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

+ **CS(COMM) 884/2024&I.A. 41733-41738/2024**

MONDELEZ INDIA FOODS PVT LTD & ORS.Plaintiffs

Through: Mr Rajiv Nayar, Senior Advocate and
Mr Sandeep Sethi, Senior Advocate
with Mr Sagar Chandra, Ms Shubhie
Wahi, Ms Ankita Sethi, Mr Omar
Ahmad and Mr Vikram Shah,
Advocates

versus

MR REVANT HIMATSINGKA

.....Defendant

Through: None.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

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15.10.2024

I.A. 41735/2024 (exemption from filing clearer, typed, translated copies)

1. Allowed, subject to the plaintiffs filing legible copies of the annexures within four weeks from today.
2. The application stands disposed of.

I.A. 41734/2024 (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 under the Commercial Courts Act, 2015.
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.



I.A. 41736/2024 (u/s 12A of Commercial Courts Act)

6. 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.

7. The application stands disposed of.

I.A. 41737/2024 (for exemption from advance service to defendant)

8. The present application has been filed on behalf of the plaintiffs seeking exemption from serving an advance copy of the present suit to the defendant.

9. It is submitted on behalf of the plaintiffs that the defendant is posting defamatory videos on an ongoing basis disparaging the products of the plaintiffs on various social media platforms.

10. Taking in view the urgency of the matter and the fact that the Court is issuing a short notice to the defendant, the plaintiffs are exempted from serving an advance copy of the present suit to the defendant for now.

11. The application stands disposed of.

I.A. 41738/2024 (seeking leave to file documents in pen drive)

12. The present application has been filed on behalf of the plaintiffs seeking the leave of this Court to take the defendant's disparaging videos/posts (impugned videos/posts), on record.

13. For the reasons stated in the application, the plaintiffs are permitted to file the pen drive containing the defendant's impugned videos/posts. The pen drive shall be filed in a sealed cover.

14. The application stands disposed of.



CS(COMM) 884/2024

15. Let the plaint be registered as a suit.
16. Issue summons.
17. Summons be issued to the defendant through all modes, including email. The summons shall state that the written statement(s) shall be filed by the defendant within thirty days from the date of the receipt of summons. Along with the written statement(s), the defendant 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.
18. 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 defendant be filed by the plaintiffs.
19. 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.
20. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.
21. List before the Joint Registrar on 17th December, 2024, for completion of service and pleadings.
22. List before the Court on 23th February, 2025.

I.A. 41733/2024 (O-XXXIX Rule 1 & 2 of CPC)

23. The present suit has been filed seeking relief of permanent injunction restraining the defendant from disparaging and defaming the plaintiff's



products, along with other ancillary reliefs.

24. The plaintiffs are part of the same group of companies *i.e.*, Mondelez International. Plaintiff No.2 is the registered proprietor of the marks “CADBURY” and “BOURNVITA”. Plaintiff No.3, through its predecessor in interest, is the registered proprietor of the marks “TANG” and “OREO”. Plaintiff No.1 is the marketer of the products bearing the marks “CADBURY” and “BOURNVITA”, in India. Further, the plaintiff No.1 has licensed the right to use the products bearing the marks “TANG” and “OREO”.

25. The defendant is a social media influencer (*going by the name of ‘FoodPharmer’*) with more than 2.7 million followers on Instagram alone.

26. It is the case of the plaintiffs that the defendant has published more than 150 posts/videos, specifically targeting and disparaging plaintiffs’ products *i.e.*, “BOURNVITA” and “TANG”.

27. The first impugned video was posted as far back as on 1st April, 2023 by the defendant. Pursuant thereto, a legal notice dated 13th April 2023 was issued by the plaintiff No.1 to the defendant. In view of the aforesaid legal notice, the impugned video was taken down by the defendant.

28. Mr Rajiv Nayar and Mr Sandeep Sethi, learned senior counsel appearing on behalf of the plaintiffs submits that the said video is still being used. Further, in the latest video posted by the defendant on 24th/25th September, 2024 (*referred to in paragraph 8 of the plaint*), once again the defendant has made disparaging comments concerning the mark “BOURNVITA”.

29. The attention of this Court has been drawn to various other orders passed by Co-ordinate Benches of this Court injuncting the defendant from



posting defamatory videos concerning other brands.

30. In this backdrop, the plaintiffs seek *ex-parte ad-interim* injunction restraining the defendant from uploading and circulating videos/posts, disparaging the products of the plaintiffs and also take-down orders in respect of disparaging videos/posts uploaded on social media.

31. A *prima facie* case is made out on behalf of the plaintiffs. Balance of convenience is in favour of the plaintiffs and against the defendant. Irreparable harm and injury would be caused to the reputation of the plaintiffs as well as its products if the defendant is permitted to carry on posting disparaging posts/videos.

32. While the issue relating to take down of disparaging posts/videos shall be considered on the next date of hearing, at this stage, the Court is inclined to restrain the defendant from issuing/uploading/telecasting any videos/publication/posts in any language or any medium disparaging any of the products/brands of the plaintiffs.

32.1 It is ordered accordingly.

33. Compliance of Order XXXIX Rule 3 of the Code of Civil Procedure, 1908 (CPC) shall be made within two (2) days from today.

34. Issue Notice.

35. Notice be issued to the defendant *via* all permissible modes, including e-mail. *Dasti* notice permitted as well.

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

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

38. List before the Court on 23rd October, 2024.

AMIT BANSAL, J

OCTOBER 15, 2024/ds