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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 1074/2024, I.A. 46979/2024, I.A. 46980/2024, I.A.
46981/2024, I.A. 46982/2024, I.A. 46983/2024 & I.A. 46984/2024
PHYSICSWALLAH PRIVATE LIMITEDPlaintiff

Through: Mr Ankit Jain, Sr. Advocate with Mr
Mohit Goel, Mr Sidhant Goel, Mr
Abhishek Kotnala, Mr Deepankar
Mishra, Mr Vivek Pratap Singh, Mr
Aditya Chauhan, Ms Apurva Tyagi,
Mr Kartikeya Tandon, Advocates.
(M) 9716746496
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versus

MR. VIVEK THAKUR TRADING AS SCHOLARS
DENDefendant

Through: None.

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
% **03.12.2024**

I.A. 46983/2024 (Application seeking extension of time for filing of Court Fees)

1. Learned Senior Counsel appearing for the plaintiff submits that the requisite Court Fees shall be deposited within a period of one week.
2. Liberty is so granted.
3. Noting the aforesaid, the present application is disposed of.

I.A. 46984/2024 (Application seeking leave to file certain videos in electronic form on USB Drive)



4. The present application has been filed on behalf of the plaintiff under Section 151 of CPC seeking leave to file documents in a USB drive.

5. In terms of Rule 24 of Chapter-XI of the Delhi High Court (Original Side) Rules, 2018, it is made clear that electronic records can be received in CD/DVD/Medium, encrypted with a hash value. The said Rule is extracted as 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.”

6. Accordingly, Registry may receive electronic record in the CD/DVD/Medium, so long as it is encrypted with a hash value or in any other non-editable format. The CD/DVD/Medium containing the documents, be placed in the electronic record of the present suit.

7. Accordingly, the present application is allowed and the plaintiffs are allowed to place the documents in a CD/DVD/Medium.

8. With the aforesaid directions, the present application is disposed of.

I.A. 46981/2024 (Exemption from filing original/ certified copies, translated copies of documents and clear copies of documents)

9. The present are applications under Section 151 of the Code of Civil



Procedure, 1908 (“CPC”), on behalf of the plaintiff, seeking exemption from filing original/ certified copies, translated copies of documents and clear copies of documents and documents with left margin.

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

11. Plaintiff shall file legible, clear, and translated copies of the documents, on which the plaintiff may seek to place reliance, before the next date of hearing.

12. Accordingly, the present application is disposed of.

I.A. 46982/2024 (Exemption from undergoing Pre-Institution Mediation)

13. The present is an application under Section 12A of the Commercial Courts Act, 2015, read with Section 151 of CPC, seeking exemption from undergoing Pre-Institution Mediation.

14. Having regard to the facts of the present case and in the light of the judgment of Supreme Court in the case of *Yamini Manohar Versus T.K.D. Keerthi*, 2023 SCC OnLine SC 1382, and Division Bench of this Court in *Chandra Kishore Chaurasia Versus RA Perfumery Works Private Ltd.*, 2022 SCC OnLine Del 3529, exemption from attempting Pre-Institution Mediation, is granted.

15. Accordingly, the application stands disposed of.

I.A. 46980/2024 (Application seeking leave to file additional documents)

16. This is an application under Order XI Rule 1(4) read with Section 151 CPC as amended by the Commercial Courts Act, 2015, seeking leave to file additional documents.

17. The plaintiff, if it wishes to file additional documents at a later stage, shall do so strictly as per the provisions of Commercial Courts Act, 2015



and the Delhi High Court (Original Side) Rules, 2018.

18. The application is disposed of, with the aforesaid directions.

CS(COMM) 1074/2024

19. Let the plaint be registered as suit.

20. Upon filing of the process fee, issue summons to the defendant by all permissible modes. Summons shall state that the written statement be filed by the defendant within thirty days from the date of receipt of summons. Along with the written statement, the defendant shall also file affidavit of admission/denial of the plaintiff's documents, without which, the written statement shall not be taken on record.

21. Liberty is given to the plaintiff to file replication within thirty days from the date of receipt of the written statement. Further, along with the replication, if any, filed by the plaintiff, an affidavit of admission/denial of documents of the defendants, be filed by the plaintiff, without which, the replication shall not be taken on record. If any of the parties wish to seek inspection of the documents, the same shall be sought and given within the timelines.

22. List before the Joint Registrar (Judicial) for marking of exhibits, on 28th January, 2025.

23. List before the Court on 22nd April, 2025.

I.A. 46979/2024 (Application under Order XXXIII Rules 1 and 2 read with Section 151 of CPC)

24. The present suit has been filed for permanent injunction restraining the defendant from disparagement, infringement, misrepresentation, denigration, unfair competition, damages, rendition of accounts and delivery up, etc.



25. It is submitted that the plaintiff was incorporated in the year 2020, and originally started its business as a YouTube channel, namely Physics Wallah, creating videos to help students to prepare for competitive exams like JEE and NEET. The plaintiff today is one of the largest ed-tech companies in India. The YouTube channel was initially started by Mr. Alakh Pandey, the co-founder of the plaintiff in the year 2014, with a mission to provide affordable, high-quality educational content to students across India. Between 2015 and 2020, the plaintiff's YouTube channel saw exponential growth, amassing millions of subscribers.

26. The plaintiff is one the leading ed-tech platforms in India and is highly esteemed for its exceptional services. Since its inception, the Plaintiff has demonstrated commitment to excellence in education while prioritizing affordability. The Plaintiff primarily caters to students of grades VI to XII and students preparing for competitive exams. The plaintiff's YouTube Channel, namely Physics Wallah, boasts over 13 million subscribers and has been actively posting content in the form of educational videos on the said platform. The plaintiff's approach combines affordability with comprehensive course offerings, making high quality education accessible to millions.

27. It is submitted that the plaintiff initially started as an online education platform, and expanded its educational offerings through the establishment of its PW Vidyapeeth Centres. Through these centres, the plaintiff provides accessible high-quality in-person education to students in their home cities, reducing the need for additional living and hostel expenses. The plaintiff at present operates over 120+ Vidyapeeth Centres, including, over 650 smart classrooms equipped with advanced technology to enhance learning



experiences.

28. It is submitted that the plaintiff's goodwill is evident from the fact that the plaintiff reached unicorn status with a valuation of over \$1 billion, becoming India's 101st unicorn despite minimal external funding. This achievement underscores the brand's unique position in the edtech sector as a profitable venture with a strong focus on affordability, unlike its larger competitors in the ed-tech industry, which rely heavily on investor funding. The plaintiff's success is attributed to its ability to maintain low operating costs while continuing to prioritize accessible education, a strategy that has earned it significant trust and goodwill among students and parents.

29. It is submitted that as an integral part of its business operations, the plaintiff adopted and commenced the use of the mark "Physics Wallah" ("PW Word Mark") back in the year 2014 for its business activities. The PW Word Mark is a coined and invented mark having a distinctive idea and concept, in which the word "WALLAH" is an essential feature of the PW Word Mark.

30. It is submitted that in the course of conducting its business under the PW Word Mark, the plaintiff also started using the marks Physics Wallah



". Further while expanding its business, the plaintiff also adopted the marks "GATE WALLAH", "CUET



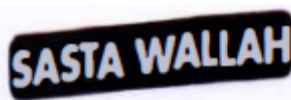
WALLAH", "BANKING WALLAH", "MBA WALLAH", "JEE WALLAH, "DEFENCE WALLAH", "COMPETITION WALLAH", "LAW WALLAH" and more ("PW Formative Marks").

31. It is submitted that owing to the plaintiff's widespread goodwill and reputation in its Physics Wallah Marks, the public and trade have come to associate and recognize the Physics Wallah Marks as originating from the plaintiff and none else. Thus, any unauthorized use of the Physics Wallah Marks and/or any other deceptively similar mark would also violate the plaintiff's statutory and 17 common law rights as the same is an effort to ride upon the immense reputation and goodwill garnered by the plaintiff in its Physics Wallah Marks.

32. It is submitted that the plaintiff's Physics Wallah Marks have become a symbol of prominence, elegance and is associated with the wide range of services offered by the plaintiff. The services provided by the plaintiff under the Physics Wallah Marks clearly demonstrate their commitment to customer satisfaction and excellence. The plaintiff's enormous success under their Physics Wallah Marks is evident from the significant revenue they have generated. The sales turnover attributable to the plaintiff's Physics Wallah Marks in India alone runs into several crores of rupees.

33. The plaintiff came across the disparaging advertisements being put as hoardings by the defendant in and around October 2024. In the said disparaging advertisements, the defendant disparaged and denigrated the plaintiff's services under its Physics Wallah Marks. The disparaging advertisements consists of the Disparaging Marks, i.e., "SASTA WALLAH"

and "SASTA WALLAH",



which is being used by the



defendant in the disparaging advertisements containing the disparaging sentence / tag line "SASTA WALLAH NHI ACHA WALLAH" and "SASTA WALLAH POORE DESH SE JEE (MAIN) ME TOP 100 ME IK BHI NHI". It is clear from the disparaging advertisements that the defendant is denigrating the plaintiff's business which is operated under the Physics Wallah Marks, by calling them "Sasta" which means "Cheap". The connotation with which the word "Sasta" is used with the intention of stating that the services offered by the plaintiff are inferior. Photographs of the advertisements displayed by the defendant, are reproduced hereinbelow:



34. It is submitted that the plaintiff has consistently delivered outstanding results, with over 40,000 students qualifying for JEE Advanced and more than 15,000 securing selections in JEE Mains, over 20,000 excelling in NEET UG with 7 in the Top 100 AIR, and 11 students achieving ranks under AIR 20 in GATE. The plaintiff has also supported successful



outcomes in CA exams, among others. Such misleading statements by the defendant not only disparage and tarnish the plaintiff's well-established brand, but also intentionally mislead students and consumers, thereby, constituting an unlawful act of denigration and an attempt to divert clientele through false and defamatory advertising.

35. It is submitted that prior to initiating the present proceedings, a legal notice dated 24 October, 2024 was sent to the defendant, bringing its attention to the disparaging advertisements being carried out by him in violation of the plaintiff's exclusive rights. The legal notice detailed the nature of the plaintiff's rights, the specific acts of disparagement committed by the defendant and the resultant harm caused to the plaintiff. The notice was duly delivered to the defendant on 27 October, 2024. Despite the same, the defendant failed to provide any response or comply with the requisitions set forth in the legal notice. This deliberate inaction and refusal to address the concerns raised by the plaintiff further aggravates the disparaging acts of the defendant and demonstrate a blatant disregard for the rights of the plaintiff, compelling the plaintiff to seek appropriate reliefs before this Court.

36. It is submitted that the acts of the defendant makes it evident that the defendant is running a negative campaign and is attempting to influence students/consumers to believe that the services being offered by the plaintiff are cheap and inferior than those of the defendant and thus students should not avail of the plaintiff's services. The entire campaign has been made to disparage the plaintiff and creating an image that the plaintiff's services are inferior and not a correct choice and instead the students/consumers should turn to the services of the defendant.



37. It is submitted that the defendant's actions are driven by *malafide* intent, as evidenced by the placement of disparaging advertisements at a prominent location directly in front of one of the plaintiff's Physics Wallah Vidyapeeth centers. The same is aimed at maximizing the damage to the plaintiff's reputation and credibility among students, parents, and the general public. Such an action is a calculated attempt to inflict financial harm and diminish the trust that students/consumers have in the plaintiff's services. The above said acts of the defendant, are contrary to honest practices, is intended to take unfair advantage of plaintiff's goodwill and reputation, and is detrimental to the distinctive character of the plaintiff's Physics Wallah Marks.

38. Furthermore, it is submitted that any unauthorized use including the sale/supply/advertisement etc. of services bearing the disparaging mark would further lead to violation of plaintiff's statutory right under Section 29 of the Trade Mark Act, 1999.

39. It is submitted that the illegal adoption and continued use of the disparaging marks and disparaging advertisements will erode the reputation and goodwill associated with the plaintiff's Physics Wallah Marks, assiduously built over the past several years, by disparaging the service of the plaintiff, notwithstanding the presence or absence of likelihood of confusion, mistake or deception.

40. It is submitted that it is therefore, therefore, imperative that the illegal adoption and use of the disparaging marks by the defendant be restrained for otherwise it would constitute unfair competition and unfair trade practice.

41. Learned Senior Counsel appearing for the plaintiff has also drawn the attention of this Court to the document showing the valuation of the plaintiff



company as on date, which is 2.8 billion dollars. He has further drawn the attention of this Court to the document showing the rates at which services are offered by the plaintiff, to submit that the services offered by the plaintiff, are at very reasonable and economic rates.

42. In view of the aforesaid submission and the circumstances, the plaintiff has demonstrated a *prima facie* case for grant of injunction and in case no *ex-parte ad-interim* injunction is granted, the plaintiff will suffer an irreparable loss. Further, the balance of convenience also lies in favour of the plaintiff and against the defendant.

43. Attention of this Court has also been drawn to the proof of service, to submit that the defendant has been duly served with the advance copy of the present plaint.

44. It is to be noted that none appears for the defendant despite advance service.

45. Accordingly, till the next date of hearing, the defendant, its partners, shareholder or proprietors as the case may be, its assigns in business, franchises, affiliates, subsidiaries, licensees and agents are restrained from broadcasting, printing and publishing the disparaging advertisement and



disparaging marks 'SASTA WALLAH' and in any electronic or print media or in any manner, which constitutes a violation of Section 29 of the Trade Marks Act, 1999, disparagement of the plaintiff's Physics Wallah Marks and business and unfair competition.

46. Issue notice to the defendant by all permissible modes, upon filing of Process Fee, returnable on the next date of hearing.



47. Let reply be filed within a period of four weeks, from the date of service.
48. Rejoinder thereto, if any, be filed within two weeks, thereafter.
49. Compliance of Order XXXIX Rule 3 CPC, be done, within a period of one week, from today.
50. Re-notify on 22nd April, 2025.

MINI PUSHKARNA, J

DECEMBER 3, 2024/kr