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

+ **CS(COMM) 632/2023 and I.A. 17330/2023-17335/2023**

**MS. RITU BHADANI TRADING AS M/S SANSKAR TRADING  
COMPANY** ..... Plaintiff

Through: Mr. Vishal Patel, Adv. (M:  
9711023307)

versus

**MR. PARAS KUMAR TRADING AS M/S INDIAN TRADING  
COMPANY** ..... Defendant

Through: None.

**CORAM:  
JUSTICE PRATHIBA M. SINGH**

**ORDER**  
% **11.09.2023**

1. This hearing has been done through hybrid mode.

**I.A. 17334/2023 (for exemption)**

2. This is an application filed by the Plaintiff seeking exemption from filing the Legal Proceeding Certificate and originals/certified/cleared/typed or translated copies of documents, left side margins, electronic documents, etc. Original documents shall be produced/filed at the time of Admission/Denial, if sought, strictly as per the provisions of the Commercial Courts Act, 2015 and the DHC (Original Side) Rules, 2018.

3. Exemption is allowed, subject to all just exceptions.

4. Let the Legal proceeding certificates be filed within two weeks of receipt. Accordingly, application is disposed of.

**I.A. 17332/2023 (for additional documents)**

5. This is an application on behalf of the Plaintiff seeking leave to file and rely on additional documents in support of its claims at a later stage



under the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (hereinafter, 'Commercial Courts Act, 2015'). The Plaintiff, if it wishes to file additional documents at a later stage, shall do so strictly as per the provisions of the Commercial Courts Act, 2015 and the DHC (Original Side) Rules, 2018.

6. Accordingly, application is disposed of.

**I.A. 17333/2023 (u/S 12A of the Commercial Courts Act)**

7. This is an application filed by the Plaintiff seeking exemption for instituting pre-litigation mediation. In view of the orders passed in ***Chandra Kishore Chaurasia v. R A Perfumery Works Private Ltd, 2022/DHC/004454***, the application is allowed and disposed of.

**I.A.17335/2023 (exemption from advance service to the Defendants)**

8. In view of the fact that the Plaintiff has sought *ex parte ad-interim* injunction along with the appointment of the Local Commissioner, the exemption from advance service to the Defendant is granted.

9. Application is disposed of.

**CS (COMM) 632/2023, I.As.17330/2023 (u/O XXXIX Rules 1 & 2 CPC) & 17331/2023 (u/O XXVI Rule 9 CPC)**

10. Let the plaint be registered as a suit.

11. This is a case where the Plaintiff seeks enforcement of its right in the mark '*STJONSON*', which is registered in its favour. The Plaintiff uses the said name and mark for readymade garments, hosiery, and other allied products. The Plaintiff is aggrieved by the Defendant's use of the mark '*ITC JOHNSON*' for identical set of products. Both the Plaintiff and the Defendant are located in Gandhi Nagar. The Plaintiff's trademark bearing no.1305922 is registered in class 25 and the Plaintiff also has pending



applications in class 35. The Plaintiff found out in the year 2021 that the Defendant started using the mark '*ITC JOHNSON*' and similar logo form when during the course of a routine market survey in Delhi, plaintiffs sales person discovered shirts under the identical and similar trademark as that of the Plaintiff.

12. The Plaintiff issued a legal notice on 13<sup>th</sup> October, 2021. The Defendant sent a reply in November, 2021 refusing to change the mark and also claimed that the marks are different from the Plaintiff's mark. The Defendant thereafter filed an application bearing No. 3940404 for the registration of the trademark ITC JOHNSON with respect to clothing (readymade garments), foot wear, head gear etc. included in class-25 claiming user as "*proposed to be used*", which has been opposed by the Plaintiff dated 14<sup>th</sup> January, 2022.

13. Considering the history of proceedings between the parties and the fact that the Plaintiff got the knowledge of this infringement in 2021 and bearing in mind the Plaintiff's trademark registration, the Defendant is given opportunity to represent itself for consideration of the interim injunction relief. The Plaintiff has substantial goodwill with more than Rs.11 crores sales in the last financial year 2022-23. It is seen that they have also taken action for enforcement of its rights in the mark by filing other proceedings as well.

14. Under these circumstances, let the summons and notice be served *dasti* upon the Defendant. On the said date, the matter shall be considered for *ad interim* relief. If the Defendant wishes to file any reply or documents, it is free to do so. No adjournment shall be granted on the next date of hearing. The Defendant shall also place on record the stock statement of the



existing stock of the mark '*ITC JOHNSON*' on the next date of hearing.

15. List before Court on 4<sup>th</sup> October, 2023 on top of the board.

**PRATHIBA M. SINGH, J.**

**SEPTEMBER 11, 2023/dk/ks**