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

+ **CS(COMM) 754/2025, I.A. 17896/2025, I.A. 17897/2025, I.A. 17898/2025 & I.A. 17899/2025**

CAPITAL FOODS PRIVATE LIMITEDPlaintiff

Through: Mr. Pravin Anand, Mr. Achuthan
Sreekumar, Mr. Rohil Bansal and Mr.
Swastik Bisariya, Advs.

versus

PITAMBARI PRODUCTS PRIVATE LIMITED

.....Defendant

Through: None

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **28.07.2025**

I.A. 17898/2025

1. This application under Section 151 of the Code of Civil Procedure, 1908 ['CPC'], has been filed by the Plaintiff seeking exemption from filing typed/ legible copies of the dim/ illegible documents, handwritten and documents with insufficient margins at this stage within two (2) weeks.
2. Original documents shall be produced/filed at the time of Admission/Denial, if sought, strictly as per the provisions of the Commercial Courts Act, 2015 and the Delhi High Court (Original Side) Rules, 2018.
3. The typed and/or fair copies of the illegible documents be filed within two (2) weeks.
4. Accordingly, the application stands disposed of.



I.A. 17897/2025

5. This is an application seeking leave to file additional documents under Order XI Rule 1(4) of the Code of Civil Procedure, 1908 ('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, within thirty (30) days.

6. The Plaintiff, if it wishes 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').

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

8. Accordingly, the application is disposed of.

I.A. 17899/2025

9. 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.

10. 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. Krithi**¹, exemption from the requirement of pre-institution mediation is granted to the plaintiff.

11. Accordingly, the application stands disposed of.

CS(COMM) 754/2025

12. The present suit has been filed by the Plaintiff seeking permanent injunction restraining infringement of registered trademarks, passing off, dilution and tarnishment of trademarks; damages; rendition of accounts;



delivery up; declaration of well-known mark, etc.

13. Let the plaint be registered as a suit.

14. Summons be issued to Defendant by all permissible modes on filing of process fee. Affidavit of service be filed within two (2) weeks.

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

16. The plaintiff is at liberty to file replication thereto within thirty (30) days after filing of the written statement. The replication shall be accompanied by affidavit of admission/denial in respect of the documents filed by Defendant, failing which the replication shall not be taken on record.

17. 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.

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

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

20. At this stage, no summons are being issued to Defendant nos. 2 and 3.

21. List before the learned Joint Registrar (J) for completion of service

¹ (2024) 5 SCC 815



and pleadings, marking of exhibits and admission/denial of documents on **02.09.2025**.

22. List before the Court on **16.12.2025**.

I.A. 17896/2025 (application under Order XXXIX Rules 1 and 2 CPC)

23. This application under Order XXXIX Rules 1 and 2 CPC, has been filed by the Plaintiff inter-alia seeking ad-interim injunction restraining the Defendant and all others acting for and on its behalf from directly or indirectly dealing in any products/ services bearing the mark SCHEZWAN CHUTNEY and/ or from using any other mark that may be deceptively similar to the Plaintiff's registered mark SCHEZWAN CHUTNEY. It is stated that the Defendant's adoption of the identical mark amounts to the infringement of the Plaintiff's trademark registration no. 2431851 for the wordmark SCHEZWAN CHUTNEY and also amounts to passing off of the Defendant's products as that of the Plaintiff's.

24. The relevant facts, as stated in the pleadings, are as under: -

24.1. It is stated that the Plaintiff, Capital Foods Private Limited, is a registered company incorporated in the year 2003. It is stated that as on date, the Plaintiff company has been acquired by Tata Consumers Products Limited, which is an associate company of the TATA Group and focuses on fast-moving consumer goods.

24.2. It is stated that the Plaintiff is a leading food company engaged inter-alia in manufacturing, marketing and retailing of a wide variety of food products and services including sauces, dips, spreads, noodles, dressings, condiments, spices, sauce mixes, soups, pastes, ready-to-eat food products and other food preparations and related services for over two (2) decades. The Plaintiff also has a website at www.capitalfoods.co.in.



24.3. It is stated that the instant case concerns the Plaintiff's registered trademark 'SCHEZWAN CHUTNEY' that it uses on the Plaintiff's products, photographs of which, as given in the plaint, are reproduced herein as under: -



It is stated that the said products bearing the Plaintiff's trade mark 'SCHEZWAN CHUTNEY' are sold in India and across the globe through both online and offline channels.

24.4. It is stated that the Plaintiff conceived and adopted the trademark SCHEZWAN CHUTNEY in the year 2012, which is derived from and is a unique and distinctive combination of two words i.e. SCHEZWAN and CHUTNEY in respect of a hot, spicy and peppery sauce/dip having a unique proprietary recipe and taste profile developed by the Plaintiff after significant amount of research and efforts. It is contended that since inception, the trademark SCHEZWAN CHUTNEY has been continuously, extensively and uninterruptedly used by the Plaintiff along with huge promotional activities that has resulted in the said trademark acquiring a secondary significance.

24.5. It is stated that the Plaintiff has word mark registration for the mark SCHEZWAN CHUTNEY bearing registration no. 2431851 dated 22.11.2012 in Class 30, the details of which are given in paragraph no. 28 of



the plaint.

24.6. It is stated that apart from the above common law rights that have accrued to the Plaintiff in the trade mark, the Plaintiff is also the owner of the copyright in respect of the trade-dress of its various products, the photographs of which are given above. It is stated that the said trade dresses of the Plaintiff are unique and distinct and are artistic works within the meaning of the Copyright Act, 1957 and are registered bearing the number A-149563/2023 dated 08.12.2023 and the details of the same are given in paragraph no. 28 of the plaint.

24.7. It is stated that the Plaintiff has spent huge amounts of money in promoting the Plaintiff's trademark SCHEZWAN CHUTNEY and also has huge turnover for products bearing the trademark SCHEZWAN CHUTNEY. The details of promotional and advertisement expenditure of the Plaintiff's products bearing the trademark SCHEZWAN CHUTNEY along with the turnover are given in paragraph no.14 of the plaint. It is stated that the Plaintiff had a turnover of approx. Rs. 186.77 Crores in the year 2024-25 for its product SCHEZWAN CHUTNEY. It is stated that the total revenue of the Plaintiff for the year 2024-25 was Rs. 934.17 Crores. It is stated that its promotional expenditure for the year 2025 was Rs. 15.99 crores.

24.8. It is stated that the Defendant is the manufacturer of the below given impugned product and is engaged in its distribution and sale across India, including within the territorial jurisdiction of this Court:



24.9. It is stated that the Defendant is also promoting the below given impugned product on social media platforms such as www.instagram.com and www.facebook.com.



25. Mr. Pravin Anand, learned counsel for the Plaintiff submits that the



Plaintiff has initiated legal proceedings against various third parties misusing the Plaintiff's intellectual property including unauthorized use of marks that are identical to the Plaintiff's marks and have also obtained favourable orders from Courts across India. Copies of the said orders are filed along with the plaintiff's documents at page nos. 324-453.

25.1. He states that the Division Bench of this Court vide order dated 25.01.2023 passed in FAO(OS) (COMM) 16/2023 titled **Capital Foods Private Limited v. Radiant Indus Chem Pvt. Ltd.** has after noticing the voluminous turnover and expenditure details of the Plaintiff categorically noted that the word mark SCHEZWAN CHUTNEY of the Plaintiff has acquired secondary significance. He states that the said proceedings are sub-judice before this Court, however the said observations of the Division Bench are binding.

25.2. He further relies upon orders passed by the coordinate Benches of this Court in CS(COMM) 148/2025 titled **Capital Foods Private Limited vs Aveer Foods Limited & Ors.**, CS(COMM) 595/2025 titled **Capital Foods Private Limited vs M.M. Poonjiaji Spices Ltd.**, and CS(COMM) 556/2025 titled **Capital Foods Private Limited vs Sankalp Recreation Private Limited & Anr.**, protecting the Plaintiff's rights in its registered mark SCHEZWAN CHUTNEY and injunctioning third-parties from copying the same.

25.3. He states that sometime in early June 2025, the Plaintiff learnt through various sources that the Defendant is manufacturing and selling the above-mentioned impugned products by unauthorisedly using the Plaintiff's registered and well-known trade mark SCHEZWAN CHUTNEY, across India, including New Delhi. Therefore, with a view to amicably resolve the



matter without resorting to a formal legal action, the Plaintiff addressed a legal notice dated 04.06.2025 on the Defendant. He states that to the knowledge of the Plaintiff the adoption of the impugned marks by the Defendant is recent.

25.4. He states that Defendant on 23.06.2025, through its counsel has replied to the aforesaid legal notice and outrightly refused to stop using the mark SCHEZWAN CHUTNEY citing reasons such as the mark SCHEZWAN CHUTNEY is descriptive and do not qualify to be a 'trade mark' within the meaning of Section 2(zb) of the Trade Marks Act, 1999. He states however the said submission of the Defendant is misconceived in view of the order dated 25.01.2023 passed in FAO(OS) (COMM) 16/2023 titled **Capital Foods Private Limited** (supra).

25.5. He states that despite the receipt of the legal notice dated 04.06.2025, the Defendant continues to manufacture and sell the impugned product bearing the Plaintiff's registered trademark SCHEZWAN CHUTNEY.

25.6. He states that the Plaintiff has been served the suit paper-book on the Defendant through email, however no one appears on behalf of the Defendant.

25.7. He states that Plaintiff has no objection if the defendant uses the word SCHEZWAN with sauce or any such alike word. He states that this is already set out at paragraph 49 of the plaint.

26. The Court has heard the learned counsel for the plaintiff and perused the record.

27. None appears on behalf of the Defendant despite advance service.

28. The Plaintiff is the registered owner of the word mark SCHEZWAN CHUTNEY and it has a copyright registration as well in the artistic work



used for packaging its product.

29. The Plaintiff has handed over the Plaintiff's product and Defendant's product to this Court for its comparison. This Court has examined the product of the Plaintiff and the Defendant. A side-by-side comparison of the Plaintiff's product with the Defendant's infringing product is given below: -

Plaintiff's Product	Defendant's Product
	



30. In the facts of this case, the impugned mark of the Defendant is identical to the registered mark of the Plaintiff. The Division Bench of this Court in its order dated 25.01.2023 has observed that prima facie the trademark of the Plaintiff SCHEZWAN CHUTNEY has acquired secondary significance. This Court has also perused the restraint orders passed by coordinate Benches similarly restraining third parties who were manufacturing products using the mark SCHEZWAN CHUTNEY. The facts of this case are similar to the facts in the aforementioned orders.

31. The Plaintiff has averred that it adopted this mark in the year 2012 and the Defendant has adopted this mark recently.

32. Accordingly, the Plaintiff has made out a prima facie case for grant of an ad-interim ex-parte injunction. The Defendant and all others acting for and on behalf of the Defendant, shall stand restrained from directly or indirectly dealing in any product/service bearing the mark 'SCHEZWAN CHUTNEY' and/ or from using any other mark that may be deceptively similar to the Plaintiff's registered mark 'SCHEZWAN CHUTNEY'



amounting to the infringement of the Plaintiff's trademark registration no. 2431851 for the wordmark 'SCHEZWAN CHUTNEY'. It is clarified that the present injunction order is only limited to the use of the mark SCHEZWAN CHUTNEY by the Defendant and does not concern trade dress of the Defendant's products.

33. This Court shall consider the prayer of Defendant for exhausting its existing stock, as and when appearance is entered by the Defendant.

34. Issue notice to the Defendants through all permissible modes, upon filing of process fees, returnable on the next date of hearing. In addition, through the counsel who issued reply dated 23.06.2025 to the legal notice.

35. Let the reply to this application be filed within a period of four (4) weeks, from receipt of notice.

36. Rejoinder thereto, if any, be filed within a period of four (4) weeks thereafter.

37. Compliance of Order XXXIX Rule 3 of CPC be done within a period of two (2) weeks from today.

38. List before the learned Joint Registrar (J) for completion of service and pleadings on **02.09.2025**.

39. List before Court on **16.12.2025**.

40. 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

JULY 28, 2025/hp/MG