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

+ **CS(COMM) 1251/2025**

AMIR CHAND JAGDISH KUMAR EXPORTS LTD.Plaintiff

Through: Mr. Ajay Amitabh Suman, Mr. Aviral
Srivastava & Mr. Arpit Pundir, Advs.

versus

KNAM FOODS PVT. LTD. & ORS.Defendants

Through: None.

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **24.11.2025**

I.A. 29238/2025 (seeking leave to file additional documents)

1. This is an application 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, seeking leave to file additional documents within thirty (30) days.

2. 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').

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

4. Accordingly, the application is disposed of.

I.A. 29239/2025 (seeking exemption from filing certified copies)

5. This is an application under section 151 CPC, seeking exemption



from filing certified copies of govt. statutory documents, clear copies of the illegible documents, documents in vernacular language & documents not having sufficient left-hand margins at this stage.

6. Subject to the Plaintiff filing certified copies, clear copies and translations within a period of 30 days from today, exemption is granted for the present, failing which, the plaintiff will not be entitled to rely upon these documents.

7. In addition, the Plaintiff is directed to e-file fresh coloured copies [with high resolution] of the Plaintiff's trade dresses and Defendant's impugned trade dress.

8. The application is disposed of.

I.A. 29240/2025 (seeking exemption from instituting pre-litigation mediation)

9. This is an application under Section 12A of the Commercial Courts Act, 2015 read with Section 151 CPC, 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. Keerthi**¹, exemption from the requirement of pre-institution mediation is granted to the Plaintiff.

11. Accordingly, the application stands disposed of.

I.A. 29241/2025 (for exemption to serve the defendants in advance)

12. This is an application under section 151 CPC, seeking exemption to serve the Defendants in advance.

13. Learned counsel for the Plaintiff states that Plaintiff has served the

¹ (2024) 5 SCC 815



Defendants through e-mail mode on 22.11.2025 and therefore the application has become infructuous.

14. This Court observes that no case for exemption was even otherwise made out.

15. The application is dismissed.

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16. The present suit has been filed for permanent injunction restraining infringement of trademark, copyright, passing off and other ancillary rights against the Defendants.

17. Let the plaint be registered as a suit.

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

19. 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 affidavit(s) of admission/denial of the documents filed by the Plaintiff, failing which the written statement(s) shall not be taken on record.

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

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

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



23. List before the learned Joint Registrar (J) on **16.12.2025**.

24. List before Court on **14.04.2026**.

I.A. 29237/2025 (under Order XXXIX Rules 1 & 2 read with Section 151 CPC)

25. This is an application under Order XXXIX Rule 1 & 2 of the CPC, filed by the Plaintiff seeking ad-interim injunction against the Defendants.

26. Mr. Ajay Amitabh Suman, learned counsel for the Plaintiff has set up the case of the Plaintiff as follows:

26.1 The Plaintiff company is engaged in the business of processing, marketing and exporting of rice and is the owner of various marks and has been using the same in its course of business such as: 'AEROPLANE'/'





LABEL (EXPORT), and many others. Some of these marks are registered and the details of those trademark registrations and applications are mentioned at paragraph 9 of the plaint. Plaintiff has also filed copyright for its registrations and the details of the same are mentioned at paragaph 10 of the plaint.

26.2 The total sales figure and advertisement expenses for the products sold by the Plaintiff under the trademarks/labels in the year 2023 -2024 is Rs. 1344.67 crores and Rs. 520.30 lakhs, respectively. Details of the sales figure and advertisement expenses are mentioned at paragraph 13 & 14 of the plaint.

26.3 The subject matter of this suit is however, the Defendant's unauthorized adoption and use of the mark 'AL -BUSTAN' as well as the trade dress.

Plaintiff's rights in its 'AL-BUSTAN' Trademark/trade dress

26.4 Plaintiff has conceived and adopted the trade mark 'AL-BUSTAN'

AL-BUSTAN / **البستان**

and its unique trade dress/packaging



in blue and yellow colour , which packaging uses the mark ‘AL -BUSTAN’ in English and Arabic. The Plaintiff has been using the said mark and in a distinctive get up, make up and artistic manner since 01.06.2007.

26.5 The Plaintiff also uses another trade dress, where it uses the mark ‘AEROPLANE’ in English and AL -BUSTAN in Arabic with this trade



dress:

26.6 Plaintiff uses the trademark ‘AL-BUSTAN’ in the English script but

also in Arabic script for export purposes. The mark  is in Arabic script and is translated and pronounced as ‘AL BUSTAN’. Plaintiff has filed trademark application for its said ‘AL-BUSTAN’ trademark/label under registration no. 2242844 on 01.12.2011, and the said application is pending before the trademark registry on procedural grounds. Details of the said trademark application is mentioned at paragraph 26 of the plaint.



27. The Defendants are engaged in the business of processing, marketing,



selling and exporting Rice under the mark 'AL-BUSTAN/

البستان

['impugned mark'] and they are using the label/packaging in



blue and yellow colour [impugned label/packaging']

Defendants No. 2, 3 and 4 are directors of the Defendant No. 1. Defendant No. 5 is the distributor/importer/buyer of the Defendant No. 1 entity in the foreign countries.

27.1 Defendant No. 5 previously used to be the dealer/distributor/importer/buyer of the Plaintiff for the said goods sold by the Plaintiff under its said trademarks/labels AEROPLANE/AL-BUSTAN/

البستان

(in Arabic) and the blue and yellow trade dress. However, due to some disagreement in the business arrangements, the Defendant No.5 and the Plaintiff discontinued their business association and are no longer associated with each other.

28. It is stated that Plaintiff first learnt about the impugned goods of the Defendant in the year 2024. The Plaintiff recorded its objection with



Defendant no. 2, who confirmed to the Plaintiff that going forward Defendant no. 1 will not use the impugned mark and the trade dress. However, the Plaintiff noticed that Defendant no. 1 had not ceased its illegal activity and therefore, it issued a cease-and-desist notice on 26.11.2024 to both Defendant nos. 1 and 5. While Defendant no. 5 failed to reply, Defendant no. 1 issued a reply dated 28.12.2024 and denied that the impugned mark and label/packaging is infringing, stating the following reasons:

- a. Defendant No. 1 denied that the impugned mark and label/packaging is infringing.
- b. Defendant No. 1 asserted its rights over the impugned mark
AL-BUSTAN and البستان .
- c. Defendant No. 1 did not deny that they are engaged in the business of exporting goods bearing the impugned mark and label/packaging.
- d. Defendant No. 1 mentioned and claimed that 'AL-BUSTAN' is a generic word and common to trade thereby asserting that no one can claim exclusive rights over the same.

29. It is stated that, recently in the first week of November 2025, the Plaintiff learnt that the Defendant No. 1 has filed a trademark application on 20.12.2024 before the trademark registry for the impugned mark 'AL-



BUSTAN/ bearing application no. 6765847 under Class 30,



claiming user since 10.01.2023. Details of the trademark application is mentioned at paragraph 45 of the plaint.

30. Mr. Ajay Amitabh Suman, learned counsel for the Plaintiff submits that Defendant No. 1 has filed the said application on 20.12.2024, i.e., after the Plaintiff had already served the cease-and-desist notice on 26.11.2024 establishing that the said trademark application is an afterthought and a counter-blast to the legal notice with a false user claim. He states that the Defendant No. 3 in its user affidavit filed in support of this application at paragraph 2 has stated that the mark 'AL -BUSTAN' is an Arabic word which translates to be '*the garden*' in Arabic and therefore no body can claim exclusive right over the same, however, Defendant No. 1 has itself filed the trademark application for claiming exclusive right over the mark 'AL-BUSTAN'.



30.1 He states that the Defendant's impugned mark is in the same font, colour and style as that of the Plaintiff's marks



which is identical phonetically, virtually and structurally. The Defendant's mark is an exact decoy of the mark of the Plaintiff's mark.



30.2 He relies upon the comparative chart of the Plaintiff's 'AEROPLANE AL-BUSTAN' mark and packaging with the Defendant's impugned mark and packaging, which is as under:





30.3 He states that both bags feature a dominant yellow background with a blue border, creating a near -identical visual appeal. The upper portion of both packages has a red banner with 'Aged Rice' written in English and Arabic. The image and placement of the cooked rice are nearly identical in composition and angle. The placement and font of the Arabic text

البستان

(AL-BUSTAN) and 'Extra Long Indian Rice' is written with the same font and its positioning is also identical. Both declare 'Quality Product India' in a similar font and colour backdrop with the placement of the Indian Flag at the bottom of the packaging in the identical place. The back side of the packaging is also deceptively similar leaving a small room for distinction. He states that the mark 'AEROPLANE' on the Plaintiff's packaging and AL-ARIN (in Arabic) on the Defendants' packaging appear in the same location on their respective packaging. He states that the structure and placement of the word AL-ARIN within the red/blue banner on the Defendant's packages is similar.

30.4 He states that the same similarities as mentioned above can be made out in the [second] packaging of the Plaintiff for its product bearing the trademark AL-BUSTAN in English and Arabic and he refers to a comparative chart for the same, which is given below:



FRONT SIDE COMPARISON



BACK SIDE COMPARISON



30.5 He states that the packaging of the Defendants is so deceptively similar that they have not only copied the Plaintiff's mark and label/packaging but have also duplicated the same mobile number, the literary work, the amount of sale as well as the ingredients used, as displayed on the Plaintiff's packaging.



30.6 He states that the said goods of the Plaintiff and the impugned goods of the Defendants are sold and marketed through the same trade channels on same counters and are directed towards same class of purchasers.

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

32. The Defendants was served advance notice by mode of email by the Plaintiff on their said email addresses; however, none has appeared.

33. Upon perusal of the averments in the plaint and documents filed, its prima facies appears that the Plaintiff adopted the mark 'AL-BUSTAN' البستان on 01.06.2007 and applied for trademark



registration on 01.12.2011 for its trade dress

The Plaintiff also adopted the mark 'AL-BUSTAN' البستان along with another mark AEROPLANE and a distinct packaging



. The trademark application for its



said 'AL-BUSTAN' trademark/label is pending adjudication, however, it prima facie shows the adoption of the mark since 2011.

34. The Defendants have filed their trademark application for the impugned mark AL-BUSTAN on 20.12.2024 claiming to use it since 10.01.2023, thereby establishing that the Plaintiff is the prior user of the impugned mark.

35. Learned counsel for the Plaintiff has handed over the Plaintiff's packaging for its product AEROPLANE (in English) AL-BUSTAN (in Arabic) as well as its product AL-BUSTAN (in English and Arabic). He has also handed over the Defendant's impugned packaging bearing the impugned mark 'AL-BUSTAN' for its comparison.

36. Upon a bare perusal of the packaging of the rival products, it prima facie appears that the Defendant has slavishly copied the essential features of the Plaintiff's packaging including its mark/label and over all get up/trade dress. The Defendant has liberally copied from both the packaging(s) and is closest to the packaging of the Plaintiff sold under the mark AEROPLANE (in English) AL-BUSTAN (in Arabic). However, the impugned packaging has also liberally copied the features describing the product on the packaging of the Plaintiff sold under the mark AL-BUSTAN (in English and Arabic).

37. The Defendants have not only copied the Plaintiff's mark 'AL-BUSTAN' but have also mindlessly printed the same mobile number on the packaging. The literary work and artistic work including placement of several features on the Defendant's impugned packaging is identical to the Plaintiff's packaging, which establishes the intent of the Defendants to ride upon the goodwill and reputation of the Plaintiff.



38. The Defendant's use of the identical mark 'AL-BUSTAN' combined with a deceptively similar packaging is clearly intended to confuse the unwary consumer to believe that the impugned product originates from the Plaintiff. The use of the mark 'AL-ARIN' on the Defendant's impugned packaging is not sufficient enough to distinguish it from the packaging of the Plaintiff, keeping in view the deceptive similarity of the packaging.

39. The assertion of the Plaintiff that the impugned products are being sold by Defendant no. 5 in international markets and the said Defendant was its prior distributor also lends credence to the submissions of the Plaintiff that the adoption of the deceptively similar packaging by Defendant nos. 1 to 4 is not bona fide.

40. In view of the aforesaid and on basis of the averments made in the plaint, this Court is of the prima facie opinion that a case of passing off has been made out by the Plaintiff; Since the products sold by both the parties are marketed through the same trade channels towards the same class of purchasers it is bound to create confusion and deception in the markets.

41. In consideration of the aforesaid, the the Plaintiff has established a prima facie case for grant of an ex-parte ad-interim injunction against the Defendants. The balance of convenience also lies in favour of the Plaintiff, and the Plaintiff will suffer irreparable loss in case the Defendants are not restrained from using the Plaintiff's mark/label/trade dress.

42. Consequently, until the next date of hearing the Defendants by itself as also through its individual proprietors/partners, agents, representatives, distributors, assigns, licensees, heirs, successors, stockists and all others acting for/on their behalf **are restrained from** using, selling, soliciting, manufacturing, marketing, importing, exporting, displaying, advertising, or



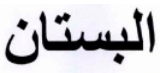
by any other mode or manner dealing in the course of trade in the physical or online market place including by way of export and import, refilling, packaging and distributing under the impugned mark ‘AL-

BUSTAN’/  and the impugned label/packaging



in blue and yellow mark/label/trade dress or any other mark/label/trade dress which may be identical with and /or deceptively similar to the Plaintiff’s mark/labels/trade dress ‘AL-



BUSTAN’/  /AL -BUSTAN



LABEL(EXPORT), and doing any other acts or deeds amounting to passing off of Plaintiff's mark/label and infringement of its copyright in the artwork of the said blue and yellow trade dress and packaging.

43. Issue Notice to the Defendants through all permissible modes, upon filing of process fee, returnable on the next date of hearing.

44. Let reply be filed within a period of four (4) weeks. Rejoinder thereto, if any be filed within two (2) weeks, thereafter.

45. Compliance of Order XXXIX Rule 3 CPC be done within a period of one (1) week from today.

46. List before the learned Joint Registrar (J) on **16.12.2025**.

47. List before Court on **14.04.2026**.

48. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.i, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of this order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J
NOVEMBER 24, 2025/ng/IB