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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 442/2024, I.A. 30467/2024, I.A. 30468/2024, I.A. 30469/2024 & I.A. 30470/2024.

YC ELECTRIC VEHICLES Plaintiff

Through: Mr. Neeraj Grover, Mr. Yatin Chadha,
Mr. Mayank Chadha, Mr. Gurvinder
Singh, Ms. Shikha Sagar and Ms. Dolly
Luthra and Ms. Ekta Mahendra,
Advocates.

versus

SAKSHAM TRADING COMPANY Defendant

Through:

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

% **ORDER**
27.05.2024

I.A. 30468/2024 (Exemption from pre-institution mediation)

1. Having regard to the facts of the present case and in light of the judgement of Division Bench of this Court in ***Chandra Kishore Chaurasia v. R.A. Perfumery Works Private Ltd.***, FAO (COMM) 128/2021, exemption from attempting pre institution mediation is allowed. Accordingly, the application stands disposed of.

I.A. 30469 /2024 (Seeking leave to file Additional Documents)

1. The present application has been filed on behalf of the plaintiff under Order 11 Rule 1(4) of the Code of Civil Procedure, 1908 [“**CPC**”] as applicable



to commercial suits under the Commercial Courts Act, 2015 seeking to place on record additional documents.

2. The plaintiff, if it wishes to file additional documents at a later stage, shall do so strictly as per the provisions of the Commercial Courts Act, 2015 and the Delhi High Court (Original Side) Rules, 2018.

3. Accordingly, the present application is disposed of.

I.A. 30470/2024 (*Exemption from filing certified, typed copies of documents annexures etc*).

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

2. Applicant shall file legible, clear, and original copies of the documents on which the applicant may seek to place reliance before the next date of hearing.

3. Accordingly, the present application is disposed of.

CS(COMM) 442/2024

1. Let the plaint be registered as a suit.

2. Upon filing of process fee, issue summons to the defendant by all permissible modes. Summons shall state that the written statement be filed by the defendant within 30 days from the date of receipt of summons. Along with the written statement, the defendant shall also file affidavit of admission/denial of the document of the plaintiff, without which the written statement shall not be taken on record. Liberty is given to the plaintiff to file a replication within 30 days of the receipt of the written statement. Along with the replication, if any, filed by the plaintiff, affidavit of admission/denial of documents filed by the defendant, 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 any



documents, the same shall be sought and given within the timelines.


3. List before the Joint Registrar for marking of exhibits on 30th August, 2024.



4. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

I.A. 30467 /2024 (Application Under Order XXXIX Rules 1& 2, CPC).

1. This application has been filed under Order XXXIX Rules 1 and 2, CPC as part of the accompanying suit filed by plaintiff seeking decree of permanent injunction restraining the defendant and all those acting for/on their behalf

from using in any manner the impugned marks ‘YATRA’ ,

‘YS’ and  [“*impugned marks*”] and/or any other mark or marks, identical or deceptively similar to or containing the plaintiff’s mark ‘YATRI’,

‘YC’  and/or  [“*plaintiff’s marks*”] directly or indirectly in relation to their business/products/services in respect of E-Rickshaw, E-Vehicles, their parts, accessories and/or other similar/related/allied/cognate goods in any manner whatsoever along with other attendant relief.

2. Plaintiff is a partnership firm established in 2014 and is a well-known manufacturer of Electric Vehicles. Plaintiff conceived and adopted the trademark ‘YATRI’ and ‘YC’ in respect of E-Rickshaws. Since then, plaintiff



claims to have become the largest e-rickshaw manufacturing/selling entity.

3. Plaintiff has also received a certificate from the Government authorised testing agency International Centre for Automotive Technology (“ICAT”).






4. The sales turnover under ‘YATRI’ and ‘YC’ products is detailed by plaintiff in their plaint, extracted as under for reference:

S.No.	Financial Year	Sale of YATRI Products (in Rs.)	Annual Turnover of Plaintiff Entity (YC Electric Vehicle) (in Rs.)
1.	2019-20	1,63,51,48,052	1,77,89,86,267
2.	2020-21	1,24,14,41,209	1,32,93,64,317
3.	2021-22	2,61,50,15,730	2,81,08,79,974
4.	2022-23	4,37,96,91,723	4,61,58,32,045

5. Plaintiff is selling their products through <https://www.ycevehicles.com/> as also through other e-commerce websites *inter alia* IndiaMart and Trade India.

6. Registrations and applications in relation to plaintiff’s marks have been tabulated in the plaint, extracted as under:



Sr. No.	Application No.	Trade mark	Class	User Date	Application Date	Status
1.	4975661	YATRI	12	01/04/2014	17/05/2021	Registered
2.	3306759		12	01/04/2014	12/07/2016	Registered
3.	3306758		12	01/04/2014	12/07/2016	Registered
4.	4975665		12	01/04/2014	17/05/2021	Registered
5.	3306757		12	01/04/2014	12/07/2016	Registered
6.	4975664	yatri Super	12	06/08/2019	17/05/2021	Registered
7.	4975663	yatri ecart	12	28/01/2021	17/05/2021	Accepted and Advertised
8.	5597581		9	Proposed To Be Used	06/09/2022	Registered
9.	4978294	yatri	9	Proposed To Be Used	20/05/2021	Accepted & Advertised

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 29/05/2024 at 12:04:43



10.	5597582		35	01/04/2014	06/09/2022	Registered
11.	4975662	yatri	35	01/04/2014	17/05/2021	Accepted & Advertised
12.	5597580	YATRI	37	01/04/2014	06/09/2022	Registered
13.	5597583		37	01/04/2014	06/09/2022	Registered
14.	4978295	yatri	37	01/04/2014	20/05/2021	Registered
15.	5111782	yatri	39	Proposed To Be Used	31/08/2021	Accepted & Advertised

7. Grievance of plaintiff is against the defendant's use of the impugned marks.

8. A comparison between plaintiff's marks and defendant's impugned marks has been made in the plaint; same is extracted as under:

Plaintiff's Marks	Defendant's Marks
YATRI	YATRA
yatri	Yatra
YC	YS

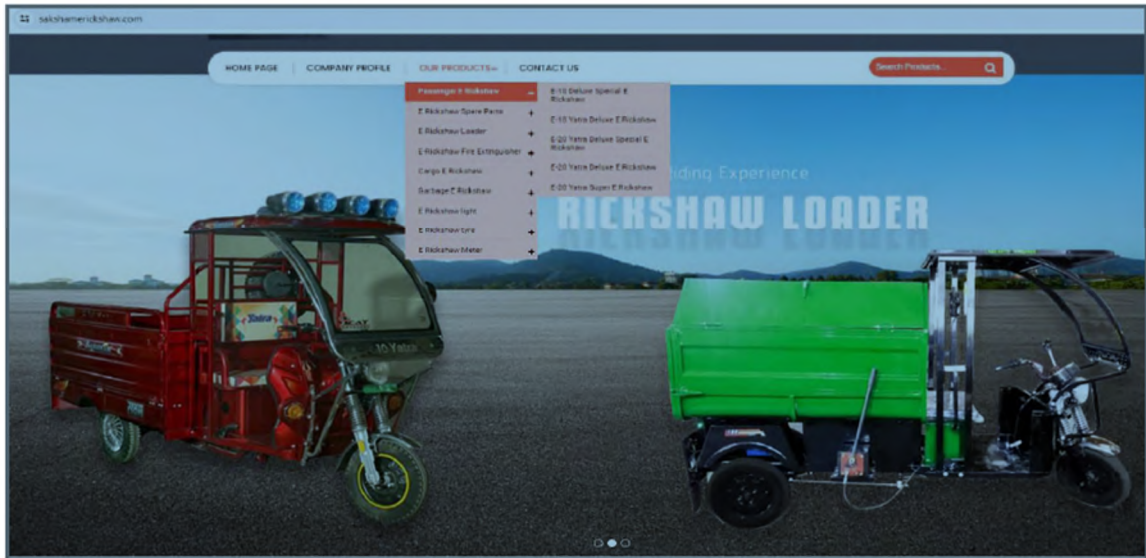


9. Mr. Neeraj Grover, counsel for plaintiff submits that defendant had bodily lifted the entire trademarks of the plaintiff, both 'YATRI' and 'YC' by adopting the impugned marks 'YATRA' and 'YS', and are selling identical goods.

10. Screenshot of the defendant's website has been annexed with the plaint, extracted as under:

Defendant's Website

<https://www.sakshamerickshaw.com/>



11. Plaintiff issued a cease-and-desist notice dated 05th January 2024, which was delivered on 09th January 2024. This was immediately after defendant instituted its trademark application no. 6229370 dated 21st December 2023 for



registration of its device mark
'proposed to be used' basis.

in Class 12 on a



12. No response was received to the aforesaid notice. A copy of the said notice was sent through email on 16th January 2024. Again, no reply was received. A reminder was sent on 24th January 2024 to comply with the terms in the cease-and-desist notice, however, no response was received.

13. Notably, on 04th May 2024, defendant approached the plaintiff's dealer namely, Wadhera Motors located at Delhi to sell the defendant's e-rickshaw bearing the impugned marks. Defendant also sent its product, catalogue, photos, and other details bearing the impugned marks to the plaintiff's dealer through WhatsApp.

14. On further search of the Trade Marks Registry's website, it was found that that defendant had applied for another mark bearing application no. 6284678 on 02nd February 2024 on a '*proposed to be used*' basis. The said mark has been opposed by the plaintiff.

15. Further, defendant has filed more applications bearing nos. 6284673, 6284674, 6284675, 6284676, and 6284677 in respect of 'YATRA' formative marks on a '*proposed to be used*' basis. Oppositions have been duly filed by plaintiff in the same.

16. Advance notice had also been served to the defendant; however, no one appears on behalf of them.

17. In view of the above facts and circumstances, this Court is satisfied that plaintiff has made out a *prima facie* case for grant of an *ex-parte ad interim* injunction till the next date of hearing. Balance of convenience lies in favour of plaintiff, and they are likely to suffer irreparable harm in case the injunction, as prayed for, is not granted.


18. Accordingly, till the next date of hearing, following reliefs are granted in





favour of plaintiff and against defendant:

a) Defendant and all those acting for/on their behalf are restrained from

using, in any manner, the impugned marks 'YATRA' 

, 'YS' and  and/or any other mark or marks, identical or deceptively similar to or containing the plaintiff's marks 'YATRI',

'YC',  and/or  directly or indirectly in relation to their business/products/services in respect of E-Rickshaw, E-Vehicles, their parts, accessories and/or other similar/related/allied/cognate goods.

b) Defendant is also directed to pull down all social media links/websites selling defendant's goods under the impugned marks.

19. Upon plaintiff taking steps, issue notice through all permissible modes, including through email, returnable before the Court on 03rd October 2024. Affidavit of service along with proof thereof be placed on record before the next date of hearing.

20. Reply be filed within 8 weeks with advance copy to counsel for plaintiff, who may file rejoinder thereto, if so desired, before the next date of hearing.

21. Compliance of Order XXXIX Rule 3, CPC be effected within a week.

22. Order be uploaded on the website of this Court.

ANISH DAYAL, J

MAY 27, 2024/RK/sc