



2025:DHC:3280



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

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Date of decision: 28th April, 2025

+ CS(COMM) 180/2024 and I.A. 4770/2024

ABHI TRADERS

.....Plaintiff

Through: Mr. Anshuman Upadhyay,
Mr. Naseem, Ms. Shreyas Mehrotra
& Mr. Manish Kumar, Advocates.

versus

FASHNEAR TECHNOLOGIES
PRIVATE LIMITED & ORS.

.....Defendants

Through: None.

CORAM:**HON'BLE MR. JUSTICE AMIT BANSAL****AMIT BANSAL, J. (Oral)**

1. The present suit has been filed seeking relief of permanent injunction restraining the defendants from infringing the copyright of the plaintiff, passing off their products as that of the plaintiff, along with other ancillary reliefs.

PLEADINGS IN THE PLAINT

2. The plaintiff, Abhi Traders, is engaged in the business of clothing for women and men since December, 2021. The plaintiff itself designs and manufactures the said goods and sells them under its trademark 'Ibrana/
IBRANA'.

3. The plaintiff is the owner of proprietary rights in various photographs used for advertising and promotion of the plaintiff's products i.e. designer ethnic clothing for females. The said photographs were taken by the plaintiff and designed by professional designers for the sake of consideration in



favour of the plaintiff without any agreement to contradictory. Hence, under Section 17(b) of the Copyright Act, 1957, the plaintiff is the first owner of copyrights on the original and artistic designs of its products, and the photographs/pictures showing dresses designed for/by the plaintiff, photographed from different angles as to showcase the originally created designs of women's wear manufactured by the plaintiff.

4. The plaintiff's products bearing the mark 'Ibrana' are advertised and promoted through photographs over which the plaintiff's copyright subsists. The sales turnover associated with the said copyrighted photographs for the financial year 2022-2023 was to the tune of Rs. 2,42,52,909/-. During the period April, 2021 to December, 2022, the sales of the plaintiff's products associated with the plaintiff's copyright are given in paragraph 12(iv) of the plaint. The plaintiff's promotional expenses to run advertisements of its products on the online retail platform of the defendant no.1 during the period December 2021 - February 2024 are given in paragraph 12(vi) of the plaint.

5. On the platform of the defendant no.1, the plaintiff has an average rating of 4.0 with over 30,250 ratings and 6060 reviews by the consumers. The plaintiff's products are one of the most sought after products in the relevant category on various ecommerce platforms including that of defendant no. 1 and the same is evident from the huge numbers of views, clicks, monthly orders, etc. that the plaintiff generates for its products on the online retail platform of the defendant no. 1, as tabulated in paragraph 12(v) of the plaint.

6. Defendant no. 1, Fashnear Technologies Private Limited, runs one of the upcoming e-commerce platforms by the name 'Meesho' in India.

7. In the month of January, 2024, the plaintiff came across the third



party sellers impleaded as defendants no. 2, 3, 4, 5, 6, 7, 8 and 9, who, without any association or authorisation from the plaintiff, use the plaintiff's copyrighted pictures and photographs and sell their own counterfeit goods thereunder on the online platform owned, run, managed and administered by the defendant no. 1. The defendant no.10/ Ashok Kumar(s) are unknown entities who are unlawfully using the plaintiff's products' images over which the copyright of the plaintiff subsists.

8. On gaining knowledge of the aforesaid unlawful activities, the plaintiff made representations before the defendant no.1 on 30th January, 2024 and 23rd February, 2024. However, the defendant no.1 failed to disclose the details of the defendants no. 2-9.

9. Accordingly, the plaintiff filed the present suit on 27th February, 2024 seeking to restrain the defendants from carrying on their infringing activities.

PROCEEDINGS IN THE SUIT

10. On 29th February, 2024, this Court granted an *ad interim* injunction in favour of the plaintiff restraining the defendants no.2-9 from showcasing their products on the defendant no.1's platform, and prohibited them from reproducing, copying, publishing, or imitating any designs of the plaintiff's clothing. This Court also prohibited the defendants no.2-9 from reproducing any images related to the plaintiff's products, including the impugned photographs. In the same injunction order, the defendant no.1 was directed to disclose all available details of the defendants no. 2-9 including the address, mobile numbers, email addresses, total sales made by them, GST details etc., since the time listings have been put up.

11. Pursuant to the aforesaid order, the defendant no.1 has disclosed the



particulars of the defendants no. 2-9 to the counsel for the plaintiff.

12. *Vide* order dated 3rd July, 2024, the defendant no.1's written statement was taken on record subject to payment of costs.

13. *Vide* order dated 29th July, 2024, the Joint Registrar noted that the defendants no. 2, 3, 4, 7, 8 and 9 were served on 3rd May, 2024, the defendant no. 6 was served through email on 1st May, 2024 and the defendant no.5 was served on 22nd March, 2024. Despite this, the defendants no. 2-9 did not enter appearance and no written statement(s) were filed on behalf of the defendants no. 2-9.

14. On 1st August, 2024, the defendant no.5 was proceeded against *ex-parte*.

15. The present suit has already been decreed *qua* the defendant no.1 *via* order dated 19th March, 2025 on the basis of an undertaking given by the defendant no.1 in its written statement. In the same order, it was noted that the defendants no. 2-9 have not filed their written statement(s) and the defendants no. 2-4 and 6-9 were proceeded against *ex-parte*.

16. The plaintiff now seeks a decree against the defendants no. 2-9 in terms of Order VIII Rule 10 of the Code of Civil Procedure, 1908 (hereinafter, 'CPC').

ANALYSIS AND FINDINGS

17. I have heard the submissions of Mr. Anshuman Upadhyay, learned counsel for the plaintiff and also perused the material on record.

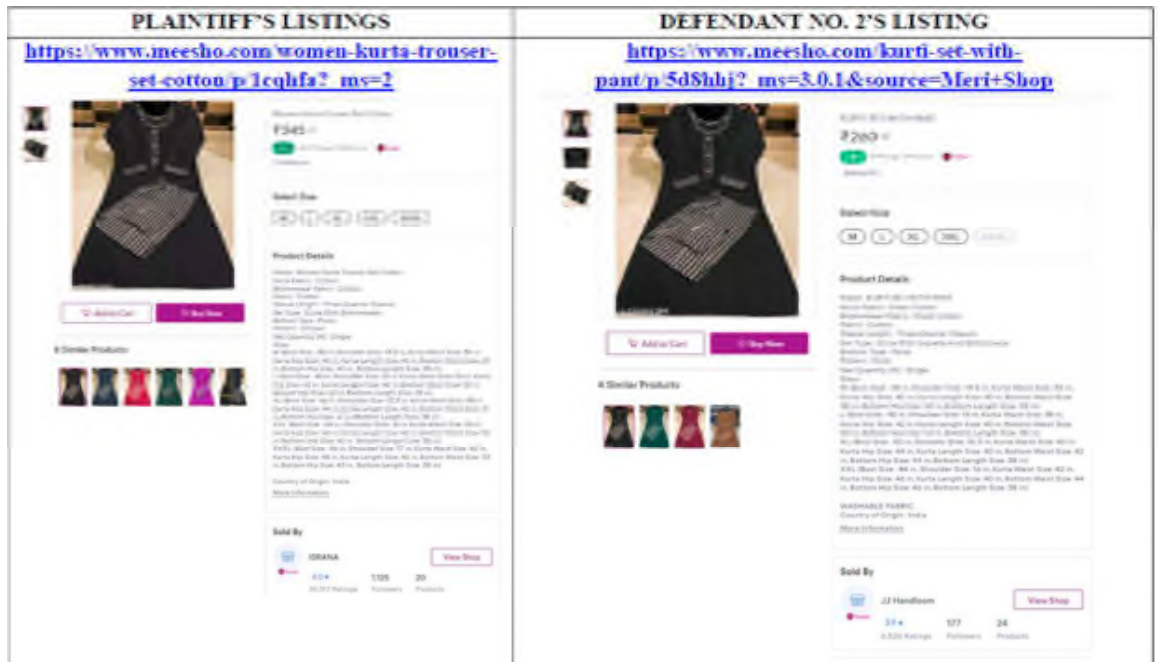
18. The plaint has been duly verified and is also supported by the affidavit of the plaintiff. In view of the fact that no written statement has been filed on behalf of the defendants no. 2-9, all the averments made in the plaint have to be taken to be admitted. Further, since no affidavit of



admission/denial has been filed on behalf of the defendants no. 2-9 in respect of the documents filed with the plaint, in terms of Rule 3 of the Delhi High Court (Original Side) Rules 2018, the same are deemed to have been admitted. Therefore, in my opinion this suit does not merit trial and the suit is capable of being decreed in terms of Order VIII Rule 10 of CPC.

19. From the averments made in the plaint and the evidence on record, the plaintiff has been able to prove that due to its long and continuous use, the plaintiff has acquired copyright in photographs used for advertising and promotion of the plaintiff's products.

20. The plaintiff has placed on record the images used by the defendants no. 2-9 to promote its products to show that the defendants no. 2-9 are indulging in infringement and passing off of the plaintiff's copyrighted photographs. The similarities between the plaintiff's copyrighted photographs and the defendants no. 2-9's impugned listings are set out below:









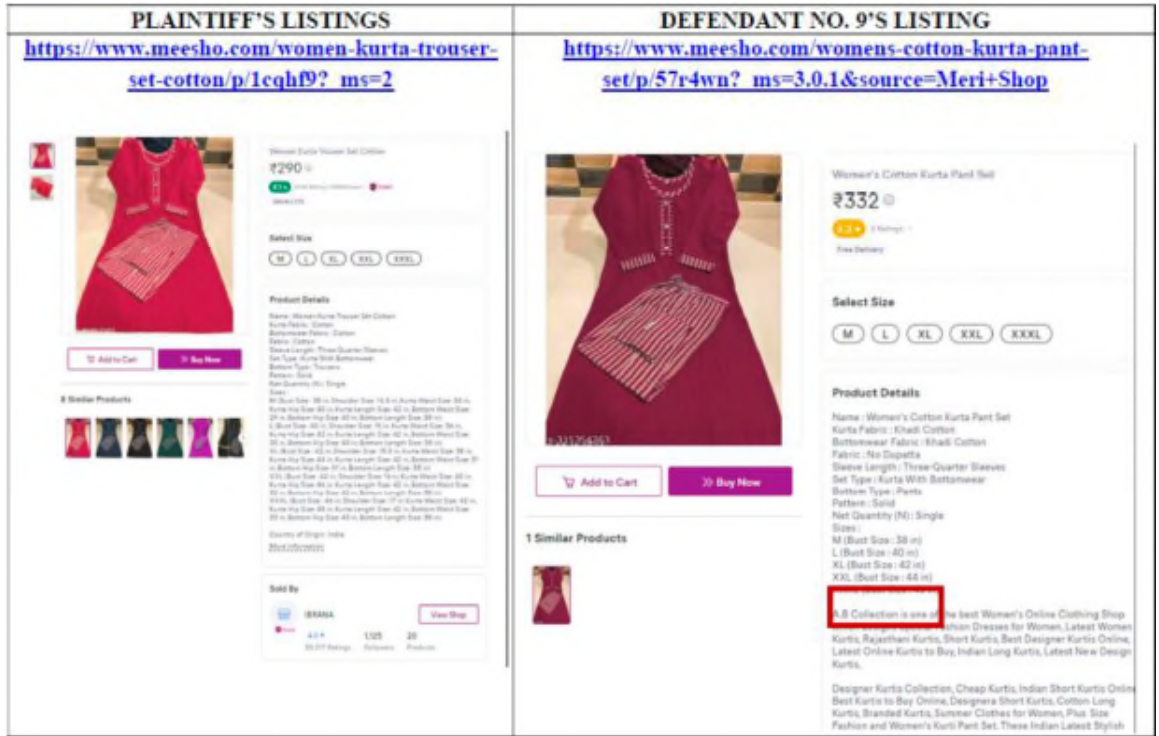
PLAINTIFF'S LISTINGS	DEFENDANT NO. 5'S LISTING
<p style="text-align: center;">https://www.meesho.com/kurti-pant-for-women/p/64x0ev? ms=2</p> <div style="border: 1px solid #ccc; padding: 5px;"> <p>KURTI PANT FOR WOMEN ₹447 1.1x (17 Ratings, 0 Reviews) New Free Delivery</p> <p>Select Size M L XL XXL XXXL</p> <p>Product Details Name: KURTI PANT FOR WOMEN Kurta Fabric: Cotton Bottomwear Fabric: Cotton Fabric: Cotton Sleeve Length: Three Quarter Sleeve Set Type: Kurta With Dupatta And Bottomwear Bottom Type: Pants Pattern: Solid Neck Quantity (M): Single Size: M, L, XL, XXL, XXXL Country of Origin: India View Information</p> <p>Sold By IBRANA New 4.5 1,122 19 (6,270) Ratings Followers Products</p> <p>6 Similar Products</p> </div>	<p style="text-align: center;">https://www.meesho.com/kurti-pant-with-dupatta-for-women/p/5gmzjh? ms=2</p> <div style="border: 1px solid #ccc; padding: 5px;"> <p>Kurti Pant with Dupatta for Women ₹402 1.1x (10 Ratings, 0 Reviews) New Free Delivery</p> <p>Select Size M L XL XXL XXXL</p> <p>Product Details Name: Kurti Pant with Dupatta for Women Kurta Fabric: Khadi Cotton Bottomwear Fabric: Khadi Cotton Fabric: Khadi Cotton Sleeve Length: Three Quarter Sleeve Set Type: Kurta With Dupatta And Bottomwear Bottom Type: Pants Pattern: Solid Neck Quantity (M): Single Size: M, L, XL, XXL, XXXL Country of Origin: India View Information</p> <p>Sold By S.A. ENTERPRISES New 4.5 71 35 (2,767) Ratings Followers Products</p> <p>3 Similar Products</p> </div>

PLAINTIFF'S LISTINGS	DEFENDANT NO. 6'S LISTING
<p style="text-align: center;">https://www.meesho.com/kurta-sets/p/4v8gvv? ms=2</p> <div style="border: 1px solid #ccc; padding: 5px;"> <p>Kurta Set ₹398 1.1x (107 Ratings, 0 Reviews) New Free Delivery</p> <p>Select Size M L XL XXL XXXL</p> <p>Product Details Name: Kurta Set Kurta Fabric: Cotton Fabric: Cotton Bottomwear Fabric: Cotton Sleeve Length: Three Quarter Sleeve Pattern: Solid Set Type: Kurta with Dupatta and Bottomwear Neck Type: Strapped Neck Quantity (M): Single Size: M, L, XL, XXL, XXXL Country of Origin: India View Information</p> <p>Sold By IBRANA New 4.5 1,125 20 (6,272) Ratings Followers Products</p> <p>8 Similar Products</p> </div>	<p style="text-align: center;">https://www.meesho.com/women-kurta-trouser-with-dupatta-set-cotton/p/55vaks? ms=2&source=Meri+Shop</p> <div style="border: 1px solid #ccc; padding: 5px;"> <p>Women Kurta Trouser With Dupatta Set Cotton ₹330 1.1x (107 Ratings, 0 Reviews) New Delivery 0%</p> <p>Select Size S M L XL XXL XXXL</p> <p>Product Details Name: Women Kurta Trouser With Dupatta Set Cotton Make a winning choice for an upcoming occasion by getting trendy yet classy this kurta with flared pant and dupatta, and finish your ensemble.</p> <p>Size: S (Short Size: 36 in, Top Length Size: 42 in, Bottom Waist Size: 30 in, Bottom Length Size: 37 in, Dupatta Length Size: 2.25 in, Shoulder Size: 15 in) M (Short Size: 38 in, Top Length Size: 42 in, Bottom Waist Size: 32 in, Bottom Length Size: 37 in, Dupatta Length Size: 2.25 in, Shoulder Size: 16 in) L (Short Size: 40 in, Top Length Size: 42 in, Bottom Waist Size: 34 in, Bottom Length Size: 37 in, Dupatta Length Size: 2.25 in, Shoulder Size: 16 in) XL (Short Size: 44 in, Top Length Size: 42 in, Bottom Waist Size: 36 in, Bottom Length Size: 37 in, Dupatta Length Size: 2.25 in, Shoulder Size: 16 in) XXL (Short Size: 46 in, Top Length Size: 42 in, Bottom Waist Size: 38 in, Bottom Length Size: 37 in, Dupatta Length Size: 2.25 in, Shoulder Size: 16 in) XXXL (Short Size: 48 in, Top Length Size: 42 in, Bottom Waist Size: 40 in, Bottom Length Size: 37 in, Dupatta Length Size: 2.25 in, Shoulder Size: 16 in) Country of Origin: India View Information</p> <p>Sold By CREATION LEEY New 4.5 235 39 (9,207) Ratings Followers Products</p> <p>3 Similar Products</p> </div>



<p>PLAINTIFF'S LISTINGS</p> <p>https://www.meesho.com/women-kurta-trouser-set-cotton/p/1cqhfa? ms=2</p>  <p>Women Kurta Trousers Set Cotton ₹345</p> <p>Select Size: M, L, XL, XXL, XXXL</p> <p>Product Details: Name: Women Kurta Trousers Set Cotton Kurta Fabric: Cotton Bottomwear Fabric: Cotton Sleeve: Full Sleeves Sleeve Length: Three Quarter Sleeves Set Type: Kurta With Bottomwear Bottom Type: Pants Pattern: Striped Net Quantity (N): Single Size: M (Bust Size: 38 in, Shoulder Size: 14.5 in, Kurta Waist Size: 34 in, Kurta Hip Size: 40 in, Kurta Length: Size 40 in, Bottom Waist Size: 30 in, Bottom Hip Size: 40 in, Bottom Length: Size 30 in), L (Bust Size: 40 in, Shoulder Size: 15 in, Kurta Waist Size: 36 in, Kurta Hip Size: 42 in, Kurta Length: Size 40 in, Bottom Waist Size: 32 in, Bottom Hip Size: 42 in, Bottom Length: Size 30 in), XL (Bust Size: 42 in, Shoulder Size: 15.5 in, Kurta Waist Size: 38 in, Kurta Hip Size: 44 in, Kurta Length: Size 40 in, Bottom Waist Size: 34 in, Bottom Hip Size: 44 in, Bottom Length: Size 30 in), XXL (Bust Size: 44 in, Shoulder Size: 16 in, Kurta Waist Size: 40 in, Kurta Hip Size: 46 in, Kurta Length: Size 40 in, Bottom Waist Size: 36 in, Bottom Hip Size: 46 in, Bottom Length: Size 30 in), XXXL (Bust Size: 46 in, Shoulder Size: 16.5 in, Kurta Waist Size: 42 in, Kurta Hip Size: 48 in, Kurta Length: Size 40 in, Bottom Waist Size: 38 in, Bottom Hip Size: 48 in, Bottom Length: Size 30 in)</p> <p>Sold By: IBRANA</p>	<p>DEFENDANT NO. 7'S LISTING</p> <p>https://www.meesho.com/lurex-dark-2-kurta-sets/p/37a080? ms=3.0.1</p>  <p>LUREX DARK-2 Kurta Sets ₹367</p> <p>Select Size: S, M, L, XL, XXL, XXXL</p> <p>Product Details: Name: LUREX DARK-2 Kurta Sets Kurta Fabric: Khadi Cotton Bottomwear Fabric: Khadi Cotton Fabric: Khadi Cotton Sleeve Length: Three Quarter Sleeves Set Type: Kurta With Bottomwear Bottom Type: Pants Pattern: Striped Size: S, M, L, XL, XXL, XXXL Country of Origin: India</p> <p>Sold By: NATIONAL TEXTILES</p>
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<p>PLAINTIFF'S LISTINGS</p> <p>https://www.meesho.com/kurti-pant-set/p/64x0er? ms=2</p>  <p>Kurti Pant Set ₹379</p> <p>Select Size: M, L, XL, XXL, XXXL</p> <p>Product Details: Name: Kurti Pant Set Kurta Fabric: Cotton Bottomwear Fabric: Cotton Sleeve Length: Three Quarter Sleeves Pattern: Solid Set Type: Kurti with Dupatta and Bottomwear Set Type: Striped Net Quantity (N): Single Size: M, L, XL, XXL, XXXL Country of Origin: India</p> <p>Sold By: IBRANA</p>	<p>DEFENDANT NO. 8'S LISTING</p> <p>https://www.meesho.com/kurti-with-sharara-and-dupatta-set/p/5chvmd? ms=3.0.1&source=Meri+Shop</p>  <p>kurti with sharara and dupatta set ₹387</p> <p>Select Size: M, L, XL, XXL, XXXL</p> <p>Product Details: Name: kurti with sharara and dupatta set Kurta Fabric: Cotton Fabric: Cotton Bottomwear Fabric: Cotton Sleeve Length: Three Quarter Sleeves Pattern: Solid Set Type: Kurti with Dupatta and Bottomwear</p> <p>Net Quantity (N): Single IBR ENTERPRISES is one of the best Women's Online Clothing Fashion Dresses for Women, Latest Women Kurta, Fashionable, Best Designer Kurtis Online, Latest Online Kurtis to Buy Indian Long Kurtis, Latest New Design Kurtis.</p> <p>Designer Kurtis Collection, Cheap Kurtis, Indian Short Kurtis Online, Best Kurtis to Buy Online, Designers Short Kurtis, Cotton Long Kurtis, Striped Kurtis, Summer Clothes for Women, Plus Size Fashion and Women's Kurti Pant Set, These Indian Latest Stylish Summer Women Kurtis are attractive, good looking and available in many different colors.</p> <p>Happy Shopping #kurtipantsetforwomen #kurtipantset #kurtiback</p>
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21. On a perusal of the defendants no. 2-9's listings, it is evident that the photographs used are identical to the plaintiff's copyrighted photographs and the defendants no. 2-9 have substantially reproduced the plaintiff's copyrighted photographs.

22. Based on the discussion above, a clear case of infringement of copyright is made out. The defendants no. 2-9 have taken unfair advantage of the reputation and goodwill of the plaintiff's copyrighted works and has also deceived the unwary consumers of its association with the plaintiff by dishonestly adopting the plaintiff's copyrighted works without any plausible explanation. Therefore, the plaintiff has established a case of passing off as well.

23. At this stage, it may be relevant to note that the defendants no. 2-9 did not appear before the Court, despite service of summons. Further, no communication on behalf of the defendants no. 2-9 have been placed on



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record in respect of the allegations of the plaintiff in this suit.

24. Since the defendants no. 2-9 have failed to take any requisite steps to contest the present suit, despite having suffered an *ad interim* injunction order, it is evident that they have no defence to put forth on merits.

RELIEF

25. In view of the foregoing analysis, a decree of permanent injunction is passed in favour of the plaintiff and against the defendants no. 2-9 in terms of prayer clauses 45(A) and 45(B) of the plaint.

26. Counsel for the plaintiff does not press for the remaining reliefs *qua* defendants no. 2-9.

27. Further, counsel for the plaintiff does not press for any reliefs *qua* defendant no.10.

28. Let the decree sheet be drawn up.

29. All pending applications stand disposed of.

AMIT BANSAL, J

APRIL 28, 2025

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