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

+ **CS(COMM) 1194/2024**

RAHUL MISHRA & ANR.

....Plaintiffs

Through: Mr. J. Sai Deepak, Senior Advocate
with Ms. Meenakshi Ogra, Mr. Tarun
Khurana, Mr. Samrat S. Kang, Mr.
Amarjeet Kumar, Mr. Rishi Vohra,
Mr. Rajat Sabu and Ms. Chhavi Pande,
Advocates.

versus

JOHN DOE & ANR.

....Defendants

Through:

**CORAM:
HON'BLE MR. JUSTICE AMIT BANSAL**

ORDER
24.12.2024

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I.A. 49743/2024 (u/s 12A of Commercial Courts Act)

1. As the present suit 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.

2. The application stands disposed of.

I.A. 49742/2024 (O-XI R-1(4) of the Commercial Courts Act)

3. The present application has been filed on behalf of the plaintiffs seeking leave to file additional documents.

4. The plaintiffs are permitted to file additional documents in accordance



with the provisions of the Commercial Courts Act, 2015 and the Delhi High Court (Original Side) Rules, 2018.

5. Accordingly, the application is disposed of.

CS(COMM) 1194/2024

6. Let the plaint be registered as a suit.

7. It is submitted by Mr. J. Sai Deepak, senior counsel appearing for the plaintiffs that as the particulars including the name, contact details and address of defendant no.1 i.e., the entity operating through www.rahudress.com, is not available nor disclosed on defendant no.1's website, defendant no.1 has been impleaded as a '*JOHN DOE*' defendant.

8. Issue summons.

9. Summons be issued upon filing of process fee to the defendant no.2 through all modes including e-mail. Summons to the defendant no.1 shall be issued post the disclosures of details by defendant no.2.

10. The summons shall state that the written statement(s) shall be filed by the defendants within thirty days from the date of the receipt of summons. Along with the written statement(s), the defendants shall also file affidavit of admission/denial of the documents of the plaintiffs, without which the written statement(s) shall not be taken on record.

11. Liberty is given to the plaintiffs to file replication(s), if any, within thirty days from the receipt of the written statement(s). Along with the replication(s) filed by the plaintiffs, affidavit of admission/denial of the documents of the defendants be filed by the plaintiffs.

12. The parties shall file all original documents in support of their respective claims along with their respective pleadings. In case parties are placing reliance on a document, which is not in their power and possession,



its detail and source shall be mentioned in the list of reliance, which shall also be filed with the pleadings.

13. 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 on 25th February, 2025 for completion of service and pleadings.

15. List before the Court on 7th April, 2025.

I.A. 49741/2024 (O-XXXIX Rule 1 & 2 of CPC)

16. The present suit has been filed seeking relief of permanent injunction against the defendant no.1, seeking to restrain it from infringing the plaintiff no.1's trademarks and copyright, passing off its goods as that of the plaintiffs' and other ancillary reliefs.

17. The plaintiff no.1 is a leading Indian Fashion designer based out of Delhi and is engaged in creating exquisitely and luxuriously designed and handcrafted fashion clothes/ apparels under his own fashion label 'RAHUL MISHRA' / 'RAHUL MISHRA'. The plaintiff no.2 is a company incorporated and registered by the plaintiff no.1 for the purposes of undertaking and executing the artistic designs created by the plaintiff no.1 and transforming them into state-of-the-art pieces of luxury designer wear clothing, marketing them as well as selling them under the brand name/ trademark 'RAHUL MISHRA' / 'RAHUL MISHRA'.

18. The plaintiff no.1 is the registered proprietor of trademarks 'RAHUL MISHRA' under various classes, in India, all of which are valid and subsisting. The details of the trademark registrations of the plaintiff no.1 are given herein below:



INDIAN TRADEMARK REGISTRATIONS:

Application No.	Date	Trademark	Class	User Date
1910064	18.01.2010	RAHUL MISHRA	25	30.03.2006
4612622	17.08.2020	RAHUL MISHRA	18	20.07.2017
4612623	17.08.2020	RAHUL MISHRA	24	Proposed to be used
4612624	17.08.2020	RAHUL MISHRA	35	30.03.2006
4612625	17.08.2020	RAHUL MISHRA	42	30.03.2006
4612626	17.08.2020	RAHUL MISHRA	9	Proposed to be used
4612627	17.08.2020	RAHUL MISHRA	41	Proposed to be used
5171052	12.10.2021	RAHUL MISHRA	14	31.12.2020
5171053	12.10.2021	RAHUL MISHRA	3	31.12.2020
5507196	28.06.2022	RAHUL MISHRA	9	Proposed to be used
5507197	28.06.2022	RAHUL MISHRA	14	Proposed to be used
5507198	28.06.2022	RAHUL MISHRA	20	Proposed to be used
5507199	28.06.2022	RAHUL MISHRA	26	Proposed to be used
5507200	28.06.2022	RAHUL MISHRA	44	Proposed to



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19. The plaintiff no.1 is the registered proprietor of trademarks 'RAHUL MISHRA' internationally as well, which is enumerated in paragraph 14 of the plaint.

20. The plaintiffs have also averred that apart from their flagship stores and duly authorized multi-brand retail stores, they also carry on their business through their official domain name/ website www.rahulmishra.in, duly registered since 1st September, 2009. The plaintiffs further aver that through such official website, consumers are regularly and constantly updated and kept abreast with every season's themed collection of their exquisitely designed fashion luxury clothes/ apparels and about all fashion shows/ events wherein plaintiffs have showcased their rendition of seasons collections, all under the umbrella of the plaintiffs' trade name as well as trademark RAHUL MISHRA/ Rahul Mishra/ RAHUL MISHRA.

21. The plaintiffs have further averred that the images of various models/ famous personalities posted on its official website as taken during the ramp walk of various fashion events where their handcrafted and exquisitely designed clothes/apparel are original artistic works under Section 2(c) of the Copyright Act, 1957 and thus are entitled to the exclusive rights over the said images under Section 14 of the Copyright Act, 1957.

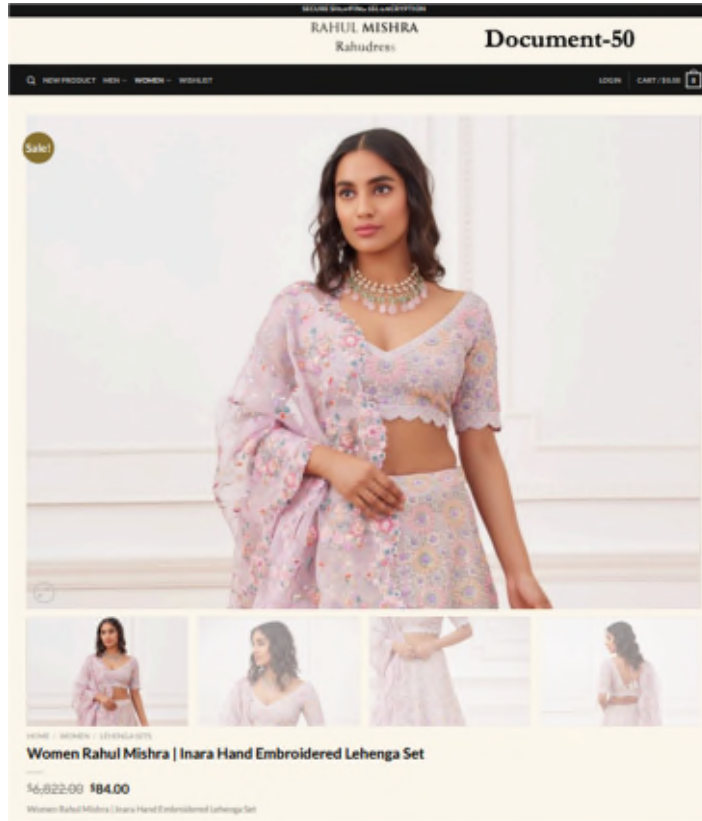
22. It is also averred by the plaintiffs that exclusive copyrights in the designs of the dresses which includes shape, configuration and surface pattern as contemplated under Section 15(2) of the Copyright Act, 1957 vests in the plaintiffs. It is claimed that, as these dresses are characterized by their

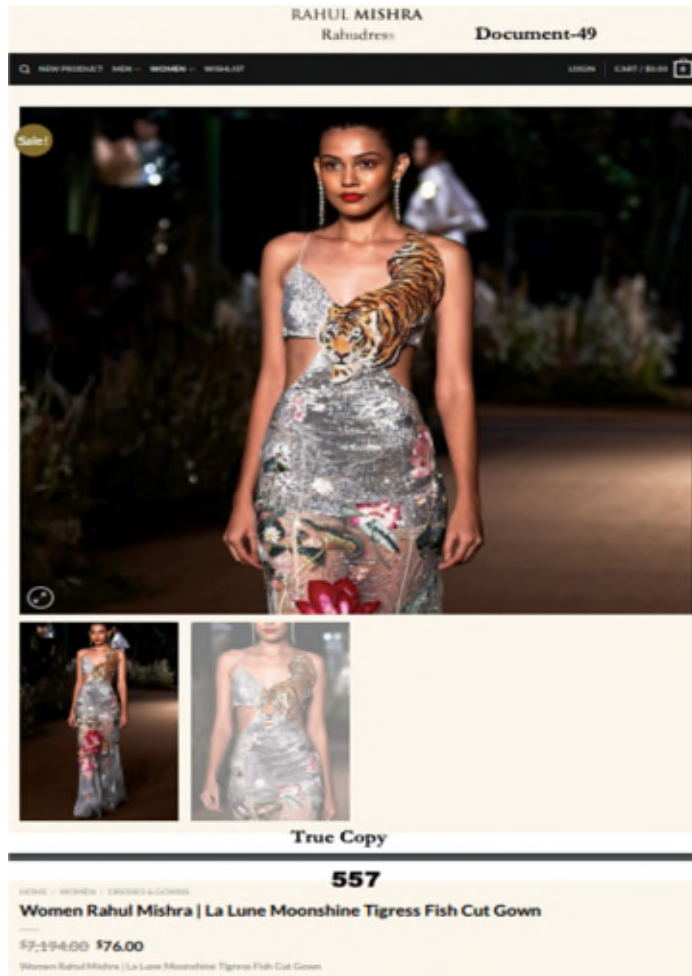


luxurious exclusivity, and painstakingly handcrafted embroidery work, only a limited number of such articles/ dresses are thus produced and marketed by plaintiffs – in the case of dresses which are subject matter of present suit, production of such articles limited to less than fifty units per design.

23. The plaintiffs have further averred that in the third week of October, 2024, the plaintiffs came to know that the defendant no. 1 is engaged in selling and/or offering to sell the impugned counterfeit dresses through the following impugned website 'www.rahudress.com' offering to sell exact replicas of plaintiffs' designer wear at a phenomenally low discounted price:







24. The plaintiffs submit that the defendant no.1's domain name has been registered *vide* Registry Domain ID 2823903780_DOMAIN_COM-VRSN, with the defendant no.2/GName.com Pte Ltd., a Domain Name Registrar (DNR). The registrant and the DNR details have been filed as 'DOCUMENT-42' with the Plaint.

25. The plaintiffs aver that identical images/photographs showing identical dresses/apparel have been copied and posted by the defendant no.1 on its impugned website, stating it to be that of the plaintiffs and then offering to sell such counterfeit dresses at a meagre price, thereby resulting in copyright infringement of the original artistic work in the photographs as well as



infringement of copyright in the design of the said dresses, capable being registered under the Designs Act, 2000. senior counsel for the plaintiffs has brought the attention of this court to the comparison table showcasing the images of the plaintiffs' dresses *vis-à-vis* the defendant no.1's reproduction of the identical images on the impugned website, as given in Paragraph 70 of the plaint and list of which is annexed as 'Documents – 44 to 48' filed with the plaint, for reference few images are reproduced herein below:

<p>Screenshot from Plaintiff's Runway Show "Hyundai Indian Couture Week 2023"</p>	 <p>Appears in the video @17:53 – 18:07</p>
<p>Image as used by Defendant No.1 on the Impugned Website</p>	



	 <p>https://rahudress.com/new/women-rahul-mishra-sunderbans-tonal-saree-set/</p>
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<p>Screenshot/ Images from Plaintiff's Runway Show "We The People – Couture Fall 2023, During Paris Haute Couture Week"</p>	 <p>As available on Vogue Runway e-website – https://www.vogue.com/fashion-shows/fall-2023-couture/rahul-mishra/slideshow/collection#22</p>
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**Image as used
by Defendant
No.1 on the
Impugned
Website**



<https://rahudress.com/sale-category/women/?orderby=popularity>

26. After referring to the above-represented image comparisons, senior counsel submits that the images/photographs posted on the impugned website of the dresses have been lifted from the ramp shows of the plaintiff and/or fashion news websites such as Vogue Runway's e-website. The defendant no.1 has copied the entire form, look, pattern, style, cut and arrangement, using the plaintiff's tradename/trademark to misrepresent it to be an authentic design of the plaintiff to the public at large, at less than a fraction of the original price. Such acts of the defendant no.1 constitute trademark infringement, copyright infringement, design piracy, passing off, unfair competition and leads to dilution of the goodwill and thus, is a clear attempt to ride upon the goodwill of the plaintiffs.



27. Senior Counsel on behalf of the plaintiffs further submitted that the defendant no.1 is aware of the immense reputation of plaintiffs *vis-à-vis* the luxury and designer dresses, known for its exclusivity in high-end craftsmanship in his products, and is therefore seeking to unjustly commercially enrich itself by copying and offering counterfeited dresses through the impugned website.

28. I have heard Mr. J. Sai Deepak, senior counsel for the plaintiffs and considered the contents of plaint and documents filed along with the plaint.

29. The plaintiff no.1 is the registered proprietor and along with the plaintiff no.2, are users of the trademark 'RAHUL MISHRA'/ 'RAHUL MISHRA', as well of the domain name 'www.rahulmishra.in'. Further, the plaintiff no.1 is also the owner of the copyright in the original artistic works and also the copyright in the designs of the dresses under the Copyright Act, 1957.

30. This court therefore is of the opinion that the plaintiffs have been able to make out a *prima facie* case for grant of an *ex-parte ad-interim* injunction, which is also a dynamic injunction. The balance of convenience lies in favour of the plaintiffs and against the defendants. Irreparable injury shall be caused to the plaintiffs if the interim injunction is not granted. Disclosure orders are also liable to be passed against the defendant no.2 DNR. Upon query made by this Court with respect to issuing blocking orders to the ISP *qua* the rogue website, Senior Counsel for the plaintiffs submits that necessary steps shall be taken to implead MEITY and DoT.

31. Accordingly, it is directed as under:



i. The defendant no.1 and all others acting by itself and through its directors/proprietors/partners, associates, assigns, heirs, successors, distributors, dealers, wholesalers, retailers, stockiest, agents and all others acting for and on its behalf are restrained from using, soliciting, manufacturing, selling, offering for sale, importing, exporting and advertising in any manner including on the internet and e-commerce platform, directly or indirectly dealing in goods impugned Tradename/mark “**Rahul Mishra**” as well as the device mark “

RAHUL MISHRA / RAHUL MISHRA or impugned tradename/mark and device that is identical/deceptively similar to Plaintiff’s Tradename/mark “**Rahul Mishra**” as well as the device mark “**RAHUL MISHRA** / RAHUL MISHRA.

ii. The defendant no.2 DNR shall immediately lock and suspend the domain name ‘ www.rahudress.com ’ and maintain the status quo thereof. The defendant no.2 shall also disclose to the plaintiffs, complete details (such as: Name, Address, Email Address, Phone Number, IP Address etc.) of the defendant no.1 as available with it.

32. Compliance with Order XXXIX Rule 3 of the Code of Civil Procedure, 1908 (CPC) shall be done within three days from today.

33. Issue Notice.

34. Notice be issued to the defendant no.2 *via* all permissible modes, including e-mail.

35. Reply(ies) be filed within four (4) weeks.

36. Rejoinder(s) thereto, if any, be filed within two (2) weeks thereafter.



37. List before the Joint Registrar on 25th February, 2025 for completion of service and pleadings.
38. List before the Court on 7th April, 2025.

DECEMBER 24, 2024/kd

AMIT BANSAL, J