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

+ CS(COMM) 47/2018

PATANJALI AYURVED LIMITED ..... Plaintiff

Through Mr. Rajiv Nayar, Sr. Advocate with  
Mr. Simarnjit Singh, Mr. Siddharth  
Mahajan, Mr. Saurabh Seth and Miss  
Mahima Deepak, Advocates

versus

M/S. KALPAMRIT AYURVED PVT.

LTD. &amp; ANR ..... Defendants

Through None

**CORAM:****HON'BLE MR. JUSTICE MANMOHAN****ORDER**% **23.01.2018****I.A.No.1070 /2018**

Keeping in view the averments in the application, plaintiff is exempted from filing originals/ certified copies/ fair typed with proper margin of documents at this stage.

Needless to say, this order is without prejudice to the rights and contentions of the parties.

Accordingly, present application stands disposed of.

**CS(COMM) 47/2018**

Let the plaint be registered as suit.

Issue summons in the suit to the defendants by all modes including dasti, returnable for 16<sup>th</sup> March, 2018 before the Joint Registrar for

completion of service and pleadings.

The summons to the defendants shall indicate that a written statement to the plaintiff shall be positively filed within four weeks of the receipt of the summons. Liberty is given to the plaintiff to file a replication within two weeks of the receipt of the advance copy of the written statement.

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 be also filed with the pleadings.

Admission/denial of documents shall be filed on affidavit by the parties within two weeks of the completion of the pleadings. The affidavit shall include the list of the documents of the other party. The deponent shall indicate its position with regard to the documents against the particulars of each document.

List the matter before Court on 7<sup>th</sup> May, 2018.

**I.A.No.1069/2018**

Issue notice to the defendants by all modes including *dasti*, returnable for 16<sup>th</sup> March, 2018 before the Joint Registrar.

It is pertinent to mention that present suit has been filed for permanent injunction restraining passing off, infringement of trademarks, copyright, dilution, rendition of accounts and damages.

In the plaint it is stated that the plaintiff-company was incorporated in 2006 with the intention of creating a healthy society through Yoga and Ayurveda. It is stated that, the plaintiff is a leading manufacturer and marketer of herbal, nature based products and herbal medicines under its

registered trademark PATANJALI.

It is stated in the plaint that, the plaintiff has one of the largest manufacturing facilities in the country and is the fastest growing FMCG Company in India. It is stated that, the plaintiff has more than 3,00,000 outlets all over the country and manufactures over 1000 products under the trade mark PATANJALI

It is the case of the plaintiff that the annual revenue generated by the plaintiff from the sale of its products under the mark PATANJALI in the financial year 2016-17 was Rs.9000 Crores approximately and the expenditure on advertising and promotion incurred by the plaintiff was Rs.570,00,00,000 Crores approximately.

Learned senior counsel for the plaintiff states that in February, 2017, it came to the knowledge of the plaintiff through market sources that, the defendants are trading under the name and style of M/S MAHARISHI PATANJALI PARIVAAR with respect to similar goods/services as of the Plaintiff. He states that subsequently in July 2016, it also came to the knowledge of the plaintiff that, Defendant No. 2 has applied for trademark registration of MAHARISHI PATANJALI PARIVAAR. A representation of the logo of the plaintiff and the defendants is reproduced hereinbelow:-



Learned senior counsel for the plaintiff states that, on 2<sup>nd</sup> March 2017, plaintiff sent legal notice to the defendants to not use the impugned mark MAHARISHI PATANJALI PARIVAR on their products. He further states that the defendants replied to the above mentioned notice on 15<sup>th</sup> March 2017, stating that PATANJALI is a proper Indian name and an ancient exponent of Raja Yog and the author of Yoga Sutras, a series of the verses about the eight steps needed to attain self-realisation and therefore, the plaintiff has no exclusive right upon the trademark in the name PATANJALI.

Learned senior counsel for the plaintiff states that the adoption of the impugned mark/logo amounts to unfair trade practice, unfair competition and dilution. He states that the use of the impugned trade mark and overall colour combination of the impugned trade mark/logo by the defendants is likely to cause confusion and/or deception in the minds of the consumers.

The Supreme Court in the case of *Midas Hygiene Industries P. Ltd. & Anr. vs. Sudhir Bhatia & Ors., 2004 (28) PTC 121 (SC)* has held that in case of infringement of trademark normally an injunction must follow and that delay is not fatal in bringing infringing action.

This Court is of the prima facie view that the mark in question has acquired a secondary significance and has come to denote the goods of plaintiff and therefore, it is entitled to restrain others from using it so as to deceive purchasers, notwithstanding that the mark is in a name of a person.

Keeping in view the aforesaid, this Court is of the opinion that a *prima facie* case of infringement of trade mark and copyright is made out in favour of the plaintiff and balance of convenience is also in its favour. Further, irreparable harm or injury would be caused to the plaintiff if an

interim injunction order is not passed.

Consequently, till further orders, the defendants, their associates, sister concerns, dealers, distributors through themselves and through servants, agents, stockists, assigns and representatives acting for and on their behalf are restrained from manufacturing, selling, offering for sale, advertising, directly or indirectly the impugned goods bearing or containing the impugned mark/word PATANJALI or any other artistic work/logo identical or deceptively/confusingly similar to plaintiff's work/logo PATANJALI.

Let the provisions of Order 39 Rule 3 CPC be complied within two weeks.

**MANMOHAN, J**

**JANUARY 23, 2018**

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