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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of decision: 12<sup>th</sup> November, 2024*

+ CS(COMM) 700/2023 &amp; I.As. 19479-19480/2023

LOUIS VUITTON MALLETIER .....Plaintiff  
Through: Ms. Rishika Aggarwal, Advocates

versus

ABDULKHALIQ ABDULKADER  
CHAMADIA, & ORS. ....Defendants  
Through:**CORAM:**  
**HON'BLE MR. JUSTICE AMIT BANSAL****AMIT BANSAL, J. (Oral)**

1. The present suit has been filed seeking relief of permanent injunction restraining the defendants from infringing the trademarks of the plaintiff, passing off their goods and services as that of the plaintiff, and other ancillary reliefs.

**PLEADINGS IN THE PLAINT**



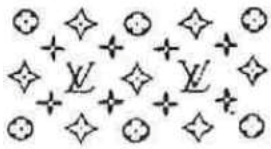
2. The plaintiff-Louis Vuitton Malletier (“LVM”) is a company that manufactures, sells and distributes high quality clothing, footwear, cosmetics, luggage and fashion accessories for men and women.

3. The plaintiff traces its history to the year 1854 when its eponymic founder, Mr. Louis Vuitton, established its business. Today, the plaintiff is the part of the French Conglomerate, LVMH (Louis Vuitton Moet Hennesey) which owns portfolio of 75 world-famous brands. In 1896, Mr.



Vuitton's son created the highly distinctive logo featuring interlocking string of letters L & V. 'Louis Vuitton' has over the time been consistently shortened to "LV" in reference to its business activities.

4. In India, the plaintiff has several registrations for its different trademarks. The earliest registrations for the 'LV' marks date back to August 8, 1985. In particular, the plaintiff places reliance on the following registrations for its 'LV' marks in India:

| S. No. | Marks   | Application nos. | Classes                                 | Date of application               |
|--------|---|------------------|---|-----------------------------------|
| 1.     | LOUIS<br>VUITTON  | 448229           | 25                                      | 8 <sup>th</sup> August, 1985      |
| 2.     | LOUIS<br>VUITTON  | 2315405          | 3, 4, 6, 8, 9,<br>12, 25, 26<br>and 34  | 13 <sup>th</sup> April, 2012      |
| 3.     |  | 441452           | 18                                      | 8 <sup>th</sup> August, 1985      |
| 4.     |  | 2316815          | 3, 4, 6, 8, 9,<br>12, 25, 26,<br>and 34 | 17 <sup>th</sup> April, 2012      |
| 5.     |  | 448235           | 25                                      | 15 <sup>th</sup> January,<br>1986 |



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|     |  |         |  |                                    |
|-----|--|---------|--|------------------------------------|
| 6.  |  | 2202972 | 3, 9, 14, 16,<br>18, 24, 25,<br>and 34     | 9 <sup>th</sup> September,<br>2011 |
| 7.  |  | 861145  | 25   | 15 <sup>th</sup> June, 1999        |
| 8.  |  | 4461983 | 9, 14, and<br>25                           | 16 <sup>th</sup> December,<br>2019 |
| 9.  |  | 3888470 | 9, 14, 18,<br>and 25                       | 8 <sup>th</sup> March, 2018        |
| 10. |  | 4086627 | 3, 9, 14, 16,<br>18, 24, 25,<br>35, 38, 41 | 17 <sup>th</sup> July, 2018        |

The Certificates for use in Legal Proceedings are filed as document no. 4 of the documents filed alongwith the plaint. All the aforesaid registrations remain valid and subsisting.

5. The plaintiff has three exclusive stores in India, the earliest one was opened in 2003 in Oberoi Hotel, New Delhi. Plaintiff's products bearing the 'LV' marks were known in India even in 1900s due to percolation of goodwill. Substantial time, money and resources have been spent towards promotion and advertisement of the products featuring the plaintiff's 'LV'



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marks and it regularly features in the list of top brand ratings. As a result of the above-mentioned activities undertaken by the plaintiff, it has a brand value of approximately USD 47.2 billion.

6. The plaintiff's 'LV' marks have been declared as 'Well-Known marks' in various judgements passed by courts in India. The certified copies of judgments declaring the plaintiff's trademarks as well-known are filed as document no. 8 of the documents filed alongwith the plaint. Further, the 'LOUIS VUITTON' mark is included in the list of 'Well-Known Marks' of the Trade Marks Registry of India and the same has been filed as document no. 9 of the documents filed alongwith the plaint.

7. Defendant no.1-Abdulkhaliq Abdulkader Chamadia, doing business as 'Mr. Shoes', offers for sale/sells footwear as well as accessories such as sunglasses, wallets, etc. through both offline and online mediums across India, including in Delhi.

8. Defendant no.2-Abdurrub Abdulkader Chamadia, doing business as 'Mr. Retail', works in association with the defendant no.1 as its GST number is being used at one of the stores of the defendant no.1.

9. Defendant no.3-Selloship Services LLP is an Indian Limited Liability Partnership that sells sub-domains of [www.selloship.com](http://www.selloship.com) for purchase so that users can develop their e-commerce websites and sell products, which are shipped nationwide.

10. In June 2023, the plaintiff came across infringing products bearing the plaintiff's 'LV' marks being offered for sale/sold by the defendants no.1 and 2. Through a detailed investigation, the plaintiff learned that the defendant no.1 has been operating through three multi-storied stores and one godown in Surat, Gujarat.



11. The investigation also revealed that the defendants no.1 and 2 conduct online operations through various accounts on social media and third-party e-commerce platforms. The investigation ascertained that the defendant no.1 maintains 2 Instagram handles namely, '@mr.shoes\_originals', '@mr.shoes.pro.'.

12. For the investigation, a test purchase was made through WhatsApp using the mobile number +918160119669, obtained from '@mr.shoes\_originals' which led to the delivery of an infringing product bearing the plaintiff's marks in Delhi. The association between the mobile number +918160119669 with the two Instagram handles, '@mr.shoes\_originals', '@mr.shoes.pro.' was also confirmed.

13. The investigation further revealed that the defendants no.1 and 2 use a telegram group where listings of infringing goods and products bearing the plaintiff's marks are posted regularly. These listings guide users to various e-commerce websites with distinct URLs being '<https://sneakerhub333.selloship.com>', '<https://superkickss.selloship.com>', '<https://lshoesmrshoes.selloship.com>' and '<https://mrshoessam.selloship.com>', all of which are established and maintained using sub domains of the defendant no.3's main domain '[www.selloship.com](http://www.selloship.com)'

#### **PROCEEDINGS IN THE SUIT**

14. On 5<sup>th</sup> October, 2023, this court granted an *ex-parte ad interim* injunction restraining the defendants from manufacturing, selling, offering for sale, importing, exporting or dealing with any products bearing Plaintiff's LV marks in any manner.

15. Summons in the present suit were also issued on 5<sup>th</sup> October 2023.



16. The learned Joint Registrar has recorded in the order dated 6<sup>th</sup> May, 2024 that the defendant no.1 was deemed to have been served on 16<sup>th</sup> November, 2023 and the defendant no. 3 was served on 15<sup>th</sup> November, 2023 and closed their right to file written statement since the maximum permissible period to file the same had lapsed. He further recorded the defendant no.2 would be deemed to have been served on 21<sup>st</sup> March, 2024.

17. *Via* order dated 20<sup>th</sup> August, 2024 the right of the defendant no.2 to file written statement was also closed since the maximum permissible period to file the written statement was over.

18. *Vide* order dated 3<sup>rd</sup> October, 2024, all the defendants were proceeded against *ex-parte*.

19. The plaintiff now seeks a decree in terms of Order VIII Rule 10 of the Code of Civil Procedure, 1908 (CPC).

#### ANALYSIS AND FINDINGS

20. I have heard the submissions of the learned counsel for the plaintiff and also perused the material on record.

21. In *Satya Infrastructure* (supra), a Co-ordinate Bench of this Court held as follows:-

*“4. The next question which arises is whether this Court should consider the application for interim relief and direct the plaintiffs to lead ex parte evidence. The counsel for the plaintiffs states that the plaintiffs are willing to give up the reliefs of delivery, of rendition of accounts and of recovery of damages, if the suit for the relief of injunction alone were to be heard today.*

*5. I am of the opinion that no purpose will be served in such cases by directing the plaintiffs to lead ex parte evidence in the form of affidavit by way of examination-in chief and which invariably is a repetition of the contents of the plaint. The plaint otherwise, as per the amended CPC, besides being verified, is also supported by affidavits of the plaintiffs. I fail to fathom any reason for according*



*any additional sanctity to the affidavit by way of examination-in-chief than to the affidavit in support of the plaint or to any exhibit marks being put on the documents which have been filed by the plaintiffs and are already on record. I have therefore heard the counsel for the plaintiffs on merits qua the relief of injunction.”*

22. The plaint has been duly verified and is also supported by the affidavit of the plaintiff. In view of the fact that no written statement has been filed on behalf of the defendants, all the averments made in the plaint have to be taken to be admitted. Further, since no affidavit of admission/denial has been filed on behalf of the defendants in respect of the documents filed with the plaint, in terms of Rule 3 of the Delhi High Court (Original Side) Rules 2018, the same are deemed to have been admitted. Therefore, in my opinion this suit does not merit trial and the suit is capable of being decreed in terms of Order VIII Rule 10 of CPC.

23. From the averments made in the plaint and the evidence on record, the plaintiff has been able to prove that the plaintiffs the registered proprietor of the well-known ‘LV’ marks.

24. The plaintiff has placed on record screenshots of the social media platforms and websites operated by the defendants and photographs of the products of the defendants as documents no. 12 and 13 of the documents filed alongwith the plaint to show that the defendants are indulging in the infringement and passing off of the plaintiff’s registered ‘LV’ marks by selling/offering for sale counterfeit products bearing the plaintiff’s registered trademarks.

25. Based on the discussion above, a clear case of infringement of trademarks is made out. The defendants have taken unfair advantage of the



reputation and goodwill of the plaintiff's trademark and has also deceived the unwary consumers of their association with the plaintiff's by dishonestly adopting the plaintiff's registered marks without any plausible explanation. Therefore, the plaintiff has established a case of passing off as well.

26. At this stage, it may be relevant to note that the defendants no.1 and 2 entered appearance in the present suit on 21<sup>st</sup> March, 2024, however, the defendants chose not to appear in the proceedings subsequently. Further, no communication on behalf of the defendants have been placed on record in respect of the allegations of the plaintiff in this suit. Hence, the right to file written statement of the defendants was closed *vide* orders dated 6<sup>th</sup> May, 2024 and 20<sup>th</sup> August, 2024.

27. Since the defendants have failed to take any requisite steps to contest the present suit, despite having suffered an *ad interim* injunction order, it is evident that the defendant has no defence to put forth on merits.

### **RELIEF**

28. In view of the foregoing analysis, the suit is decreed in terms of prayer clauses 41(a) and (b) of the plaint. The said clauses read as follows:

29. With regard to prayer clause 41 (c), a decree of delivery up is passed against the defendants no.1 and 2 to deliver all infringing and counterfeit merchandise that was seized during the execution of the Local Commission.

30. With regard to prayer clause 41 (d), a decree of mandatory injunction is passed against the defendant no.3 to block all the sub domains used by the defendants no.1 &2 as detailed in paragraph 21 of the plaint.

31. Let a decree sheet be drawn up in terms of prayer clauses 41 (a), (b), (c) and (d) of the plaint.

32. With regard to prayer clause 41 (e), counsel for the plaintiff wishes to





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lead evidence.

33. Let evidence in the form of an affidavit be filed within four weeks.

34. Counsel for the plaintiff also presses for actual costs of the present proceedings. A statement of a bill of costs has been filed on behalf of the plaintiff on 8<sup>th</sup> November, 2024. For this purpose, the representatives of the plaintiff shall appear before the Joint Registrar who shall determine the actual costs incurred by the plaintiff in the present litigation.

35. List before the Joint Registrar on 6<sup>th</sup> February, 2025.

36. All pending applications stand disposed of.

**AMIT BANSAL, J**

**NOVEMBER 12, 2024**

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