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

+ **CS(COMM) 502/2026**

**MOTI MAHAL DELUX MANAGEMENT SERVICES PVT LTD &
ORS.**Plaintiffs

Through: Ms. Shreya Sethi and Mr. Anirudh
Bhatia, Advocates.

versus

M/S ZIKRA HOTELS AND RESTAURANTS LLP & ANR.

.....Defendants

Through: None.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

% **14.05.2026**

I.A. 13289/2026 (Exemption)

1. This is an application filed on behalf of the plaintiffs under Section 151 of Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') seeking permission to file Legal Proceeding Certificates.

2. Exemption allowed, subject to just exceptions. However, the Legal Proceeding Certificates of the trademarks registered in favour of the plaintiffs as mentioned in paragraph nos. 4-6 of this application be filed within four weeks with an advance copy to the defendants.

3. The application stands disposed of.

I.A. 13290/2026 (Pre-Institution Mediation)

4. This is an application filed by the plaintiffs seeking exemption from instituting pre-litigation Mediation under Section 12A of the Commercial Courts Act, 2015.

5. As the present matter contemplates urgent interim relief, in light of the judgment of the Supreme Court in *Yamini Manohar vs. T.K.D. Keerthi*:

CS(COMM) 502/2026

Page 1 of 17



(2024) 5 SCC 815, exemption from the requirement of pre-institution Mediation is granted.

6. The application stands disposed of.

I.A. 13291/2026 (Seeking Additional time to file Court fees)

7. The present application has been filed by the plaintiffs under Section 149 read with Section 151 of CPC, seeking exemption from payment of Court Fees at the time of the filing of the suit.

8. Considering the submissions made in the present application, an extension of one week is granted to affix the requisite court fees.

9. The application stands disposed of.

I.A. 13292/2026(Exemption)

10. This is an application filed on behalf of the plaintiffs under Section 151 of CPC seeking exemption from filing English translated copies of documents.

11. Exemption allowed, subject to just exceptions. However, English translated copies of documents with proper margins be filed within four weeks with an advance copy to the defendants.

12. The application stands disposed of.

I.A. 13391/2026 (Exemption)

13. This is an application filed on behalf of the plaintiffs under Section 151 of CPC seeking exemption from filing lengthy list of dates.

14. Exemption allowed, subject to just exceptions. However, lengthy list of dates be filed within four weeks with an advance copy to the defendants.

15. The application stands disposed of.

I.A. 13288/2026 (Order XXXIX Rules 1 & 2, CPC)

16. Present application has been filed on behalf of the plaintiffs under Order XXXIX Rules 1 & 2 of CPC, 1908 seeking *ex-parte ad-interim* injunction against the defendants.



17. It is claimed by the plaintiffs that plaintiff nos.1 to 3 and defendant no.2 are the registered proprietors of the trademark 'MOTI MAHAL'. Plaintiff no.1 is stated to be the registered proprietor of trademarks 'MOTI MAHAL', 'MOTI MAHAL GROUP', 'MOTI MAHAL MANAGEMENT SERVICES' and plaintiffs nos.1 to 2 and 4 are registered proprietors of the trademark 'TANDOORI TRAIL'.

18. It is asserted by the plaintiffs that the distinctive and unique trademark 'MOTI MAHAL' was first coined and adopted by Late Mr. Kundan Lal Gujral, grandfather of plaintiff no.2 and defendant no.2, and father-in-law of plaintiff no.3 in the year 1920, when the first restaurant under the mark MOTI MAHAL was opened by him. After demise of Late Mr. Kundan Lal Gujral, plaintiffs and defendant no.2 have taken over the responsibility of *inter alia* carrying on business operations and entering into Franchise Arrangements etc., under the brand MOTI MAHAL. It is further asserted by the plaintiffs that the plaintiff no.2 incorporated a company i.e., plaintiff no.1 with plaintiff no.4 on 23.11.2004.

19. It is stated by the plaintiffs that, over the years, MOTI MAHAL brand has shown exponential growth from 7 standalone restaurants to a global chain of restaurants with over 100 plus franchises across the world under diverse brands such as 'MOTI MAHAL', 'MOTI MAHAL DELUX TANDOORI TRAIL', 'MOTI MAHAL KEBAB TRAIL', 'MOTI MAHAL CHAT TRAIL', 'MOTI MAHAL DOSA TRAIL' to name a few. As per the plaintiffs, in October, 2020, the brand celebrated 100 years of its existence.

20. It is also stated by the plaintiffs that in order to secure statutory rights in the MOTI MAHAL mark, plaintiffs nos.2 to 3 and defendant no.2 have obtained registrations, which are as follows:



TRADEMARK	NUMBER	DATE / USER CLAIM	CLASS	STATUS AS PER REGISTRY'S ONLINE OFFICIAL RECORDS	CURRENT REGISTRANT
MOTI MAHAL	580007	28.08.1992/ Year 1947	29	Registered and valid till 28.08.2026	Plaintiff nos. 2-3 and defendant no.2
Goods: Meat, fish chicken, poultry, meat extracts, preserved, dried and cooked fruits and vegetables, jellies, jams, eggs, milk and other dairy products, edible oils and fats, preserves, pickles.					
MOTI MAHAL	1249495	13.11.2003/ 01.01.1947	42	Registered and valid till 13.11.2033	Plaintiff nos. 2-3 and defendant no.2
Services: Providing of food and drink, temporary accommodation, medical, hygienic and beauty care, veterinary and agricultural services, legal scientific and industrial research, computer programming.					
MOTI MAHAL	2219470	13.10.2011/ 01.01.1947	43	Registered and valid till 13.10.2031	Plaintiff nos. 2-3 and defendant no. 2
Services: Providing services of food and drink: restaurant; consultation services relating to food; catering; hospitality services food hygiene services; temporary accommodation included in class 43.					

21. It is further stated by the plaintiffs that registration bearing no.580007 was in the name of Late Mr. Kundan Lal Gujral and after his death a request on Form TM-16 was filed, which was allowed and while plaintiffs nos.2 to 3 and defendant no.2 are the recorded owners, rectification proceedings initiated by son of defendant no.2 are pending. Plaintiffs also state that, plaintiff no.1 is also the rightful, exclusive and prior owner of the trademarks as follows:



TRADEMARK	NUMBER	DATE/ USER CLAIM	CLASS	STATUS AS PER REGISTRY' S WEBSITE	CURRENT REGISTRAN T
MOTI MAHAL GROUP	2673704	06.02.2014 / 31.12.2003	43	Registered and valid till 06.02.2034	Plaintiff No. 1
SERVICES: services for providing food and drink, temporary accommodation.					
MOTI MAHAL GROUP	2673702	06.02.2014 / 31.12.2003	35	Registered and valid till 06.02.2034	Plaintiff No. 1
SERVICES: advertising business management, business administration and office functions.					
MOTI MAHAL	2673703	06.02.2014 / 31.12.2003	41	Registered and valid till 06.02.2034	Plaintiff No. 1
SERVICES: education providing of training, sporting and cultural activities.					
MOTI MAHAL MANAGEMENT SERVICES	1246463	29.10.2003	35	Registered and valid till 29.10.2033	Plaintiff No. 1
SERVICES: Advertising business management, business administration and office function.					
TANDOORI TRAIL	2445621	20.12.2012 / 19.11.2003	43	Registered and valid till 20.12.2032	Plaintiff No. 1
SERVICES: Providing food and drink, restaurant, consultation services relating to food, catering, hospitality services, food hygienic services, temporary accommodation included in class 43.					
TANDOORI TRAIL	2704541	24.03.2014 / 19.11.2003	43	Registered and valid till 24.03.2034	Plaintiff No. 1
SERVICES: services for providing food and drink, temporary accommodation.					

22. It is stated that, in addition to the aforesaid registrations, plaintiff nos.2 and 4 also have registration in the mark TANDOORI TRAIL in classes 29 and 42 as detailed in paragraph 12 of the plaint and plaintiffs no.1 to 3 and defendant no.2 have applied for further registrations as detailed in paragraph 13 of the plaint. Plaintiff nos.1 to 2 also have registrations in other countries



such as the USA, UAE, Bahrain, Japan, Singapore etc. Plaintiffs use oval devices represented in a stylized manner which is an original artistic work and in which plaintiffs have a copyright by virtue of Section 17 of the Copyright Act, 1957. Plaintiffs have been extremely vigilant in protecting their intellectual property rights and have initiated several oppositions before the Registrar of Trade Marks as also filed legal proceedings in this Court and District Courts seeking injunctions against third parties violating their statutory and common law rights, details of which are furnished in paragraph 17 of the plaint. Many *ex-parte ad-interim* injunction orders are stated to have been granted by this Court, as detailed in paragraph 17 of the plaint.

23. It is stated that goodwill, reputation and popularity of MOTI MAHAL marks can be seen from the revenues generated by Plaintiff no.1's franchisees from 2010-2011 till 2023-2024, as follows:

YEAR	REVENUES (IN INR)
2010-2011	24,40,36,019.00
2011-2012	34,45,20,893.50
2012-2013	32,48,98,146.20
2013-2014	33,75,95,125.36
2014-2015	35,65,89,654.00
2015-2016	37,54,87,745.00
2016-2017	32,49,08,880.00
2017-2018	35,98,56,451.00
2018-2019	40,98,66,873.00
2019-2020	32,89,38,569.00
2020-2021	19,68,62,880.00
2021-2022	30,86,29,510.28
2022-2023	40,44,45,183.37
2023-2024	47,13,03,361.00

24. It is stated that plaintiffs have spent huge money on marketing,



advertising and promotions of their marks in print and electronic media and advertising expenditure from 2010-2011 till 2024-2025 is as follows:

YEAR	ADVERTISEMENT EXPENSES (IN INR)
2010-2011	8,76,184.00
2011-2012	6,46,345.00
2012-2013	3,01,772.00
2013-2014	2,87,258.13
2014-2015	2,19,169.00
2015-2016	3,42,848.00
2016-2017	2,96,228.00
2017-2018	3,25,457.00
2018-2019	3,86,454.00
2019-2020	3,25,457.00
2020-2021	3,93,935.91
2021-2022	5,55,831.55
2022-2023	7,86,573.46
2023-2024	16,58,587.00
2024-2025	33,07,703.28

25. Plaintiffs state that the defendant no.1 approached the plaintiffs for entering into a Franchise Agreement for the purpose of managing and running a restaurant under the mark/name 'MOTI MAHAL DELUX TANDOORI TRAIL' at and after discussion, a Franchise Agreement was executed on 26.07.2022 for a period of 72 months from the date of commencement of the restaurant by the said defendant.

26. Clauses 5.4 and 5.5 provided that the defendants acknowledged that it had no right in the name 'MOTI MAHAL DELUX TANDOORI TRAIL' or any other brand during the term of the agreement. As per clause 6.1 – 6.3 and 6.6 of the Franchise Agreement, the defendant no.1 had undertaken not to directly or indirectly identify itself with the plaintiff no.1 or any of its



registered trademarks.

27. It is alleged that the defendant no.1 failed and/or neglected to pay the franchise fee for the month of July, 2021 – November, 2025, despite repeated demands and requests. Thus, the plaintiff no.1 was constrained to issue a termination notice dated 18.12.2025 calling upon the defendant no.1 to pay the franchise fee for the stated period amounting to Rs.7,69,440/- alongwith penalty of Rs.2,53,12,327/-. Simultaneously, the defendant was directed to cease the operation of the restaurant and all use of the mark ‘MOTI MAHAL DELUX TANDOORI TRAIL’.

28. Since the defendant no.1 is alleged to have not responded to the termination notice, the plaintiff no.1 was constrained to issue a Cease and Desist Notice on 11.01.2026. However, it is stated that the defendant no.1 yet again failed to comply with the demands raised in the Cease and Desist Notice.

29. It is stated that in order to check whether defendant no.1 was complying with the requirements in the termination notice dated 18.12.2025 or the Cease and Desist Notice dated 11.01.2026, the plaintiffs conducted an on-line investigation. The said investigation is stated to have revealed that the defendant no.1 was continuing to carry on operation of the restaurant under the mark “MOTI MAHAL DELUX TANDOORI TRAIL”/



30. Plaintiffs allege that not only is the defendant no.1 continuing an illegal and unlawful use of the mark ‘MOTI MAHAL DELUX TANDOORI



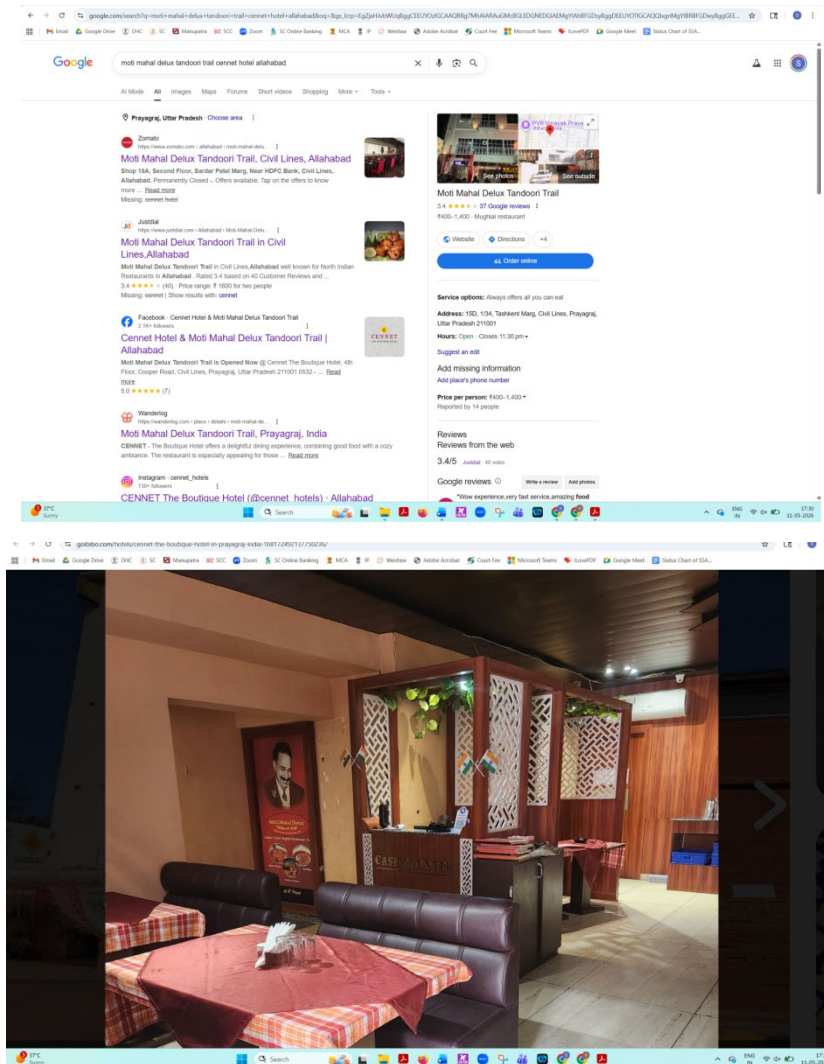
TRAIL’/ but also has dishonestly adopted and used the marks ‘MOTI MAHAL’ and ‘MOTI MAHAL DELUX’ also. Plaintiffs claim that the defendant no.1 has slavishly copied the plaintiff no.1’s earlier well known trademarks and its continued use demonstrates not only dishonesty but also *mala fide* of the defendant no.1. The photographs depicting the unlawful and dishonest adoption of the aforesaid marks of the plaintiff no.1 are extracted hereunder:

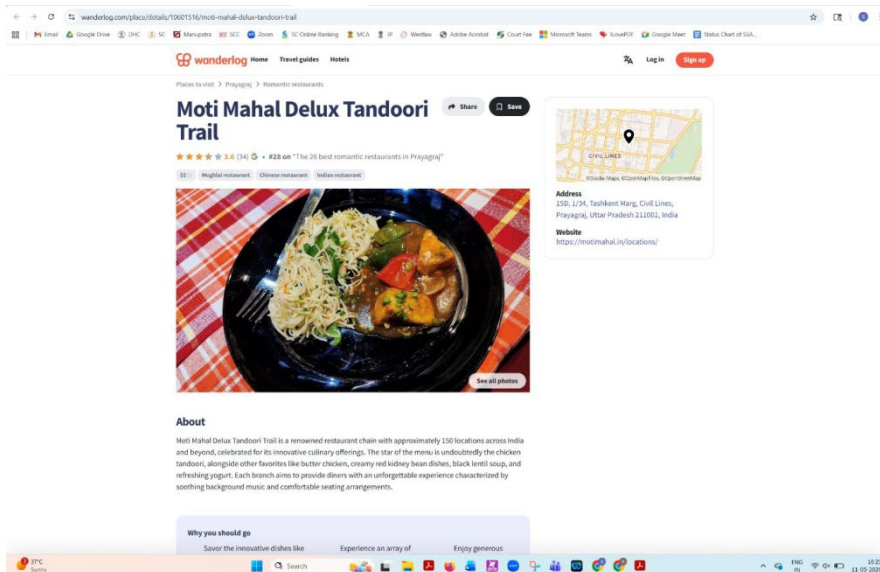
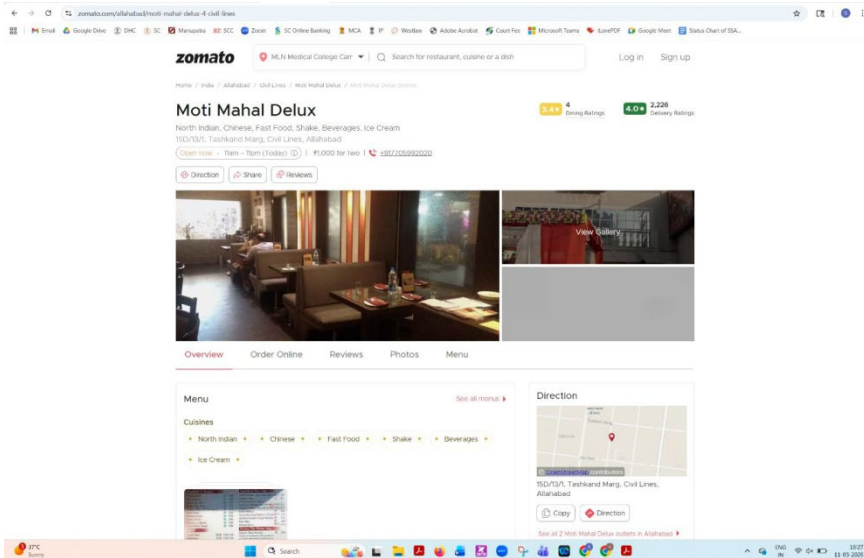
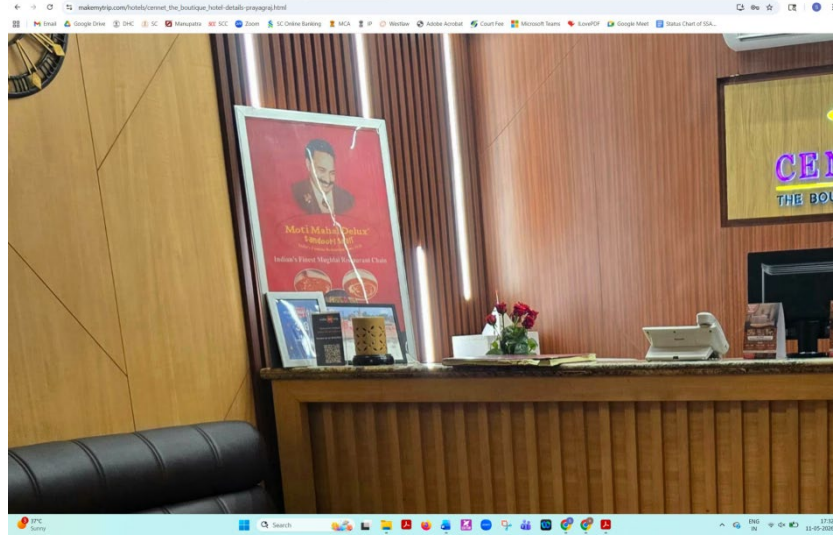


31. Plaintiffs claim that such acts violate and infringe plaintiff no.1’s earlier well known registered trademarks, passing off and are an obvious attempt to mislead the consumers and ride on the immense goodwill and reputation earned by the plaintiff no.1 over last more than 100 years. It is



stated that such unauthorised use is bound to cause confusion and deception in the minds of general public and members of the trade who may believe that the goods and services being offered by the defendant no.1 under the registered marks of the plaintiff no.1 are either those of the plaintiff no.1 itself or are associated with it. Plaintiffs also claims that the unauthorised use of the marks of the plaintiff no.1 by the defendant no.1 is also apparent from the fact of use on various social media websites like Google.com, Gobibo.com, Makemytrip, Zomato, Swiggy, Facebook, Instagram etc. whereby the defendant no.1 offers its services and goods. The screenshots of some such websites is as under:

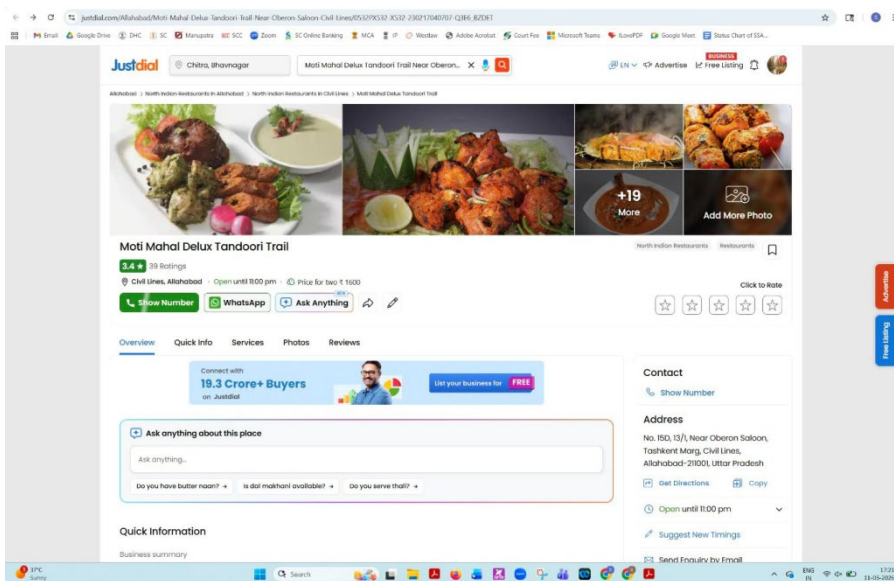
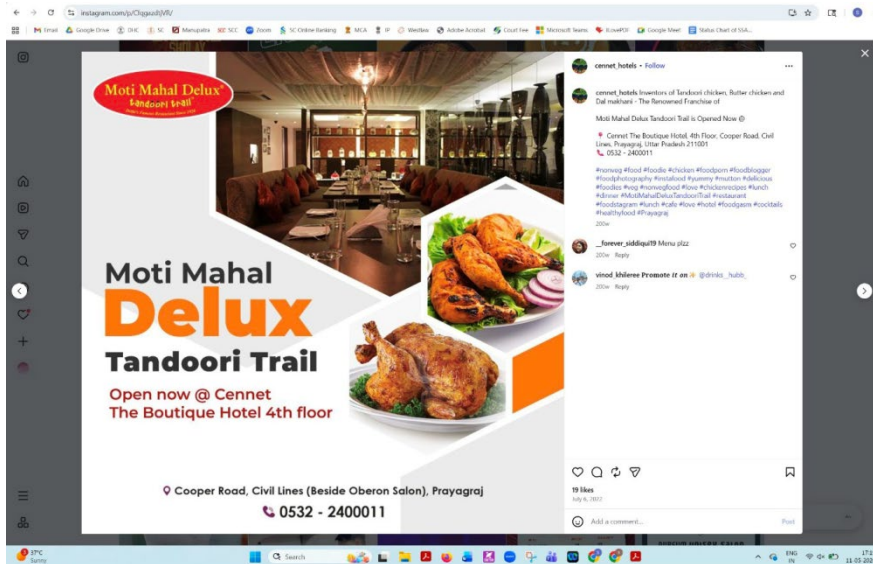
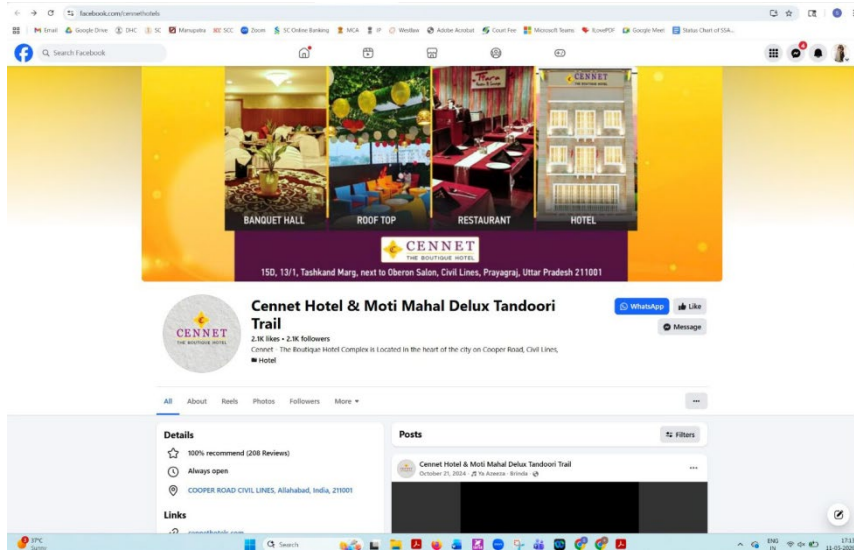


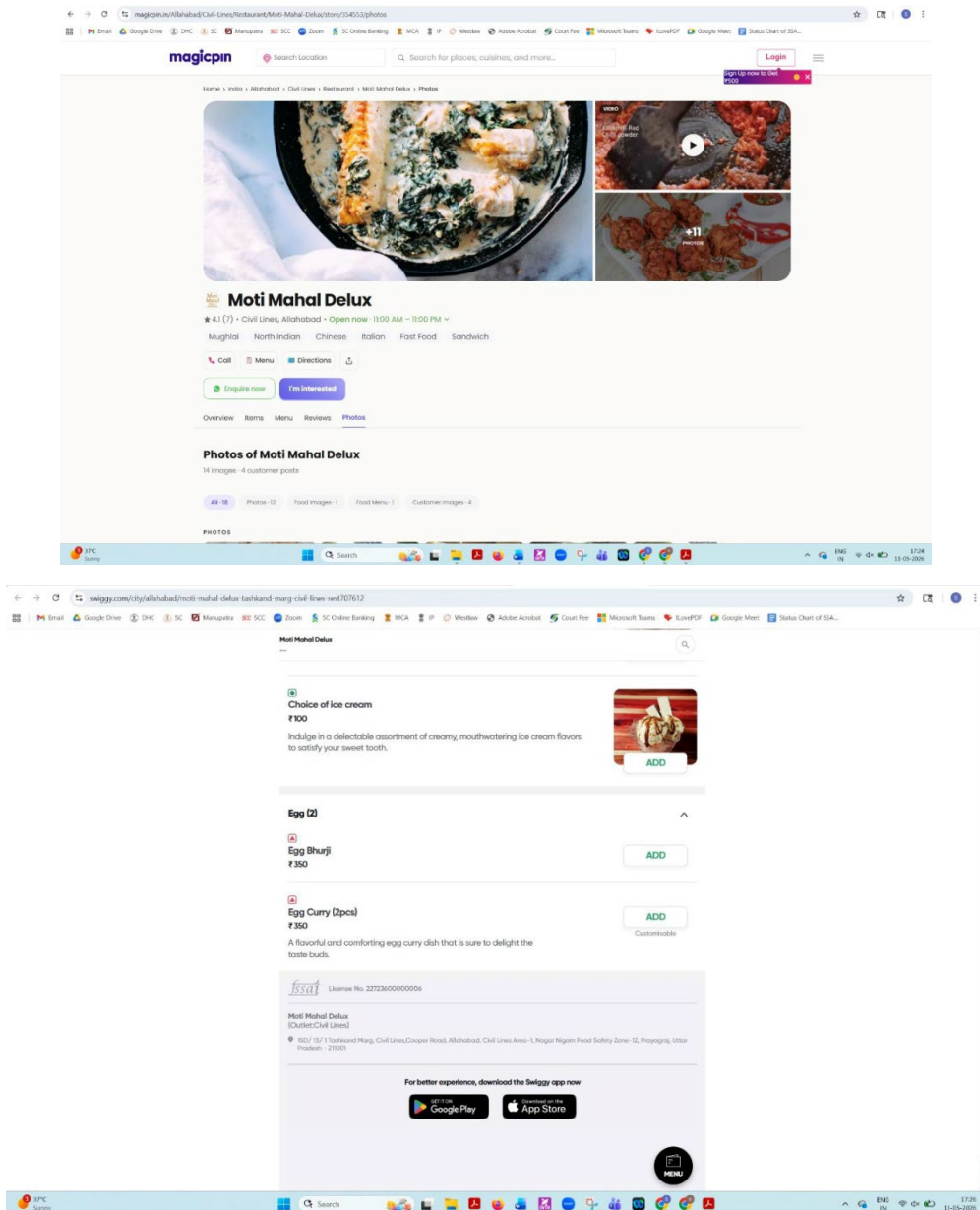


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32. Predicated thereon, the plaintiffs seek an *ex-parte ad-interim* injunction.

33. This Court has heard Ms. Shreya Sethi, learned counsel for the plaintiffs and perused the material on record.

34. As per the Franchise Agreement executed on 27.06.2022, the defendant no.1 was authorised to run the restaurant using the mark ‘MOTI MAHAL DELUX TANDOORI TRAIL’ for a period of seventy-two (72) months, i.e. six (6) years. Plaintiffs have claimed that the defendant no.1 was to make




payment in terms of the Franchise Agreement which it failed to do so from the months of July, 2021 to November, 2025. As per the plaintiffs, upon breach of the terms of the Franchise Agreement, the plaintiff no.1 was entitled to and had in fact, issued a notice dated 18.12.2025 terminating the said agreement. On the strength of clauses 5.4 and 5.5 coupled with clause 6.1 – 6.3 and 6.6 of the Franchise Agreement, the plaintiffs assert that the defendant no.1 was prohibited from directly or indirectly identifying itself with plaintiff no.1 or any of the registered trademarks of the plaintiff no.1. The defendant no.1 under the agreement, clearly acknowledged that it had no right in the name ‘MOTI MAHAL DELUX TANDOORI TRAIL’. Thus, it appears that from the date of the termination of the Franchise Agreement the defendant no.1 could not have used the mark ‘MOTI MAHAL DELUX TANDOORI TRAIL’ for any reason whatsoever.

35. The investigation, claimed to have been carried out by the plaintiffs, seems to suggest that the defendant no.1 is continuing to unlawfully using the mark ‘MOTI MAHAL DELUX TANDOORI TRAIL’ in respect of a restaurant run by it. The clauses of the Franchise Agreement appear to proscribe such use after the termination of the said agreement. Thus, the use and the continuation thereof of the mark ‘MOTI MAHAL DELUX TANDOORI TRAIL’ of the plaintiff no.1 by the defendant no.1, is not *bona fide* and appears to be unauthorised.

36. So far as identical/deceptive similarity of the rival marks are concerned, it would be worthwhile to compare the said marks in the tabulated form as under:



PLAINTIFFS' EARLIER, WELL-KNOWN REGISTERED TRADEMARKS	DEFENDANT NO. 1'S IMPUGNED MARKS
'MOTI MAHAL'	'MOTI MAHAL'
'MOTI MAHAL GROUP'	'MOTI MAHAL DELUX'
'MOTI MAHAL MANAGEMENT SERVICES'	
'TANDOORI TRAIL'	'MOTI MAHAL DELUX TANDOORI TRAIL'

37. The aforesaid visual comparison demonstrates the deceptive similarity between both the marks which is bound to cause confusion and deception in the minds of an unwary consumer who may avail the services of the defendant no.1 under the mistaken belief that those services either emanate from the plaintiff no.1 or are associated with it.

38. The plaintiffs have placed on record various registrations of its trademarks which it has been using from the last century. The sales figure as also the advertisement expenses for the last almost 15 years clearly establish immense goodwill and reputation which the trademarks of the plaintiff no.1 has garnered. The extensive offline and online presence of the plaintiff no.1 is well documented and supports and corroborates its reputation. The orders placed on record passed by various Courts clearly indicate that the plaintiffs has always been alert and vigilant about protection of its registered marks.

39. Having regard to the above, it is evident that the plaintiffs has made out a *prima facie* strong case in its favour. The balance of convenience appears to be tilted in favour of the plaintiffs at this stage. The plaintiffs shall suffer irreparable loss and injury which may not be adequately compensated in monetary terms in case *ex-parte ad-interim* injunction order is not passed.



40. Ms. Shreya Sethi, learned counsel for the plaintiffs states that so far as prayer (B) of the present application is concerned, the sub-paras in para (B) of the prayer in the application, have been incorrectly numbered. She seeks some time to rectify the same. The plaintiffs are permitted to place on record the corrected copy of the prayer clause of the application within one week.

41. Accordingly, till the next date of hearing, defendant no.1, its principals, partners, officers, employees, agents, distributors, suppliers, affiliates, subsidiaries, franchisees, licensees, representatives, group companies, assigns, etc., are restrained from running, advertising, selling, offering for sale, marketing, promoting any restaurant and catering business, using the impugned marks 'MOTI MAHAL', 'MOTI MAHAL DELUX', 'MOTI MAHAL DELUX TANDOORI TRAIL/'



42. Defendant No. 1 is directed to remove all references of the impugned marks from the board(s)/hoarding(s) of its restaurant, which is subject matter of this suit, as also from menus, cutlery/crockery, brochures, advertising material and/or e-commerce websites and other social media websites. The needful shall be done within two weeks from the date of receipt of this order.

43. Issue notice.

44. Let a reply to this application be filed by the defendants within four weeks from service. Rejoinder, thereto, if any, be filed within two weeks thereafter.

45. Compliance of Order XXXIX Rule 3 of CPC shall be done within ten days from date.



CS(COMM) 502/2026

46. Let the plaint be registered as a suit.
47. Upon filing of the process fee, issue summons of the suit to the defendants through all permissible modes.
48. The summons shall state that the Written Statement shall be filed by the defendants within 30 days from the date of the receipt of summons. Alongwith the Written Statement, the defendants shall also file Affidavit of Admission/Denial of the documents of the plaintiffs, without which the Written Statement shall not be taken on record.
49. Liberty is granted to the plaintiffs to file Replication, if any, within 30 days from the receipt of the Written Statement. Along with the Replication filed by the plaintiffs, an Affidavit of Admission/Denial of the documents of defendants be filed by the plaintiffs, without which the Replication shall not be taken on record.
50. In case any party is placing reliance on a document, which is not in their power and possession, its details and source shall be mentioned in the list of reliance, which shall also be filed with the pleadings.
51. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the prescribed timelines.
52. List before the Joint Registrar (Judicial) on 06.08.2026 for completion of service and pleadings.
53. List before the Court on 29.10.2026.

TUSHAR RAO GEDELA, J

MAY 14, 2026

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