



2025:DHC:6127



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

% *Reserved on: July 11, 2025*
Pronounced on: July 28, 2025

+ **CS(COMM) 42/2025, I.A. 1268/2025-Stay**

WATERWAYS LEISURE TOURISM PRIVATE LIMITED

.....Plaintiff

Through: Ms. Kripa Pandit, Mr. Prabhu
Tandon, Mr. Christopher Thomas,
Mr. Yash A. Arora, Advs.

Versus

MR. MUKESH PRASAD THAPLIYAL AND ORS..Defendants

Through: Ms. Kangana Roda, Ms. Apoorva
Sharma, Mr. Suneet Kumar Tyagi
and Ms. Amulya Kaushik, Advs.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

I.A. 1268/2025-Stay

Preface:

1. By virtue of the present judgment, this Court is proceeding to adjudicate upon the present application under *Order XXXIX rules 1 & 2* of the Code of Civil Procedure, 1908¹ of the plaintiff wherein it has sought an *interim injunction* for restraining the defendants and all others acting for and on their behalf, from marketing, using, soliciting, displaying, advertising and purveying including or through the online marketplaces, social media or by any other mode or manner dealing with the marks

¹Hereinafter referred as “CPC”



2025:DHC:6127



“CORDELIA

INN”/



(hereinafter collectively referred as ‘**Impugned Marks**’) or any other identically/ deceptively similar marks thereby amounting to infringement/ passing off of the plaintiff’s registered trademark “CRODELIA



CRUSES”/

under the Trade Marks Act, 1999².

Factual Narration:

2. The plaintiff, claiming to be the only company operating domestic premium cruise services in India, adopted the distinctive mark “Cordelia Cruises” immediately after its incorporation on 02.11.2020 for its ocean cruise tourism services, and subsequently registered the domain name www.cordeliacruises.com on 05.12.2020 for customer engagement as well as for its promotion.

3. In order to secure statutory protection, in January 2021, the plaintiff



also applied for registrations for the mark (device) in *Classes 39, 41, and 43* of the TM Act. The same has since been registered in each of the aforesaid Classes in the name of the plaintiff, and is/ are valid and subsisting till date.

4. The defendant nos.1 & 3, through a Lease Agreement executed with defendant no.2,³ are operating a hotel business in Rishikesh, Uttarakhand

²Hereinafter referred as “*the TM Act*”

³Since defendant nos.1 to 3 are related parties, they are hereinafter collectively referred as “*Defendants*”.



2025:DHC:6127





under the marks



Since August 2022, the defendants claim to have been operating in the market under the said marks and have also registered the domain name www.hotelcordeliainn.com in their name in the same month. Thereafter, on 04.08.2022, the defendant no.1 applied for registration of the mark



vide trademark application no. 5558558 in *Class 43* of the TM Act before the Trade Marks Registry, which, in its Examination Report dated 28.12.2022 raised an objection under *Section 11* of the TM

Act, and cited the plaintiff's registered mark . Thereafter, the said mark  of the defendant no.1 was subsequently advertised with a condition that "*REGISTRATION OF THIS TRADE MARK SHALL GIVE NO RIGHT TO EXCLUSIVE USE OF THE WORD CORDELIA*".

5. On coming to know of the defendant no.1's aforesaid application in August 2024, the plaintiff issued a Cease-and-Desist notice dated 22.08.2024, calling upon defendant no.1 to withdraw his trademark application and discontinue the use of the impugned mark. However, since the defendant no.1 failed to comply with the request of the plaintiff, the plaintiff proceeded to institute the present suit with the present application.

Submissions by learned counsel for plaintiff:

6. Ms. Kripa Pandit, learned counsel for the plaintiff has made the following submissions:-



2025:DHC:6127



6.1. The plaintiff, immediately after its inception in November 2020, adopted the distinctive mark “Cordelia Cruises” in a *bona fide* manner, to represent its ocean cruise tourism services. In December 2020, the plaintiff also got the domain name www.cordeliacruises.com registered in its name. Soon, on 04.01.2021, the plaintiff also applied for registrations for its



mark in *Classes 39, 41, and 43* of the TM Act, which have since been duly registered in its name in each of the aforesaid Class/s. As of now, the plaintiff is thus the registered proprietor thereof.



6.2. The plaintiff has been continuously using the trademark since 2021 and therefore by virtue of *Section 28* of the TM Act, it enjoys exclusive rights to use the trademark and also to obtain relief in respect of infringement and passing off of the said trademark against third parties.

6.3. Over the years, the plaintiff has achieved significant success and goodwill in the hospitality industry, which are evident from its increase in turnover from just Rs.30.92 lakhs in financial year 2020-2021 to Rs.48,538.26 lakhs in financial year 2022-2023. Moreover, the plaintiff has been conferred with various recognitions and awards since its inception for its impeccable services offered.

6.4. The defendant no.1 in an attempt to imitate the trademark of the plaintiff, has not only dishonestly adopted a deceptively similar mark

CORDELIA INN

, but also filed an application for its registration on a ‘*proposed to be used*’ basis on 04.08.2022 *vide* trademark application no.5558558. The aforesaid acts clearly indicate an attempt to ride upon the



2025:DHC:6127



goodwill and reputation attached with the plaintiff's trademark .
Not stopping there, the defendants, without any cause or reason, have also



adopted the impugned marks and ,
which are also deceptively and confusingly similar to the registered



trademark belonging to the plaintiff.

6.5. The defendants have wholly copied/ retained the distinctive/ prominent element of the plaintiff's mark i.e., the word "Cordelia", and have simply replaced the word "Cruises" with a descriptive suffix/ prefix, such as "Inn" or "Hotel" which does not make the mark distinctive, and an average customer of imperfect recollection is likely to recollect only the term "Cordelia" and not other ancillary features in the mark. Moreover, since the rival marks are device marks, the test of infringement is the test of the prominent word of the mark, which in this case is clearly "Cordelia". Ms. Kripa Pandit placed reliance upon *Kaviraj Pandit Durga Dutt Sharma v. Navaratna Pharmaceutical Laboratories*⁴, *Pluto Travels India Private Limited v. PTW Holidays Private Limited*⁵ and *Jaquar and Company Private Limited v. Ashirvad Pipes Private Limited*⁶.

⁴(1965) 1 SCR 737


⁵2025 SCC OnLine Del 3364


⁶2024 SCC OnLine Del 2281



2025:DHC:6127




6.6. What is alarming is that the defendants were fully aware of the plaintiff's pre-existing trademark in the same Class as also for similar services as the Trade Marks Registry, in its Examination Report dated 28.12.2022 in the application for registration of the mark  vide application no.5558558 in Class 43 of the TM Act, while raising an

objection under Section 11 of TM Act, cited the plaintiff's mark .

6.7. The *mala fide* of the defendants is apparent since even after receipt of the Cease-and-Desist notice on 22.08.2024 on the defendant no.1, they continued using the impugned marks for hotel and hospitality services.

6.8. Moreover, since as per the Invoices filed by the defendants, they commenced usage thereof only since the year 2022, whereas the plaintiff has been continuously using the mark since before that, i.e. from the year 2021 and is thus the 'prior user' thereof. The plaintiff is also the prior

registrant of the trademark . Thus, the plaintiff is not only the prior

user but also the prior registrant of the trademark . Therefore, the plaintiff has better rights than the defendants. Reliance was placed upon ***Somany Ceramics Limited v. Shri Ganesh Electric Co. & Others***⁷.

6.9. Since both the plaintiff and defendants are promoting/ advertising/ listed their services on the same websites such as *Goibibo*, *TripAdvisor*, *EaseMyTrip* and *MakeMyTrip*, there exists actual likelihood of confusion

⁷2022 SCC OnLine Del 3270



and an unwary consumer can mistakenly associate the defendant's mark with the plaintiff.

6.10. By adopting the impugned marks, while retaining the prominent component of the plaintiff's mark, the defendants are trying to mislead unwary consumers into believing that there is some sort of association between the plaintiff and defendants, even though there is none. The defendants cannot be allowed to use an identical and deceptively similar impugned marks, more so, since they are engaged in similar nature of business i.e., hospitality industry which is relating to both 'cruise services' and 'hotel services' as they are allied and cognate services, particularly, since both fall within the realm of hospitality sector as also cater to the similar consumer base.

7. In the wake of the afore-going submissions, Ms. Kripa Pandit sought passing of an interim injunction against the defendants till disposal of the present suit.

Submissions by learned counsel for defendants:

8. Refuting the aforesaid submissions, Ms. Kangana Roda, learned counsel for the defendants has made the following submissions:-

8.1. The defendants' impugned mark was adopted in a *bona fide* manner and in good faith in August 2022, based on availability searches and the mark "Cordelia" was coined by combining the word "Cor", which is a Latin word meaning 'heart' and "Delia" a German word meaning 'pleasant'.

8.2. The plaintiff cannot claim exclusive rights over the word "Cordelia" *per se*, as the plaintiff holds a device mark registration only and has not secured a word mark registration for "Cordelia" and any right of plaintiff,



2025:DHC:6127



if at all, lie in the composite mark “Cordelia Cruises”. Moreover, the term “Cordelia”, is linguistically generic word and commonly used across various industries and therefore in no circumstances the plaintiff can claim exclusive rights over such a word.

8.3. The defendants are the prior adopter and user in respect of services falling under *Class 43*, which as per the defendants, relates only to hotel and lodging services on land and does not include cruise services. The plaintiff failed to produce any document or invoice showing use in respect of hotel or lodging services on land, whereas, the defendants have placed on record Invoices and supporting documents dating back to 30.09.2022, evidencing use in respect of hotel services.

8.4. The plaintiff operates luxury sea cruises, while the defendants operates a small, land-based hotel in Rishikesh and therefore, trade channels, customer base, and prices of their respective services are distinct and non-overlapping and thus there can be no reason for confusion amongst the customer. Moreover, the plaintiff has also not provided any documents evidencing any actual or likelihood of confusion between the two marks.

8.5. The rival marks when viewed in whole, the impugned marks of defendants are distinctly dissimilar from that of the plaintiff. The plaintiff uses a stylized “C” logo with curved, pink-purple elements resembling sails or waves which reinforces its maritime connection whereas the impugned marks of the defendants explicitly features the word/s ‘hotel’ and ‘inn’, in addition to “Cordelia” signifying a place of lodging on land and in a way completely changes the commercial impression, target audience and service nature.



8.6. Overall, under the aforesaid circumstances, the plaintiff neither has established a *prima facie* case nor has demonstrated any actual financial or reputational loss. On the contrary, the plaintiff's business has grown exponentially and the defendants are running a small business and stand to suffer disproportionately if injunction is granted. Thus, the balance of convenience overwhelmingly tilts in favour of the defendants, therefore, they should not be enjoined.

8.7. To support her submissions, Ms. Kangana Roda placed reliance upon *Dalpat Kumar v. Prahlad Singh*⁸, *Kaviraj Pandit Durga Dutt Sharma v. Navaratna Pharmaceutical Laboratories*⁹, *Registrar of Trademarks v. Ashok Chandra Rakhit*¹⁰, *Institute of Directors v. Worlddevcorp Technology & Business Solution Pvt. Ltd.*¹¹, *Amritdhara Pharmacy v. Satyadeo Gupta*¹², *M/s. Nandhini Deluxe v. M/s. Karnataka Cooperative Milk Producers Federation Ltd.*¹³, *Sanjha Chulha v. Sanjha Chulha & Ors.*¹⁴, *Vishnudas Trading as Vishnudas v. The Vazir Sultan Tobacco Co. Ltd.*¹⁵, *Mittal Electronics v. Sujata Home Appliances Pvt. Ltd. & Anr.*¹⁶, *RSPL Health Pvt. Ltd. v. Sun Pharma Laboratories Limited & Anr.*¹⁷, *Schering Corporation v. Alkem Laboratories Ltd.*¹⁸,

⁸(1992) 1 SCC 719

⁹1965 AIR 980

¹⁰1955 AIR 558

¹¹2023 SCC OnLine Del 7841

¹²1963 AIR 449

¹³AIR 2018 SUPREME COURT 3516

¹⁴2022/DHC/004586

¹⁵366 1996 SCALE (5)267

¹⁶ 2020(83) PTC 358 (DEL)

¹⁷ FAO (COMM) 65/2025

¹⁸ 2009 SCC OnLine Del 3886



2025:DHC:6127



***Wander Ltd. & Anr. v. Antox India Pvt. Ltd.*¹⁹, *Vasundhara Jewellers Pvt. Ltd. v. Kirat Vinodbhai Jagwani & Anr.*²⁰.**

9. In the end, Ms. Kangana Roda sought dismissal of the present application for injunction.

Rejoinder submissions by learned counsel for plaintiff:

10. In her rejoinder, Ms. Kripa Pandit reiterated her submissions, as captured hereinabove.

Reasoning and analysis:

11. This Court has heard the submissions advanced by the learned counsel for the parties and have examined the documents placed on record, along with the case law cited at the Bar.

12. Prior to proceeding on merits involved, this Court finds that there is no dispute by the defendants that the plaintiff has adopted the trademark



prior to them and thus is the prior user thereof; or that the plaintiff is also the prior registrant for the said trademark in at least three Classes; or that the plaintiff is engaged in providing services relating to luxury cruises tourism and the defendants are engaged in providing services relating to land-based hotel business in Rishikesh; or that the defendant no.1 applied for registration of the mark **CORDELIA INN** on a ‘proposed to be used’ basis and that it has since been opposed by the plaintiff herein; or that both the plaintiff and the defendants are visibly

¹⁹ 1990 (Supp) SCC 727

²⁰ 2022 SCC OnLine Del 3370



2025:DHC:6127



present on various travelling/ hospitality websites accessible to one and all.

13. The documents before this Court reflect that the plaintiff first adopted the trademark “Cordelia Cruises” in November 2020, and then obtained registration of the domain name www.cordeliacruises.com in December 2020, and that plaintiff has also applied for registrations of the



trademark in *Classes 39, 41, and 43* of the TM Act, on 04.01.2021, to protect its rights in the mark, and has subsequently obtained registration thereof in its name in each of the aforesaid Classes; and that the plaintiff has also filed relevant documents in the form of ‘WHO.IS’ record of its website, invoice receipt for the purchase of domain



name, sale invoices under the mark since September 2021 and Chartered Accountant certificate from the year 2020 onwards. Thus, the plaintiff has been able to show that it is both, the prior adopter and the




prior user of the trademark . In view thereof, this Court can hardly agree with the submissions of learned counsel for the defendants that they are either the prior adopter or the prior user of the impugned marks in *Class 43*.


14. It cannot be disputed that both plaintiff and defendants are catering to the hospitality industry, and that they are offering services to the same class of customers and are operating through the same trade channels, and that they are offering their services from the very same mediums,



including but not limited to, social media platforms over the internet. Thus, both plaintiff and defendants are offering *allied and cognate services*. Class 43 pertains to “*services for providing food and drink; temporary accommodation*”. The explanatory note²¹ of Class 43 uses the phrase “*other establishments providing temporary accommodation*”. In effect, Class 43 includes all such places where a person may stay for a short period. Cruise ships, indeed are such places offering short term accommodation along with food, beverage, and recreational amenities. In essence, cruise ships perform the same function as hotel, *albeit*, in a maritime setting. Both cater to the same segment of consumers and falls within the realm of hospitality industry. Thus, this Court has no reason to agree with the submissions made by learned counsel for the defendants that the defendants are not providing the same services or that they are operating in different fields having no connection with each other.

15. As such, the reasoning for adoption of the impugned marks by the defendants do not sound plausible, more so, since the defendants were

well aware of the registered trademark  of the plaintiff.

16. Also, having applied for registration of the impugned mark , the defendants cannot contend that the word “Cordelia” is a linguistically generic word and commonly used across various industries and therefore in no circumstances the plaintiff can claim exclusive rights

²¹Class 43 includes mainly services provided by persons or establishments whose aim is to prepare food and drink for consumption and services provided to obtain bed and board in hotels, boarding houses or other establishments providing temporary accommodation.



over such a word. Reliance in this regard is placed upon ***Automatic Electric Ltd. v. R.K. Dhawan***²² wherein this Court has categorically held as under:-

17. The defendants got their trade mark “DIMMER DOT” registered in Australia. The fact that the defendant itself has sought to claim trade proprietary right and monopoly in “DIMMER DOT”, it does not lie in their mouth to say that the word “DIMMER” is a generic expression. User of the word “DIMMER” by others cannot be a defence available to the defendants, if it could be shown that the same is being used in violation of the statutory right of the plaintiff. In this connection, reference may be made to the decision of this Court in Prakash Roadline Ltd. v. Prakash Parcel Service (P) Ltd., 1992 (2) Arbitration Law Reporter page 174. Reference may also be made to the decision in P.M. Diesels Ltd. v. S.M. Diesels, 53 (1994) Delhi Law Times 742. It was held in those decision that if the plaintiff is a proprietor of the registered trade mark, the same gives to the proprietor of the registered trade mark the exclusive right to use the trade mark with relation to goods in respect of which the trade mark is registered under the provisions of Section 28 of the Trade and Merchandise Marks Act. It was also held that such statutory right cannot be lost merely on the question of principles of delay, laches or acquiescence. It was also held that in general mere delay after knowledge of infringement does not deprive the registered proprietor of a trade mark of his statutory rights or of the appropriate remedy for the enforcement of those rights so long as the said delay is not an inordinate delay. In my considered opinion, the ratio of the aforesaid decisions are squarely applicable to the facts of the present case.

[Emphasis supplied]

18. Moreover, the contention that the plaintiff has no exclusive right over the word “Cordelia”, since it only holds a registration for a device mark, being untenable, is liable to be rejected in light of the law laid down by the Division Bench of this Court in ***United Biotech Pvt. Ltd. v. Orchid Chemicals & Pharmaceuticals Ltd. & Ors.***²³, wherein the Hon’ble

²²1999 SCC OnLine Del 27

²³2012 (50) PTC 433 (Del) (DB)



Division Bench referred to a judgment of Hon'ble Supreme Court in ***Registrar of Trade Marks v. Ashok Chandra Rakhit Ltd.***²⁴, and held as follows:-

"We find that the Learned Single Judge rightly held that when a label mark is registered, it cannot be said that the word mark contained therein is not registered. We, thus, are of the opinion that although the word "ORZID" is a label mark, the word "ORZID" contained therein is also worthy of protection. The Learned Single Judge has rightly observed that the judgment of the Supreme Court in Ramdev Food Products Ltd. (supra) is a complete answer. This aspect is considered and the argument of the Appellant is rejected in the following words:

"27. On whether the OCPL could successfully ask for rectification for UBPL's word mark FORZID notwithstanding that OCPL held registration only for a label mark, the judgment of the Supreme Court in Ramdev Food Products Ltd. v. Arvindbhai Rambhai Patel AIR 2006 SC 3304: 2006 (33) PTC 281 (SC) is a complete answer. The Court there referred to an earlier decision in Registrar of Trademarks v. Ashok Chandra Rakhit AIR 1955 SC 558: PTC (Suppl) (1) 1 (SC), which concerned the proprietary mark 'Shree' which formed part of the device as a whole and was an important feature of the device. The Supreme Court observed that registration of a trademark as a whole would give the proprietor "a right to the exclusive use of the word "Shree" as if separately and by itself". Therefore, it would not be correct for UBPL to contend that the registration held by OCPL does not cover the word mark ORZID".

We are in agreement with the aforesaid approach..."

[Emphasis supplied]

19. In any event, a comparison of the rival marks in issue reflects that the defendants have wholly incorporated the word "Cordelia", and merely replaced the word "cruises" with descriptive prefix/ suffix "Inn" or "Hotel", *qua* which it has been categorically held by the Hon'ble Supreme

²⁴AIR 1955 SC 558



2025:DHC:6127



Court in *Ruston & Hornsby Ltd. v. Zamindara Engineering Co.*²⁵ as also by this Court in *KSB Aktiengesellschaft & Ors. v. KSB Global Limited*²⁶, *Cotton Ltd. v. Mohamamd Rafi & Ors.*²⁷ and *Subhash Chand Bansal v. Khadim's and Ors.*²⁸, that merely adding a prefix/ suffix to an existing mark does not make the offending mark any different/ distinct. Accordingly, the defendants by just appending “Inn” or “Hotel” to the plaintiff’s mark, cannot claim immunity from infringement, as the resulting marks still remains highly deceptive and consumers of average intelligence are likely to associate the origin of defendants’ services with that of plaintiff.

20. This Court is also mindful of the fact that the rival marks are device marks, *albeit*, with the prominent word “Cordelia” in both of them. The word/s like “hotel”, “inn” or visual elements such as a building, or a tagline by the defendants cannot cut any ice. An average person with imperfect recollection is likely to identify it with the word “Cordelia” and not any other ancillary elements and therefore, the adoption of the name “Cordelia” by defendants, amounts to infringement. In this connection, reference may also be made to the decision rendered by a learned Single Judge of this Court in *MAX Healthcare Institute Ltd. v. Sahrudya Health Care Pvt. Ltd.*²⁹, as also by the undersigned recently in *Pluto Travels India Private Limited v. PTW Holidays Private Limited*³⁰.

²⁵(1969) 2 SCC 727

²⁶(2011) 45 PTC 103 (Del.)

²⁷2011 (46) PTC 468 (Del.)

²⁸2012 SCC OnLine Del 4326

²⁹2019 SCC OnLine Del 9036

³⁰ 2025 SCC OnLine Del 3364



2025:DHC:6127



21. Considering the similarity between the rival marks, and as also since the services offered by plaintiff and the defendants comes within the realm of hospitality industry, and that they cater to the same set of customers, and that the plaintiff is the registered proprietor of the



trademark , and that both plaintiff and the defendants are advertising/ promoting/ listing their services on common social media platforms and online travel agencies such as *Goibibo*, *TripAdvisor*, *EaseMyTrip* and *MakeMyTrip*, there is a real likelihood of confusion between the general public as also the members of the trade, if the defendants are not enjoined from using the impugned trademarks. The defendants cannot be allowed to derive any benefit by simply making minor changes to a registered trademark of the plaintiff and passing off themselves/ their services as that of the plaintiff. More so, whence one of



the impugned marks of the defendants being is having the reference of palm trees, which in reality is nowhere related/ connected with them and/ or their services. This is with a view to give an impression to a common man that the defendants are connected with the plaintiff.

22. In view of the facts and circumstances involved herein, reliance by the defendants upon *Vishnudas (supra)* as also on *Nandhini Deluxe (supra)*, can of be of no assistance.



2025:DHC:6127



Conclusion:

23. In view of the aforesaid, the plaintiff is entitled to the benefit of *Section 28* of the TM Act by virtue whereof a registered proprietor like the plaintiff has the exclusive right to use the trademark and to obtain appropriate relief(s) in respect of infringement thereof, against any third parties like the defendants.

24. Thus, the plaintiff has been able to make out a *prima facie* with the *balance of convenience* for an interim injunction in its favour and against the defendants. If the same is not granted, the circumstances are such that the plaintiff is likely to suffer *irreparable harm, loss and injury* which cannot be compensated in terms of money.

25. Accordingly, in view of the afore-noted reasoning and analysis, till the pendency of the suit:

a. The defendants and all others acting for and on their behalf are restrained from marketing, using, soliciting, displaying, advertising and purveying including or through the online marketplaces, social media or by any other mode or manner dealing

with the marks “CORDELIA INN”/



or any other identically/ deceptively similar marks thereby amounting to infringement or passing off of

the plaintiff registered trademark “CRODELIA CRUSES”/






2025:DHC:6127



b. The defendants are directed to forthwith take down/ block/ delete all references made under the impugned mark containing the word mark '**CORDELIA**' and/ or any other marks/ device/ logo that is deceptively similar and/ or identical to the plaintiff's

registered trade mark '**CORDELIA CRUISES**' /  / from the third-party websites including but not limited to the websites/ URL(s) as mentioned in paragraph no.32 of the plaint and/ or any other third-party webpage/ website/ social media post/ blog/ online locations created, authorized or operated directly or indirectly by the defendants.

c. Defendants are also restrained from using the domain name <https://hotelcordeliainn.com/> and the email address info@hotelcordeliainn.com and are directed to block/ suspend and transfer the aforesaid domain and associated email in favour of the plaintiff.

26. In view of the aforesaid, the present application is allowed and disposed of.

CS(COMM) 42/2025

27. List before the learned Joint Registrar for admission-denial and marking of exhibits on 23.09.2025.

SAURABH BANERJEE, J.

JULY 28, 2025/AB