intelligence and imperfect recollection, I reach the *prima facie* conclusion that there is deceptive similarity. Taking into account the significant turn over



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and advertisement expenses incurred by the plaintiff in building its

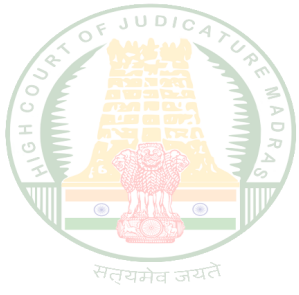
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goodwill and reputation, it is likely that irreversible injury will occur unless interim protection is granted. Therefore, orders of ad interim injunction as prayed for in these applications are granted until further orders. The plaintiff shall communicate this order to the defendant.

6. List on 23.03.2026.

23.02.2026

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SENTHILKUMAR RAMAMOORTHY,J.

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