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

+ **CS(COMM) 822/2022**

AJINOMOTO CO INC Plaintiff

Through: Mr. Sudhir Chandra, Senior Advocate
with Mr. Pravin Anand, Mr. Dhruv
Anand, Ms. Udit Patro, Ms.
Sampurna Sanyal and Ms. Nimrat
Singh, Advocates.

versus

DATTATREY STUDIOS & ANR. Defendants

Through: None.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **28.11.2022**

I.A. 19850/2022 (under Order XI Rule 1(4) r/w Section 151 CPC seeking leave to file additional documents)

1. This is an application seeking leave to file additional documents under the Commercial Courts Act, 2015.
2. The Plaintiff, if they wish to file additional documents at a later stage, shall do so strictly as per the provisions of the said Act.
3. Accordingly, the application stands disposed of.

I.A. 19851/2022 (u/S 151 of CPC seeking exemption from filing originals, clearer copies, translated copies, left side margins and notarized documents)

4. Exemption is granted, subject to all just exceptions.
5. The Plaintiff shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.
6. Accordingly, the application stands disposed of.

I.A. 19852/2022 (u/S 149 r/w Section 151 CPC seeking extension of time for filing Court fees)

7. For the grounds and reasons stated in the application, the same is allowed. Time for paying deficient Court fee is enlarged by a period of one week from today.
8. Accordingly, application stands disposed of.

I.A. 19853/2022 (u/S 12A of the Commercial Courts, Commercial Division and Commercial Appellate Divisions of High Courts Act, 2015 r/w Section 151 of CPC seeking exemption from institution of pre-litigation mediation)

9. Having regard to the facts of the present case, exemption from attempting pre-institution mediation is allowed.
10. Accordingly, the application stands disposed of.

I.A. 19854/2022 (u/S 151 of CPC seeking exemption from advance service to Defendant No. 1)

11. Mr. Chandra states that an advance copy of the suit was served on Defendant No. 2, Director of Defendant No. 1. Considering the facts noted above, application is allowed and advance service to Defendant No. 1 is dispensed with.
12. The application stands disposed of.

I.A. 19849/2022 (under Order XI Rule 1, 3 and 5 r/w Section 151 of CPC seeking discovery, production and inspection of Defendant's documents)

13. Issue notice to Defendants, by all permissible modes, upon filing of process fee, returnable on the next date of hearing.

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14. Let the plaint be registered as a suit.

15. Issue summons, by all permissible modes, upon filing of process fee. Summons shall state that the written statement shall be filed by the Defendants within 30 days from the date of receipt of summons. The written statements shall be filed by the Defendants within 30 days from today. Along with the written statement, the Defendants shall also file an affidavit of admission/denial of the documents of the Plaintiff, without which the written statements shall not be taken on record.

16. Liberty is given to the Plaintiff to file replications within 15 days of the receipt of the written statements. Along with the replications, if any, filed by the Plaintiff, an affidavit of admission/denial of documents of the Defendants, be filed by the Plaintiff, without which the replications shall not be taken on record. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

17. List before the Joint Registrar for marking of exhibits on 02nd March, 2023. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

18. List before Court for framing of issues thereafter.

I.A. 19848/2022 (under Order XXXIX Rule 1 and 2 r/w Section 151 of the Code of Civil Procedure, 1908 (CPC) on behalf of Plaintiff seeking ex-parte ad-interim injunction)

19. The Plaintiff has filed the instant suit, *inter alia*, seeking permanent injunction restraining infringement of registered trademark “AJINOMOTO”, passing off, unfair competition, delivery up, rendition of accounts, damages, among other ancillary reliefs.

20. The case as set out in the plaint is as follows: Plaintiff, the largest seasoning manufacturer in Japan, adopted and registered the trademark “AJI-NO-MOTO”, primarily used for Monosodium Glutamate [“MSG”] and is manufactured and marketed by Plaintiff worldwide. The said trademark appears on other products manufactured by Plaintiff as well. “AJI-NO-MOTO” was coined by Plaintiff’s predecessor-in-title as a unique combination of words meaning “Essence of Taste” in Japanese. The trademark “AJI-NO-MOTO” in Japanese characters was first registered in Japan in the year 1909 and subsequently, in English characters in the year 1964.

21. Plaintiff entered the Indian market in the year 1954 with its MSG product bearing Plaintiff’s trademark. Since then, the Plaintiff operates its business in India through various subsidiaries and continues to be sold throughout India, till date. Plaintiff contends that it is a household name in the Indian market and AJI-NO-MOTO trademark is directly associated with Plaintiff.

22. Plaintiff’s grievance arises from title of an upcoming movie which uses Plaintiff’s trademark “AJI-NO-MOTO”. Plaintiff contends that the use of said title not only infringes its trademark rights, as the use is without

authorisation, but is also disparaging and defaming as Mr. Mathiraj Iyamperumal [Defendant No. 2] has made false public statements in relation to the Plaintiff's mark in the context of the film.

23. In that light, Mr. Sudhir Chandra, Senior Counsel for Plaintiff, draws the attention of the Court to an online publication in the magazine 'Outlook', wherein statements of the Director of the film were published, which are extracted as under:

"Talking about the film, director Iyamperumal says, "'Ajinomoto' is a flavour enhancer. But it is in fact a kind of poison that kills humans slowly. The story of 'Ajinomoto' has been conceived and crafted based on this concept of the cooking ingredient.

He further spoke about the duality of the film's characters, "Certain situations in this film will make some of the characters appear in it look good at one point. But just like how the ingredient can cause great danger subsequently, these characters can indulge in actions that can cause difficult consequences."

24. Mr. Chandra submits that although the film has not been released and contents thereof are not known to the public, however, it is blatantly clear that the storyline, as per the above statement, is conceived and fashioned metaphorically around the cooking ingredient which directly links to the Plaintiff. Considering the wide outreach of films, and the manner in which the story line is conceived, any negative portrayal is bound to severely prejudice Plaintiff's reputation in the market in respect of its products.

25. Further, Mr. Chandra states that as per Plaintiff's knowledge, film has not been certified by Central Board of Film Certification ["**CBFC**"] as yet. Even otherwise, he argues the title of a film is always subject to change, in light of the decision of Supreme Court in *Shri Babuji Rawji Shah v. S. Hussain Zaidi & Ors.*¹

¹ SLP (C) No. 15711/2021 dated 24 February, 2022.

26. In view of the fore-going, Plaintiff has made out a *prima facie* case in their favour; balance of convenience also lies in favour of the Plaintiff and against the Defendants; in case an *ex-parte* injunction is not granted, Plaintiff shall suffer irreparable loss.

27. Accordingly, till the next date of hearing, Defendants shall not release the film under the title “AJINOMOTO” or any film bearing an identical or deceptively similar title/ name in any format i.e., cinema hall release, DVD/ VCD release, release through OTT platforms, etc.

28. List before the Court on 12th December, 2022.

SANJEEV NARULA, J

NOVEMBER 28, 2022

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