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

+ **CS(COMM) 1262/2025 & I.As. 29498-500/2025**

FRANKFINN AVIATION SERVICES (PVT.) LTD.Plaintiff

Through: Mr. C.M. Lall, Sr. Adv. with Mr. Kulvinder Singh Kohli, Mr. Kapil Midha, Ms. Muskaan Garg, Mr. Garv Singh, Ms. Sindhoora Ravindran and Ms. Vartika Gautam, Advocates

versus

M/S FLY HIGH INSTITUTE & ORS.Defendants

Through: Mr. Puneet Mittal, Sr. Advocate with Mr. Pankaj Kapoor, Mr. Nikhil, Mr. Ashish Tarwani, Ms. Shafiya and Mr. Shikhar Singh, Advocates

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% 08.12.2025

I.A. 29500/2025 (seeking exemption from pre-institution mediation)

1. This is an application filed under Section 12A of the Commercial Courts Act, 2015 read with Section 151 Code of Civil Procedure, 1908 ('CPC'), seeking exemption from instituting pre-litigation mediation.

2. 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.

¹ (2024) 5 SCC 815



3. Accordingly, the application stands disposed of.

I.A. 29499/2025 (for exemption)

4. This is an application filed under Section 151 of CPC on behalf of the Plaintiff seeking leave to file dim documents, vernacular documents, documents with insufficient left side margin and pleadings containing underlined text.

5. Subject to the Plaintiff filing dim documents, vernacular documents, documents with insufficient left side margin and pleadings containing underlined text within a period of four (4) weeks from today, exemption is granted for the present, failing which, the Plaintiff will not be entitled to rely upon these documents.

6. Accordingly, the application is disposed of.

CS(COMM) 1262/2025

7. Let the plaint be registered as a suit.

8. Issue summons.

9. Mr Pankaj Kapoor, learned counsel, appears on behalf of the Defendants and accept summons. He confirms the receipt of the suit paper-book and waives the right of formal service of summons.

10. The Defendants shall file the written statement(s) within thirty (30) days. 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.

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



record.

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

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

14. List the matter before the Ld. Joint Registrar (J) on **09.01.2026**.

15. List the matter before the Court on **16.03.2026**.

I.A. 29498/2025 (Under Order XXXIX Rule 1 and 2 CPC)

16. This application under Order XXXIX Rule 1 and 2 read with Section 151 of CPC has been filed by the Plaintiff seeking an ex parte ad interim injunction restraining the Defendants from using the mark FLY HIGH/ FLY



HIGH INSTITUTE/ FH FLY HIGH INSTITUTE/

or any other mark which is deceptively similar to the Plaintiff's registered trademark 'FLY HIGH'.

17. Mr. C.M. Lall, learned senior counsel for the Plaintiff has set-up the Plaintiff's case as under: -

17.1. The Plaintiff through its business units namely, 'Frankfinn Institute of Air-Hostess Training' and 'FLY HIGH' is engaged in the field of imparting training in the fields of aviation, hospitality, travel management and customer services with the largest network of 'State of the Art' centres all across India. The said training institutes are being run under the trademark and style of 'FRANKFINN' and 'FLY HIGH'.

17.2. The trademarks 'FRANKFINN' and 'FLY HIGH' were adopted by the Plaintiff in the year 1980 and 2004 respectively. The Plaintiff is the



registered proprietor of the trademark 'FRANKFINN' in Class 16 and 41 as well as 'FLY HIGH' in Class 41 in India. The details of the same are provided at paragraph no. 20 of the plaint.

17.3. The Plaintiff is the proprietor of an active website [accessible at www.frankfinn.com] and the trademark 'FLY HIGH' is prominently used on the website. The Plaintiff has also registered various domain names incorporating its trademark 'FLY HIGH', the details of which are provided at paragraph no. 22 of the plaint.

17.4. The Plaintiff's total revenue and advertisement expenses for the year 2024-2025 were Rs.18,680.81 lacs and Rs.2583.67 lacs, respectively. The details of the Plaintiff's total revenue and advertisement expenses for the years 2017 to 2025 are provided at paragraph 28 and 30 of the plaint, respectively.

17.5. The public at large recognizes the unique services of the Plaintiff with them owing to the reputation attached to its trademark 'FLY HIGH'. Furthermore, the trademark 'FLY HIGH' as a result of continuous and extensive use has become a distinctive mark and is entitled to an extremely high degree of protection under the Trademarks Act, 1999.

Overview of the Defendants

17.6. Defendant No. 1 i.e., M/s Fly High Institute is an institute being run by Defendant No. 2 [i.e., Mr. Kunal N Raut] and Defendant No. 3 [i.e., Ms. Akansha Raut].

17.7. It is stated that Defendant No.3 claims to be the managing director of Defendant No.1 on their website, namely, www.flyhighinstitute.in and claims to be running the said institute.



17.8. It is stated that Defendant No. 2 vide Application No. 5322267 dated 10.02.2022 had applied for registration of device mark ‘FLY HIGH



INSTITUTE’/ [device mark] in Class 41 on a ‘proposed-to-be-used basis’. The said application was duly opposed by the Plaintiff vide opposition no. 1355020 dated 01.10.2024 and subsequently the same was recorded as abandoned by the Trademark Registry, Mumbai vide order dated 17.06.2025.

17.9. It is stated that despite being well aware of the prior registration of the Plaintiff’s ‘FLY HIGH’ trademark and its opposition, Defendant No. 2, yet again filed another Trademark application no. 6883623 in Class 41 on 28.02.2025, claiming user since 10.02.2022 for seeking registration of



device mark – ‘FH FLY HIGH INSTITUTE’/ . It is stated that Defendant No. 2 has neither filed the ‘User Affidavit’ nor filed any document in support of Trademark application no. 6883623 substantiating user date of 10.02.2022. The said application is at the stage of ‘Formalities Check Pass’ and is yet to be accepted by the Trademark Registry.

17.10. It is stated that the Defendants are also operating a website [accessible at <https://flyhigh-institute.com>], through which the Defendants are offering services identical to those of the Plaintiff under the identical mark ‘FLY HIGH’ as that of the Plaintiff.

It is further stated that, through the said website and social media platforms, the Defendants are claiming to have a pan-India presence and are



inviting members of the public across the country to collaborate with them and to establish franchise outlets under the impugned mark – ‘FLY HIGH’.

17.11. It is contended that the act of the Defendants in adopting the impugned mark ‘FLY HIGH’, which is identical to the Plaintiff’s registered trademark ‘FLY HIGH’, clearly shows the Defendants’ intention to gain undue monetary benefits by riding upon the reputation and goodwill created by the Plaintiff for its registered trademark ‘FLY HIGH’ as both the Plaintiff and Defendants are providing the services under the same Class, i.e., Class 41.

17.12. Aggrieved by the aforesaid illegal and unauthorised acts of the Defendants, the Plaintiff was constrained to file the captioned suit along with the interim injunction application.

Submissions on behalf of the Defendants

18. Mr. Puneet Mittal, learned senior counsel for the Defendants submitted that the Plaintiff is operating its training institution under the trademarks ‘FRANKFINN’. He states that the mark ‘FLY HIGH’ is not used by the Plaintiff as part of its tradename.

19. He contended that the Defendant No. 2 has applied for registration of the mark ‘FLY HIGH INSTITUTION’, accompanied by a distinct device



mark , and is conducting its business under the said composite mark.

He states that the students who enrol with Defendant’s institute and the Plaintiff’s institute are educated and are capable of appreciating the distinction between the two entities. He states that the consumers availing services are not persons with average intelligence.



19.1. He stated that the Defendants' mark, when considered as a whole, is entirely different in its visual, structural, and phonetic composition from the Plaintiff's marks, and therefore does not amount to infringement or passing off.

19.2. He argued that the expression 'FLY HIGH' is inherently generic, descriptive, and commonly used within the aviation and training sectors to denote aspiration, success, or upward mobility. He stated that the Plaintiff cannot claim an exclusive monopoly over such a commonly used phrase, particularly when it lacks distinctiveness and is incapable of serving as a source identifier on its own.

19.3. He emphasised that Defendants have never used the expression 'FLY HIGH' in an isolated or stand-alone manner, but only as part of its



composite mark 'FLY HIGH INSTITUTION'//, which sufficiently distinguishes its services from those of the Plaintiff.

Rejoinder Submissions on behalf of the Plaintiff

20. In response, Mr. C.M. Lall, learned senior counsel for the Plaintiff stated that the word 'FLY HIGH' is neither generic nor descriptive in relation to the Plaintiff's services, and has, through extensive, continuous, and exclusive use, acquired distinctiveness and secondary meaning.

20.1. He relied on the judgement dated 16.02.2022 passed by the Coordinate Bench of this Court in CS(COMM) 305/2021, titled as **Frankfinn Aviation Services Private Limited vs Fly High Institute & Ors.**², wherein the Court recognised the Plaintiff's proprietary rights in the

² (2022:DHC:725)



mark 'FLY HIGH'. It was therefore argued that the Defendants; adoption of the mark 'FLY HIGH INSTITUTION', even in a composite form, amounts to dishonest adoption, as it is likely to confuse the relevant public, and infringes the Plaintiff's proprietary rights in the trademark 'FLY HIGH'.

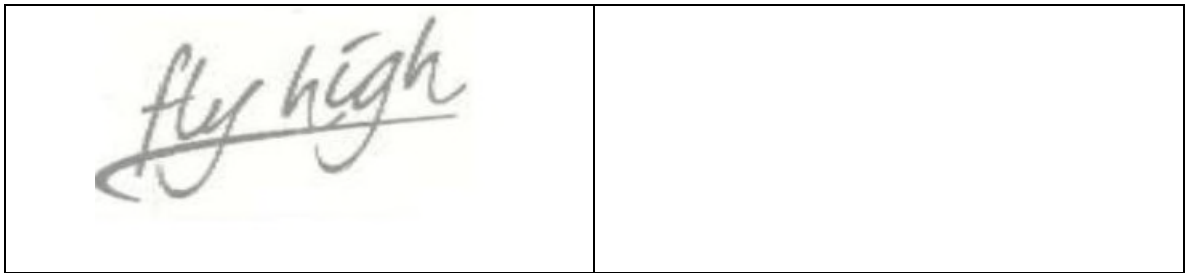
Findings

21. This Court has heard the learned senior counsels for the parties and perused the record.

22. The Plaintiff is the registered proprietor of the trademark 'FLY HIGH' under Class 41 in India since the year 2007. The Plaintiff in the plaint has relied upon various interim injunction orders and judgment passed by the Coordinate Benches of this Court, wherein the Court granted interim protection to the Plaintiff's proprietary rights in 'FLY HIGH' trademark. The details of such cases are provided at paragraph no. 7 of the plaint.

23. A side-by-side comparison of the Plaintiff's 'FLY HIGH' trademark and the impugned marks used by the Defendants, as set-out in paragraph no. 8 of the plaint are reproduced hereinunder: -

Plaintiff's registered mark	Defendant's mark
FLY HIGH	FLY HIGH INSTITUTE  



24. Upon a perusal of the marks of the rival parties it is evident that the Defendants have entirely absorbed the Plaintiff's 'FLY HIGH' registered trademark into the impugned marks i.e., FLY HIGH/ FLY HIGH



INSTITUTE/ FH FLY HIGH INSTITUTE/

25. The expression 'FLY HIGH' constitutes the dominant and most visually prominent element of the impugned marks of the Defendants. The accompanying tagline '*Your Dreams Our Mission*' appears in minuscule lettering and is virtually imperceptible at first glance to any person.

In the composite expression 'Fly High Institute', the term 'Institute' merely describes the nature of the Defendants establishment and lacks any distinctiveness. As the essential and source-identifying portion of the Defendants' mark is 'FLY HIGH', identical to the Plaintiff's mark, the likelihood of consumer confusion stands significantly increased.

26. The Defendants' adoption of the impugned marks in the very same class [i.e., Class 41] and with the very same description of services as those in respect of which the Plaintiff holds a valid and subsisting registration, prima facie does not appear to be bonafide.

27. Additionally, despite being aware of the Plaintiff's prior registration in 'FLY HIGH' trademark in Class 41 for identical services and the



opposition to TM No. 5322267; the subsequent filing of trademark application no. 6883623 by Defendant No. 2 for device mark 'FLY HIGH



INSTITUTE/ ' claiming user since 10.02.2022, , does not appear to be bona fide and rather prima facie shows the intention of the Defendants in infringing the Plaintiff's registered trademark.

28. At this stage, it would be apposite to refer to the judgment dated 16.02.2022 passed by the Coordinate Bench of this Court in **Frankfinn Aviation Services Private Limited vs Fly High Institute & Ors.** [supra]. The said case was instituted seeking injunction orders against the defendant therein who was using the impugned mark being 'FLY HIGH INSTITUTE OF AVIATION AND HOSPITALITY'.

The Court while granting interim protection to the plaintiff's proprietary rights in 'FLY HIGH' trademark was of the prima facie opinion that the expression 'FLY HIGH' cannot be treated as descriptive of the services provided by the plaintiff. The Court further held that the inclusion of words 'INSTITUTE OF AVIATION AND HOSPITALITY' in the impugned mark merely describes the nature of the establishment in respect of which the mark is being used. The findings returned in the said judgment also apply to the facts of the present suit.

29. The submission of the Defendants that Plaintiff does not use the mark FLY HIGH also appears to be incorrect as the website pages filed on record by the Plaintiff sufficiently demonstrate the use of the mark FLY HIGH with great prominence.

30. So also, the submission of the Defendants that the students who enroll with the institute would be able to appreciate the distinction between the two



parties is without any merit. Keeping in view the deceptive similarity of the tradename adopted by the Defendant No. 1, the students are likely to believe that the institute of Defendant No. 1 is associated or affiliated to the Plaintiff.

31. In the overall conspectus of the present case, the Plaintiff has established a *prima facie* case warranting the grant of an ex parte ad interim injunction against the Defendants. This Court is satisfied that if the Defendants are not restrained from using the impugned marks at this stage, irreparable harm will be caused to the goodwill and reputation of the Plaintiff.

32. Accordingly, till the next date of hearing, the Defendants, directors/promoters as the case may be its servants, agents, franchisees or any one acting for and on its behalf are restrained from using the mark/name 'FLY HIGH/ FLY HIGH INSTITUTE/ FH FLY HIGH

INSTITUTE/  /  , or any other mark either as a trade mark, service mark, trading style, trade name, logo, key word, meta tag, hashtag, domain name - <https://flyhigh-institute.com/>, or in any other manner, identical or deceptively similar to the Plaintiff's mark 'FLY HIGH' in relation to any goods or services in printed and/or in form whatsoever so to result in infringement, passing off, unfair competition and dilution of Plaintiff's rights.

33. Issue notice.

34. Mr. Pankaj Kapoor, learned counsel, appearing on behalf of the



Defendants accepts notice and waives the right of formal service of the notice.

35. The Defendants are directed to file their reply to this application within a period of four (4) weeks.

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

37. List the matter before the learned Joint Registrar (J) on **09.01.2026**.

38. List the matter before the Court on **16.03.2026**.

39. 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
DECEMBER 8, 2025/rhc/AJ/MG