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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION

INTERIM APPLICATION (L) NO.33327 OF 2025
IN
COMMERCIAL IP SUIT NO.32915 OF 2025

Kamat Hotels India Limited

...Plaintiff

Versus

Orchid Hotel and Hostel

...Defendant

Mr. Muralidhar Khadilkar a/w. Mr. Chinmay Page, for the Plaintiff.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : NOVEMBER 12, 2025

P. C. :

1. This is an action for infringement of trade mark and passing off. As leave under Clause XIV of the Letters Patent is not obtained, the learned counsel for the Plaintiff would confine his reliefs only in respect of infringement of trade mark. He would seek to move without notice for the reasons which are set out in paragraph 33 of the Plaint. I am convinced that the object of grant of injunction will be defeated if notice is given to the Defendant for the reasons which are set out in paragraph 33 of the Plaint.
2. It is submitted that the Plaintiff was incorporated on 21st March,

1986 with the object of setting up and running of hotels and related business. The Plaintiff adopted the mark "THE ORCHID/ ORCHID" in or about December, 1995 for use in relation to its five star hotels and since then has been using the said trade mark in respect of the Plaintiff's hotels situated at various places.

3. Learned counsel for the Plaintiff would point out to the registration which has been obtained by the Plaintiff in respect of the trade mark "THE ORCHID", with the earliest registration being applied in the year 1997 with the user claim of 1st January, 1997. He would submit that the Plaintiff has been continuously and extensively using the trade mark "ORCHID/ THE ORCHID" in respect of its services and businesses. He submits that the goodwill and the reputation garnered by the Plaintiff is demonstrated from the sales turn over and the advertisement expenses which are set out in paragraph 9 of the Plaint.

4. He would submit that the existence of the Defendant was revealed to the Plaintiff in the first week of December, 2023 when the Plaintiff learned that the Defendant No. 1 was using the trade mark "ORCHID" in respect of identical services. He submits that on 4th December, 2023, a cease and desist notice issued to Defendant No. 1 calling upon the Defendant No. 1 to cease and desist from using the impugned trade mark containing the word "ORCHID". He submits that there are no response to the said notice. He submits that the search on

the Internet disclosed that the booking of Defendant No. 1 hotel can be done from the Defendant Nos. 2 to 6's websites and the same are identified by the Plaintiff and draws attention of this Court to Exh. A.

5. The rival marks are "Orchid" and "Orchid Hotels and Hostel". The Defendant No. 1 has copied the Plaintiff's trade mark "ORCHID" and the addition of the word Hotel and Hostel is descriptive. The impugned mark is used in respect of identical services. The proprietary rights of the Plaintiff in the registered trade mark is *prima facie* demonstrated from the registrations obtained by the Plaintiff, with the earliest registration being of the year 2006 with user claim of 1st January, 1997. The Plaintiff is in the business of hotel services since the year 1997 and the Defendant's trade mark is an unregistered trade mark.

6. There is no defence which is *prima facie* available for the Defendant for using a deceptively similar trade mark as that of the Plaintiff which registered mark has achieved distinctiveness by reason of long standing continuous user. The reputation and the goodwill has been *prima facie* demonstrated from the sales turn over and the advertisement expenses which are placed on record. Considering that the booking of Defendant No. 1 can be done from the Defendant Nos. 2 to 6's website, ad-interim relief is required to be granted against Defendant Nos. 2 to 6. A strong *prima facie* case for grant of ad-interim relief is made out and is hereby granted in terms of prayer clause (a),

(d) and (e) of the Interim Application which reads as under:-

(a) that pending the hearing and final disposal of the suit, the Defendant No. 1, its proprietors, partners, servants, agents assignees, licensees, franchisees and all persons claiming through and/or under it or acting on its behalf be restrained by a temporary order and injunction of this Hon'ble Court from infringing the Plaintiff's registered trade marks, details whereof are set out at Exhibit 'E and F to F8' to the plaint, by the use of the impugned trade mark / hotel name "Orchid Hotel & Hostel", as shown in Exhibit-J, K and L to L5 to the plaint and/or any other trade mark identical with and/or deceptively similar to the Plaintiff's registered trade mark, details whereof are set out at Exhibit 'E and F to F8' to the plaint in respect of the services covered by the Plaintiff's said registrations or similar or like services or in any manner whatsoever;

(d) that pending the hearing and final disposal of the suit, the Defendant Nos. 2 to 6 be directed to take down the listing of the Defendant No.1's hotel under the impugned trade mark from their platforms / websites as per the details set out in Exhibit-J, K and L to L5 to the plaint.

(e) that pending the hearing and final disposal of the suit, Defendant No. 1 be directed to takedown the listing of the Defendant No.1's hotel under the

*impugned trade mark from any other online platform /
website and/or electronic and/or print media, if any.*

7. List the application for further consideration on 3rd December, 2025.
8. Ad-interim relief granted to continue till next date.

[SHARMILA U. DESHMUKH, J.]