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

+ **CS(COMM) 26/2024**

RUPA GUJRAL & ORS.

..... Plaintiffs

Through: Mr. Sandeep Sethi, Sr. Adv. with Mr.
C. M. Lall, Sr. Adv with Mr. Shreya
Sethi, Adv.

versus

DARYAGANJ HOSPITALITY PRIVATE LIMITED & ORS.

..... Defendants

Through: Mr. Amit Sibal, Sr. Adv. with Mr.
Pravin Anand, Mr. Dhruv Anand, Ms.
Udita, Mr. Revanta Mathur, Ms.
Nimrat Singh and Mr. D. Khanna,
Advs. for D-1 to 4.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **16.01.2024**

I.A. 512/2024 (*seeking exemption from filing legal proceeding certificate of the Plaintiffs' registered trademark*)

1. Exemption is granted, subject to all just exceptions. The certificate be filed before the next date of hearing.

2. Accordingly, the application stands disposed of.

I.A. 513/2024 (*exemption from pre-litigation mediation*)

3. As the present suit contemplates urgent interim relief, in light of the



judgment of Supreme Court in *Yamini Manohar v. T.K.D. Krithi*,¹ exemption from attempting pre-institution mediation is granted.

4. Disposed of.

I.A. 514/2024 (*seeking exemption from filing original/ certified/ clearer/ translated copies of documents, or with proper margins*)

5. Exemption is granted, subject to all just exceptions.

6. Plaintiffs shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.

7. Accordingly, the application stands disposed of.

I.A. 515/2024 (*seeking permission to file certain videos in a CD*)

8. Plaintiffs seek leave of the Court to place on record certain video recordings, which form the subject matter of the present suit in a compact disc. Rule 24 of Chapter XI of the Delhi High Court (Original Side) Rules, 2018, makes it clear that electronic records can be received in CD/DVD/Medium encrypted with a hash value. The said Rule is extracted below: -

“24. Reception of electronic evidence -A party seeking to tender any electronic record shall do so in a CD/ DVD/ Medium, encrypted with a hash value, the details of which shall be disclosed in a separate memorandum, signed by the party in the form of an affidavit. This will be tendered along with the encrypted CD/ DVD/ Medium in the Registry. The electronic record in the encrypted CD/ DVD/ Medium will be uploaded on the server of the Court by the Computer Section and kept in an electronic folder which shall be labeled with the cause title, case number and the date of document uploaded on the server. Thereafter, the encrypted CD/ DVD/ Medium will be returned to the party on the condition that it shall be produced at the time of admission/denial of the documents and as and when directed by the Court/ Registrar. The memorandum disclosing the hash value shall be separately kept by the Registry on the file. The compliance with this rule will not be construed



as dispensing with the compliance with any other law for the time being in force including Section 65B of the Indian Evidence Act, 1872.”

9. Registry may receive electronic record on the disc, as long as it is encrypted with a hash value or in any other non-editable format. The video recording contained in disc be placed in the electronic record of the present suit in a format which is non-editable, so that the same can be viewed by the Court during hearing.

10. Application is disposed of.

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11. Let the plaint be registered as a suit.

12. Issue summons in the suit. Mr. Pravin Anand, Advocate, accepts summons on behalf of Defendant Nos. 1 to 4. They waive the requirement of service of formal summons by the Registry and also confirm the receipt of the suit paper-book. Let written statement be filed with the time prescribed in the Code of Civil Procedure, 1908. Issue summons to the remaining Defendants, by all permissible modes, on filing of process fee. Summons shall state that the written statement(s) shall be filed by the Defendants within 30 days from the date of receipt of summons. Along with the written statement(s), Defendants shall also file affidavit(s) of admission/denial of the documents of the Plaintiffs, without which the written statement(s) shall not be taken on record.

13. Liberty is given to Plaintiffs to file replication(s) within 15 days of the receipt of the written statement(s). Along with the replication(s), if any, filed by the Plaintiffs, affidavit(s) of admission/denial of documents of the Defendants, be filed by the Plaintiffs, without which the replication(s) shall



not be taken on record. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

14. List before the Joint Registrar for marking of exhibits on 18th March, 2024. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

15. List before Court for framing of issues on 29th May, 2024.

I.A. 511/2024 (under Order XXXIX Rule 1 & 2 of the Code of Civil Procedure, 1908, seeking ex-parte, ad-interim injunction against the Defendants)

16. Issue notice. Mr. Pravin Anand, counsel for the Defendant Nos. 1 to 4, accepts notice. He seeks and is granted four weeks' time to file a reply. Rejoinder, if any, be filed within two weeks thereafter.

17. Issue notice to the remaining Defendants, by all permissible modes upon filing of process fee, returnable on 29th May, 2024.

18. Mr. Sandeep Sethi, Senior Counsel for Plaintiffs, argues that the Plaintiffs, both collectively and individually, are the owners of the famous trademark "MOTI MAHAL" and related formative marks, used in relation to restaurants operating nationally and internationally since 1920. Mr. Sethi contends that the Defendants are misleading the public into believing that their "DARYAGANJ" restaurants are connected with the Plaintiffs' predecessor's first "MOTI MAHAL" restaurant in Daryaganj. This misleading representation is evidenced, according to Mr. Sethi, by the Defendants' use of a picture of the Plaintiffs' predecessor, the (late) Kundan Lal Gujral, on their Facebook page, misrepresenting it as that of the Defendants' predecessor, (late) Kundan Lal Jaggi. Furthermore, Mr. Sethi highlights Defendants' manipulation of the photograph of the Moti Mahal



Restaurant in Peshawar on their website,² substantiating this claim with a comparison to the ‘original’ photograph shown at Plaintiffs’ own website.³

19. Mr. Amit Sibal, Senior Counsel representing the Defendants, begins by stating that they were only recently provided with a copy of the plaint paper-book and they need time to file a detailed reply. He vehemently disputes Mr. Sethi’s contentions, labelling the entire suit as misconceived, baseless and lacking a cause of action. Mr. Sibal and Mr. Anand further argue that the Defendants have not engaged in any false representation or claim, and the allegations made in the suit are far from truth. Regarding the screenshot extracted in paragraph 90 of the plaint, Mr. Sibal clarifies that same is not from the Defendants’ Facebook page and evidently belongs to “A to Z Kitchen”, an entity unrelated to the Defendants. Regarding the photograph of the Moti Mahal restaurant in Peshawar, Mr. Sibal elucidates that the said restaurant was established jointly by predecessors of both parties, thus invalidating any claims of exclusive rights over the image that the Plaintiffs might claim. Mr. Sibal underscores that the Defendants are equally entitled to use this photograph. He gives emphasis to the fact that the photograph on the Defendants’ website has been cropped to exclude the term “MOTI MAHAL”, rendering the Plaintiffs’ grievance unfounded. However, Mr. Sibal and Mr. Anand acting on instructions and without prejudice Defendants’ rights and contentions, offer a conciliatory gesture. To alleviate the Plaintiffs’ concerns, albeit without conceding to any of the Plaintiffs’ claims, they commit to removing the disputed photograph from their website within one week from today. This action, Mr. Sibal and Mr.

² Page 1732 of the Plaintiffs’ Documents filed on 28th November, 2023.

³ Page 1403 of the Plaintiffs’ Documents.



Anand clarifies, is intended to demonstrate goodwill and foster a spirit of co-operation between the parties. Their statement is taken on record.

20. List before the Joint Registrar on 18th March, 2024.

21. List before the Court on 29th May, 2024.

SANJEEV NARULA, J

JANUARY 16, 2024/ssc