



\$~35

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

+ **CS(COMM) 1186/2025 & I.As. 27612-16/2025**

CAPITAL FOODS PRIVATE LIMITED

.....Plaintiff

Through: Mr. Dhruv Anand, Mr. Rohil Bansal
and Mr. Chirayu Prahlad, Advocates

versus

KRS MULTIPRO PRIVATE LIMITED & ANR.

.....Defendants

Through: None

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

%

07.11.2025

I.A. 27616/2025 (seeking extension of filing court fee and one time process fee)

1. This is an application under Section 149 read with Section 151 of the Code of Civil Procedure, 1908 ('CPC'), filed by the Plaintiff seeking extension of time to file court fees, and one time process fees.
2. Learned counsel for the Plaintiff states that court fees have been deposited. He seeks one (1) week time to deposit the Court fees certificate.
3. The application is allowed subject to the Court fees certificate being deposited within a period of one (1) week failing which the plaint shall stand rejected under Order VII Rule 11(b) CPC.
4. The application stands disposed of.

I.A. 27615/2025 (seeking exemption for instituting prelitigation mediation)

5. This is an application under Section 12A of the Commercial Courts Act, 2015 read with Section 151 CPC, filed by the Plaintiff seeking



exemption from instituting pre-litigation mediation.

6. Having regard to the facts that the present suit contemplates urgent interim relief and in light of the judgement of the Supreme Court in **Yamini Manohar v. T.K.D. Keerthi**¹, exemption from the requirement of pre-institution mediation is granted to the Plaintiff.

7. Accordingly, the application stands disposed of.

I.A. 27614/2025 (seeking exemption from filing clearer copies of documents)

8. This is an application under section 151 of CPC, filed by the Plaintiff seeking exemption from filing clearer copies of documents which are dim, illegible and unclear.

9. Subject to the Plaintiff filing the clearer copies of documents, which are dim, illegible and unclear sought to be relied upon within four (4) weeks from today, exemption is granted for the present.

10. The application is disposed of.

I.A. 27613/2025 (seeking leave to file additional documents)

11. This is an application under Order XI Rule 1(4) of CPC [as amended by the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 ('Commercial Courts Act')] read with Section 151 CPC, seeking leave to file additional documents within thirty (30) days.

12. The Plaintiff, if they wish to file additional documents will file the same within thirty (30) days from today, and it shall do so strictly as per the provisions of the Commercial Courts Act and the Delhi High Court (Original Side) Rules, 2018 ('DHC Rules').



13. For the reasons stated in the application, the same is allowed.

14. Accordingly, the application is disposed of.

CS(COMM) 1186/2025

15. The present suit has been filed for permanent injunction restraining infringement of registered trademarks, passing off and other ancillary reliefs against the Defendants.

16. Let the plaint be registered as a suit.

17. Summons be issued to the Defendants by all permissible modes on filing of process fee. Affidavit of service be filed within one (1) week.

18. The summons shall indicate that the written statement(s) must be filed within thirty (30) days from the date of receipt of the summons. The Defendants shall also file affidavits of admission/denial of the documents filed by the Plaintiff, failing which the written statement(s) shall not be taken on record.

19. The Plaintiff is at liberty to file replications thereto within thirty (30) days after filing of the written statement(s). The replications shall be accompanied by affidavits of admission/denial in respect of the documents filed by the Defendants, failing which the replications shall not be taken on record.

20. It is made clear that any unjustified denial of documents may lead to an order of costs against the concerned party.

21. Any party seeking inspection of documents may do so in accordance with the Delhi High Court (Original Side) Rules, 2018.

22. List before the learned Joint Registrar (J) for completion of service and pleadings, marking of exhibits and admission/denial of documents on

¹ (2024) 5 SCC 815



17.12.2025.

23. List before the Court on **15.04.2026.**

I.A. 27612/2025 (Under Order XXXIX Rule 1 and 2 CPC)

24. This is an application under Order XXXIX, Rules 1 & 2 read with section 151 CPC on behalf of the Plaintiff seeking ad-interim injunction against the Defendants.

25. Mr. Dhruv Anand, learned counsel for the Plaintiff has set out the case of the Plaintiff as under: -

25.1 The Plaintiff Company [now acquired by Tata Consumer Products Limited], is an associate of the TATA Group and is a leading food company engaged in manufacturing, marketing, and retailing a diverse range of food products including sauces, noodles, condiments, soups, and other ready-to-eat items, for over two decades.

25.2 The Plaintiff's trade mark 'SCHEZWAN CHUTNEY' was coined and adopted in the year 2012, and was used by the Plaintiff in relation to their product i.e., sauce/dip, having a unique proprietary recipe and taste profile developed by the Plaintiff after extensive research. It is a rare, unique and distinct combination of two words from two different languages, symbolizing a fusion of Indian and Chinese culinary styles. It is a registered mark bearing number 2431851 dated 22.11.2012. The details of the Plaintiff's trademark application and registration are mentioned at paragraph 29 of the plaint.

25.3 The Plaintiff is also the owner of the copyrights of the trade dress of



its various products bearing the mark 'SCHEZWAN CHUTNEY' and has a copyright registration under No. A- 149563/2023. The said trade dress is very unique and distinct and are artistic works within the meaning of the Copyright Act, 1957.

25.4 The turnover of the Plaintiff's products bearing the trademark 'SCHEZWAN CHUTNEY' and its advertisement expenses incurred by the Plaintiff for the year 2024-2025 were worth Rs. 18, 677 Lakhs and Rs. 15.99 crores, respectively. The details of the said figures and advertisement expenses for the years 2012- 2025 are provided at paragraph 14 of the plaint.

25.5 The Plaintiff's mark has been awarded the Consumer Superbrand status by Superbrands, India. Even, search engine results associate the term 'SCHEZWAN CHUTNEY' exclusively with the Plaintiff, demonstrating its dominant public recognition. The Division Bench of this Court vide order dated 25.01.2023 passed in FAO(OS)(COMM) 16/2023 titled as '**Capital Foods Private Ltd. Vs. Radiant Indus Chem Pvt. Ltd.**' has acknowledged that the Plaintiff's trademark 'SCHEZWAN CHUTNEY' has acquired a secondary significance.

26. The Defendants are jointly engaged in manufacturing, marketing and selling of Schezwan Sauce bearing the Plaintiff's registered mark



‘SCHEZWAN CHUTNEY’ [‘impugned mark’] across India. The Defendant No. 1 is responsible for the marketing and sale of the abovementioned product bearing the impugned mark while the Defendant No. 2 is the manufacturer of the same.

27. It is stated that in early June 2025, the Plaintiff learnt through various market sources that the Defendant No. 1 is selling the impugned product by unauthorisedly using the Plaintiff’s registered trade mark ‘SCHEZWAN CHUTNEY’ through its website at www.krsmultipro.com.

28. The Plaintiff, with a view to amicably resolve the matter, sent a legal notice dated 04.06.2025 and a reminder notice on 09.07.2025 to Defendant No. 1. Defendant no. 1 responded to the said legal notice on 19.07.2025 and outrightly refused to give up the use of the Plaintiff’s registered mark ‘SCHEZWAN CHUTNEY’ on their impugned product stating the following grounds:

- i. The expression ‘SCHEZWAN CHUTEY’ is a generic and descriptive term [affirmed by this court in Capital foods Pvt. Ltd. V. Radiant Indus Chem Pvt. Ltd., CS(COMM) 379/2020] in common usage which conveys the favour, nature, composition of the product and does not function as a source identifier.



- ii. There is no visual, structural and phonetic similarity between the Defendants' and Plaintiff's packaging, hence, there is no likelihood of confusion amongst general public.

29. It is stated that on 25th June, 2025 the Plaintiff, deputed an investigator who placed an order for the Defendant's product bearing the impugned mark through Defendant No. 1's website www.krsmultipro.com and the product, with the impugned mark, amounting to Rs. 237/- and also transfer Rs. 100/- in lieu of courier charges, was subsequently delivered to the Investigator's New Delhi address on 18.07.2025. The photographs of the purchased Defendant's impugned products along with couriered parcel are incorporated at paragraph no. 36 of the plaint.

30. Learned counsel for the Plaintiffs submits that the Defendants use of the mark 'SCHEZWAN CHUTNEY' on their packaging is as a trademark and not as a descriptor because on the same packaging, they use the expression 'AN EXTRA HOT SCHEZWAN SAUCE' on the bottom left corner of the front side which would not be required if the said mark was inherently descriptive.

30.1 He states that on a bare perusal of the Defendants' product bearing the impugned mark revealed that the same is being manufactured and packed by Defendant no. 2 through their business concern called Wellness Ingredients



, clearly establishing the fact that both the Defendants are equally involved in this infringing activity.

30.2 He states that on the back side of the packaging of the Defendant's product, with the impugned mark, the Defendants refer their product as 'SAUCE' and not 'CHUTNEY'

30.3 He states that the Plaintiff has no objection if the Defendants use the mark "SCHEZWAN SAUCE" for its product as is already used by them on its packaging. He states that the Defendants refer to their product bearing the impugned mark as 'SCHEZWAN SAUCE' on their website www.krsmultipro.com, but the label of the Defendant's product still carries the Plaintiff's registered mark 'SCHEZWAN CHUTNEY'.

30.4 He states that as on 15.09.2025, the Defendants were actively marketing and advertising their product, bearing the impugned mark on social media platforms like Instagram and YouTube, however, as on 14.10.2025 the said posts on Instagram have been taken down but the listings on YouTube continue to remain.

30.5 He states that the Plaintiff has no control over the Defendant's illegal and infringing activities and in case the Defendant's infringing products



causes serious health issues to consumers due to the quality of Defendants product, the Plaintiff will be blamed for the same.

30.6 He states that the Plaintiff has not authorised the Defendants to use the registered trade mark ‘SCHEZWAN CHUTNEY’ in any form or manner whatsoever.

31. This Court has heard the learned counsel for the Plaintiff and perused the record.

32. Learned counsel for the Plaintiff states that the Defendants have been duly served an advance copy of the paper-book on the addresses mentioned in the memo of parties. In addition, it is also served on the counsel for the Defendants, who had issued the reply to the cease-and-desist notice dated 04.06.2025. However, none appears on behalf of the Defendants.

33. The Plaintiffs are the registered proprietor of the trademark/wordmark ‘SCHEZWAN CHUTNEY’ by virtue of prior adoption, long, continuous and extensive use and substantial marketing/advertising and sales of its products bearing the said mark. The Plaintiff has placed on record documents showing the valid and subsisting trademark/wordmark registration in its favour. Additionally, Plaintiff has also filed an order of the Division Bench of this Court which records that its mark ‘SCHEZWAN CHUTNEY’ has been acknowledged as having acquired a secondary significance due to its voluminous sales and advertisement campaigns.

The Defendants’ adoption of an identical and deceptively similar mark, ‘SCHEZWAN CHUTNEY’, is a clear case of dishonest imitation intended to ride upon the Plaintiff’s reputation and mislead the unwary



consumers making them believe that they are purchasing an authorized product of the Plaintiff.

34. During the hearing, learned counsel for the Plaintiff has handed over the product of the Defendants bearing the impugned mark 'SCHEZWAN



CHUTNEY'. Upon a bare perusal of the product, it prima facie appears that the Defendants have copied the Plaintiff's registered mark 'SCHEZWAN CHUTNEY' precisely as it is, on to the packaging of their product bearing the impugned mark.

35. In view of the above, the Plaintiff has made out a prima facie case for grant of an ad-interim injunction. Balance of convenience lies in favour of the Plaintiff, and irreparable harm will be caused to the Plaintiff, if the Defendants are not restrained. Prejudice would also be caused to the public as the mark of the Defendants' is identical to that of the Plaintiff and is likely to cause confusion in the market.

36. Accordingly, until the next date of hearing the Defendants and all other acting for and on their behalf are restrained from directly or indirectly dealing in any products/packaging/labels bearing the mark 'SCHEZWAN CHUTNEY' and /or from using any other mark that may be deceptively similar to the Plaintiff's trademark 'SCHEZWAN CHUTNEY'.



37. Compliance of Order XXXIX Rule 3 CPC be done within a period of one (1) week from today.
38. Upon steps being taken by the Plaintiff, issue notice to the Defendants through all modes.
39. Reply be filed within four (4) weeks from receipt of notice. Rejoinder thereto, if any, be filed within four (4) weeks thereafter.
40. List before the learned Joint Registrar (J) for completion of service and pleadings, marking of exhibits and admission/denial of documents on **17.12.2025**.
41. List before the Court on **15.04.2026**.
42. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J

NOVEMBER 7, 2025/rhc/IB