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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 49/2024**
KHADI AND VILLAGE INDUSTRIES COMMISSION Plaintiff

Through: Ms. Shwetasree Majumder, Ms. Diva
Arora Menon, Ms. Devyani Nath,
Ms. Aiswarya Debadarshini and Mr.
Shiv Mehrotra, Advocates.

versus

MR ASHISH SINGH AND ORS Defendants

Through: None.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
18.01.2024

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I.A. 1233/2024 (seeking exemption from filing originals, translation of documents in vernacular language, clear copies and documents with proper margins)

1. Exemption is granted, subject to all just exceptions.
2. The Plaintiff shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.
3. Accordingly, the applications are disposed of.

I.A. 1232/2024 (seeking leave to file additional documents)

4. This is an application seeking leave to file additional documents under the Commercial Courts Act, 2015.
5. Plaintiff, if they wish to file additional documents at a later stage,



shall do so strictly as per the provisions of the said Act.

6. Accordingly, the application stands disposed of.

I.A. 1231/2024 (exemption from pre-institution mediation)

7. 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.

8. Disposed of.

I.A. 1234/2024 (seeking extension for filing the court fee receipt and undertaking to file the same at the earliest)

9. Ms. Shwetasree Majumder, counsel for Plaintiff, states that court fee has been applied for, and undertakes to file the same as and when the court fee certificate and stamps are issued.

10. In view of the above, the application is disposed of with a direction that the Plaintiff should furnish the deficient court fees within a period of two weeks from today.

I.A. 1235/2024 (seeking exemption from advance service to the Defendants)

11. The Plaintiff alleges that the Defendants are perpetrating fraud on the general public by creating a false association with the Plaintiff's well-known "KHADI" mark. Considering the nature of controversy involved in the present suit as well as the peculiar facts and circumstances of the case, exemption from effecting advance service on Defendants is allowed.

12. Application is disposed of.

¹ 2023 SCC OnLine SC 1382.



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13. Let the plaint be registered as a suit.
14. Upon filing of process fee, issue summons to the Defendants by all permissible modes. 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), the Defendants shall also file affidavit(s) of admission/denial of the documents of the Plaintiff, without which the written statement(s) shall not be taken on record.
15. Liberty is given to the Plaintiff 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 Plaintiff, affidavit(s) of admission/denial of documents of the Defendants, be filed by the Plaintiff, 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.
16. List before the Joint Registrar for marking of exhibits on 20th March, 2024. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.
17. List before Court for framing of issues thereafter.

I.A. 1230/2024 (seeking ad interim injunction)

18. Ms. Majumder presented the Plaintiff's case as follows:
 - 18.1. The Plaintiff, Khadi and Village Industries Commission, a statutory body established under the Khadi and Village Industries Commission Act, 1956 for the promotion and development of textiles, is the registered



proprietor of the trademarks “KHADI”, “ ” and



“ ” in various classes [*collectively*, “KHADI marks”].² The mark “KHADI” has also been recognized as a well-known trademark by the Trademarks Registry.

18.2. They adopted the trademark “KHADI” on 25th September, 1956 and have been continuously using the same for their products ever since. These products range from cosmetics such as soaps, facewash, haircare products, essential oils etc. to food products, grocery products, oils, diyas, woolen products, hand wash, hand sanitizers, etc. which are sold through retail outlets, exhibitions, their website and other third-party e-commerce websites. Plaintiff also has a considerable social media presence and operates a mobile application by the name of “KHADI INDIA”.


18.3. Over the last few years, Plaintiff has spearheaded a huge growth in the manufacture and sale of personal care products under the KHADI marks and has spent considerable resources in promoting it. In the financial year 2023, Plaintiff recorded a turnover of over Rs. 1,34, 629 crores. They expended Rs. 9.22 crores towards advertisement and promotional activities between 2022-2023. By virtue of such extensive use, the KHADI marks are exclusively associated with the Plaintiff. Any person desirous of selling products under the KHADI marks has to obtain a valid certificate from

² The particulars of registration are set out in paragraph No. 11 of the plaint.



Plaintiff as per the Khadi and Village Industries Commission Act, 1956, Khadi and Village Industries Commission Regulations, 2007 and Khadi Mark Regulations, 2013. Unless authorised, no organisation, individual or institution can affix/ use the KHADI marks on their products.

18.4. In January, 2024, the Plaintiff came across a reel/ video posted on Instagram (a social networking platform) advertising a website “www.khadiorganic.com” for delivery of free prasad from the Pran Pratishtha ceremony scheduled to be held on 22nd January, 2024 at the Shri Ram Temple in Ayodhya, Uttar Pradesh. As per the information hosted on the homepage of aforesaid website, members of the public, who are desirous of obtaining the “Ram Mandir Prasad” for free, could place their orders by filling a form provided on the website. For such delivery, a charge of Rs. 51/- for Indian customers, and USD 11 for foreign customers, is sought. On further exploring the impugned website, the Plaintiff learnt that Defendant No. 1, Mr. Ashish Singh, has established the brand “KHADI ORGANIC”, which is a part of Defendant No. 2-company [M/s DrillMaps India Private Limited]. Defendants No. 1 and 2 are offering various products such as garments, collectibles, food items, home temples, goods required to conduct religious ceremonies such as Gangajal, on the website, which bear marks

“KHADI EARTH”/ “”. Additionally, the impugned website contains a tab titled “Donate us”, whereunder financial contributions are sought from the public to facilitate the free prasad initiative being carried out by Defendants No. 1 and 2. As per the Plaintiff’s knowledge, the website “www.khadiorganic.com” was registered on 23rd December, 2021, but has become operative only recently. The website



further endorses links redirecting the consumers to various social media profiles of “KHADI ORGANIC” brand. Defendants’ account on Pinterest



uses the device mark “ ”.

18.5. Defendants No. 1 and 2 are openly promoting their website as an “official website for sale of Ayodhya Ram Mandir prasad” on various platforms, such as Instagram. The afore-noted “KHADI ORGANIC” marks subsume the Plaintiff’s “KHADI” trademark. Defendants No. 1 and 2 have no right to misappropriate Plaintiff’s registered KHADI marks and to render a false impression that Plaintiff is affiliated with the Shri Ram Janmabhoomi Teerth Kshetra Trust, which is organizing the consecration ceremony.

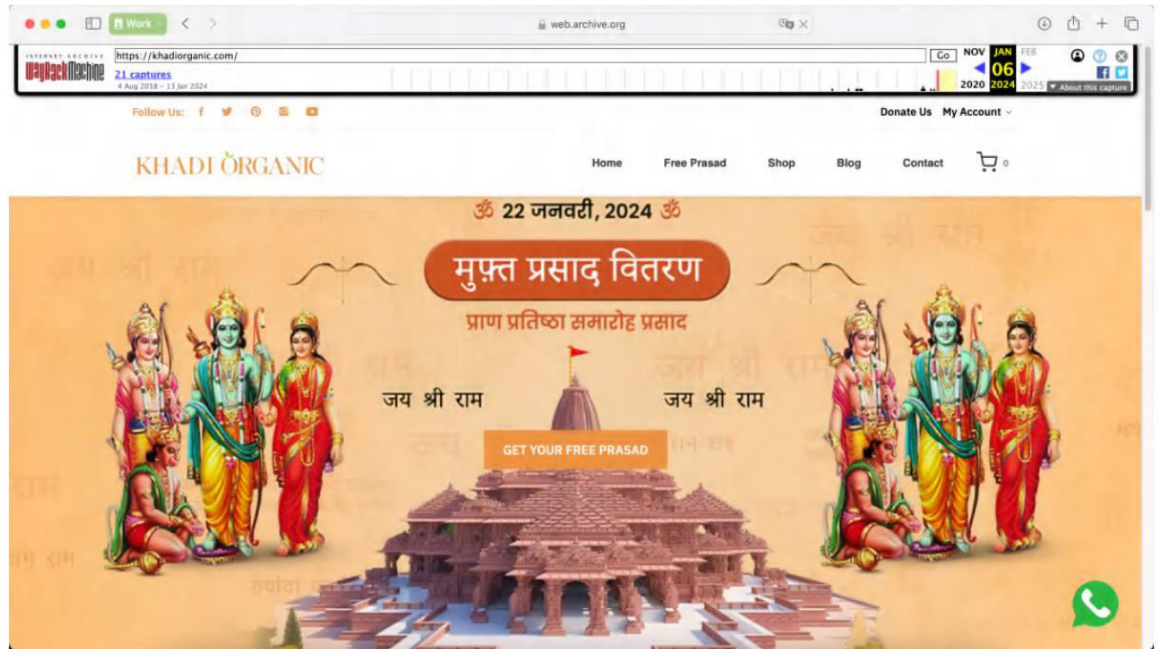
18.6. Several customers have posted videos/ reels on Instagram referring to Defendants No. 1 and 2’s free prasad service as a scam. According to their accounts, Defendants No. 1 and 2 are taking money towards delivery charge for the prasad, but are not furnishing any tracking receipt for confirmation. In view of such allegations, on 14th January, 2024, Defendant No. 1 hosted a live session on Khadi Organic’s YouTube channel under the name “We are not fake Q&A Sessions at 11:00 AM”, wherein Defendant No. 1 clarified that this is a private initiative and is not overseen by the Shri Ram Janmabhoomi Teerth Kshetra Trust. Further, he stated that till 14th January, 2024, nearly 20 lakh orders have been received by him.

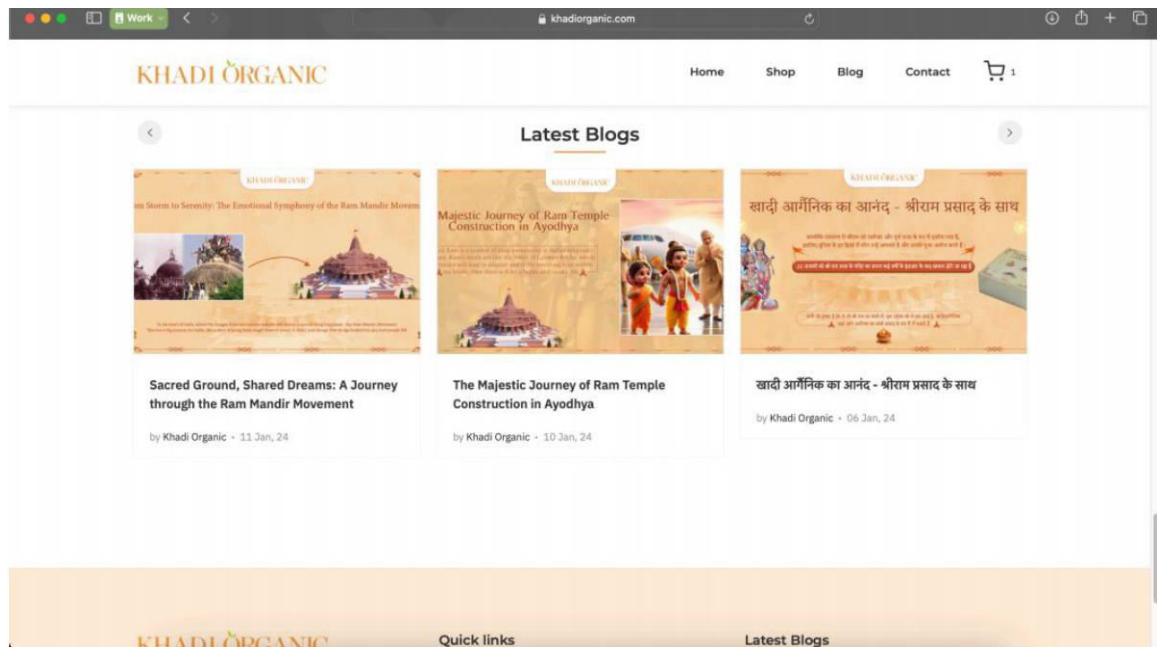
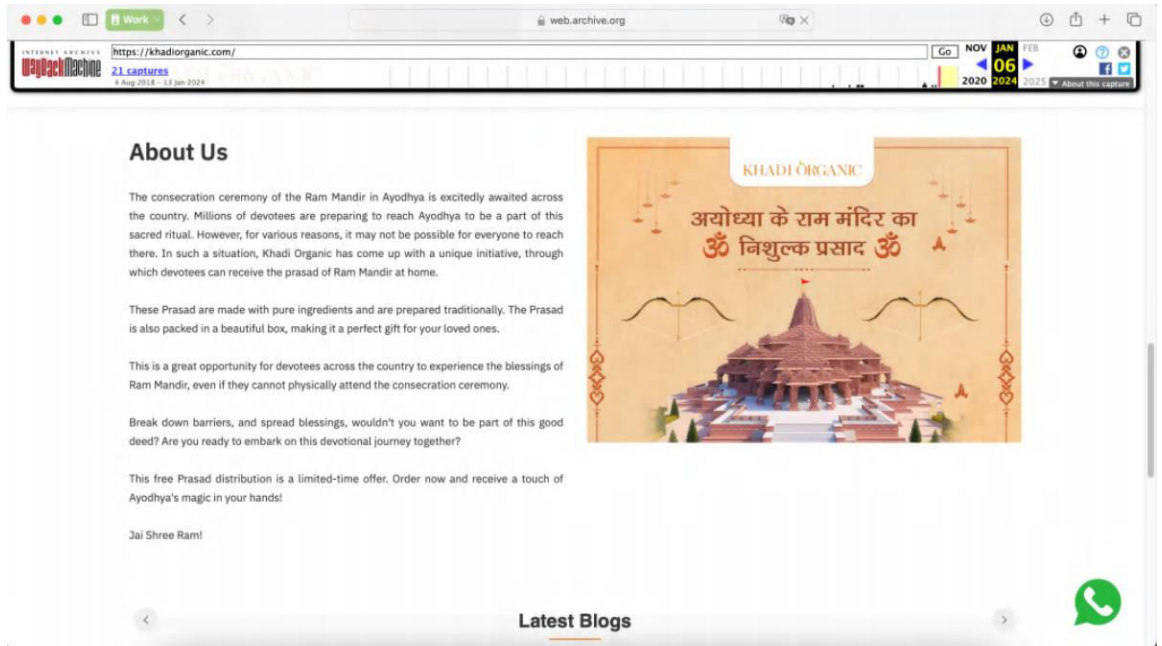
18.7. Plaintiff’s investigation further revealed that Defendant No. 2 has filed trademark application No. 6259743 for registration of the mark “KHADI ORGANIC” in class 29 on 13th January, 2024, claiming user since 15th November, 2023.



18.8. Plaintiff had previously initiated action before UDRP, World Intellectual Property Organization, against Defendants No. 1 and 2 in May, 2022 and March, 2023 in respect of the domain name “www.khadiindia.us” registered in their name for sale of cosmetic products, clothing, home accessories etc. under the KHADI mark. These complaints were eventually decided in Plaintiff’s favour and the domain name “www.khadiindia.us” was transferred to them.

19. The Court has heard the counsel and examined the record. Screenshots of the impugned website operated by Defendants No. 1 and 2 are as follows:







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KHADI ORGANIC

DrillMaps India Private Limited

Payment Details

G Pay VISA UPI

Name

Donation Amount

Phone Number

Email

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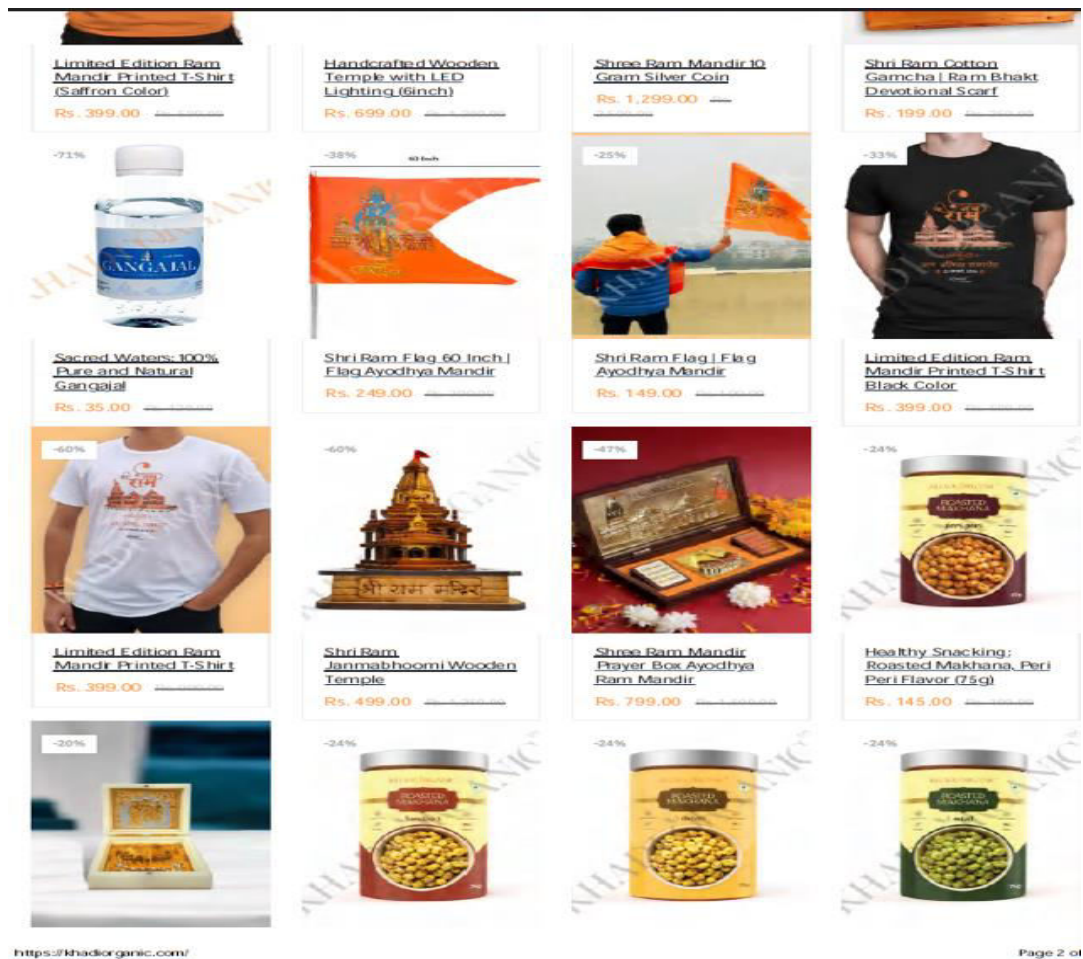
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This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.

The Order is downloaded from the DHC Server on 10/05/2024 at 02:19:19






20. From the above-extracted images, the Court is of the *prima facie* opinion that Defendants No. 1 and 2's marks "KHADI ORGANIC"/
"KHADI ORGANIC", are deceptively similar to Plaintiff's KHADI mark, which is fully incorporated in the impugned marks. It appears that Defendants No. 1 and 2 are attempting to monopolise the consecration event by preying on the public's religious beliefs and devotion and deceiving them into transferring money to Defendants No. 1 and 2, using the Plaintiff's goodwill. Ms. Majumder also states that the Plaintiff has placed an order for some merchandise from the impugned website, but the same have not been received yet. The links to the videos posted by disgruntled consumers annexed with the plaint further indicate that Defendants No. 1 and 2 have falsely obtained money from the members of the public without providing a confirmation receipt or proof of dispatch. In these circumstances, the Court is convinced that the Plaintiff has been able to demonstrate a *prima facie* case in their favour and in case an *ex-parte* interim injunction is not granted, Plaintiff and will suffer an irreparable loss; balance of convenience also lies in favour of the Plaintiff and against Defendants No. 1 and 2.

21. In view of the above, till the next date of hearing, the following directions are issued:

21.1. Defendants No. 1 and 2 and any person acting on their behalf are restrained from manufacturing, selling, offering for sale, exporting, advertising, directly or indirectly, any kind of goods and/or services under the marks "KHADI ORGANIC", "KHADI ORGANIC" and/ or



“  ” or mark identical or deceptively similar to Plaintiff’s registered KHADI marks, which would amount to infringement or passing off of the Plaintiff’s KHADI marks.

21.2. Defendant No. 3 shall suspend the operation of the domain name/ website “www.khadiorganic.com” registered by them and shall also maintain *status quo* with regards to the ownership of the said domain name.

21.3. Defendants No. 1 and 2 shall takedown their social media pages mentioned in paragraph No. 25 of the application and/or any other pages active on social media platforms that use any mark identical or deceptively similar to Plaintiff’s registered KHADI marks.

22. Compliance of Order XXXIX Rule 3 of the Code of Civil Procedure, 1908 be done within a period of five days from today.

23. Issue notice. Reply, if any, be filed within four weeks from the date of service. Rejoinder thereto, if any, be filed within two weeks thereafter.

24. List before Court on 27th May, 2024.

SANJEEV NARULA, J

JANUARY 18, 2024

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