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

+ **CS(COMM) 278/2024 & I.A. 4468/2025**

M/S REFLECT SCULPT PRIVATE LTD. & ANR.Plaintiffs
Through: **Mr. Siddharth Bambha and Ms.**
Nandana Menon, Advocates

versus

ABDUS SALAM KHANDefendant
Through: **None**

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% 19.09.2025

I.A. 4468/2025 (application under Order VIII Rule 10 read with XIII-A of CPC seeking summary judgment)

1. This is an application under Order VIII Rule 10 read with Order XIII-A of the Code of Civil Procedure, 1908 ['CPC'] has been filed by the Plaintiff seeking an ex-parte summary judgment in favour of the Plaintiff and against the Defendants.

Factual Matrix

2. The present suit has been filed by the Plaintiffs for permanent injunction restraining the Defendant from infringement of registered trademark "GAURAV GUPTA" and copyright in their unique and artistic garments and to refrain from indulging in piracy of registered design, passing off, acts of unfair competition, dilution, etc.

3. Mr. Siddharth Bambha, learned counsel for the Plaintiffs has set up the Plaintiffs' case as under: -

3.1. The Plaintiff No. 2, Mr. Gaurav Gupta, who is the director and



promoter of Plaintiff No. 1 - Reflect Sculpt Private Ltd., is an international fashion designer and is well-renowned in the fashion industry for his signature fashion styles.

3.2. The Plaintiffs' garments are marketed and publicized under the original trademark and trading style, 'GAURAV GUPTA', i.e., the name of Plaintiff No. 2, who is the principal designer for Plaintiff No. 1.

3.3. Since its inception in 2006, the Plaintiff No. 1 has been continuously and consistently using the trademark 'GAURAV GUPTA', which is an unique and inherently distinctive mark used for manufacturing and marketing of garments. Further, by virtue of such long-standing, continuous, extensive and uninterrupted use of the trade mark by the Plaintiff No. 1, the trademark and name 'GAURAV GUPTA' has also acquired distinctiveness in the market and is associated with the Plaintiffs and none else.

3.4. The Plaintiffs' artistic garments possess an extremely unique aesthetic outlook which are reflective of the changing trends in fashion and are distinctive and exclusive to the Plaintiffs alone. The Plaintiffs' garments are easily identifiable on account of their originality and distinctive artistic style that is unique to the Plaintiffs. The concept and technique of 'sculpted boning' in the garments is a unique and distinct feature of Plaintiffs' work.

The drawings and sketches so created by the Plaintiff No. 2 and/ or under his supervision are original artistic works under Section 2(c)(i) of the Copyright Act, 1957. Further, the handcrafted garments themselves are also artistic works, being works of artistic craftsmanship as also three-dimensional reproduction of the original two-dimensional drawings and/or sketches. The Plaintiff No. 1 is the first owner of copyright in all the sketches of the garments as well as the garments themselves under Section



17(c) of the Copyright Act, 1957, the details whereof are provided at paragraph no. 10 of the plaint.

3.5. The Plaintiff No. 1 is the registered proprietor of the trade mark 'GAURAV GUPTA' in Classes 6, 14, 18, 19, and 25, as well as in Classes 25, 35, and 41, the details whereof are mentioned in paragraph nos. 18 and 19 of the plaint, respectively. The said trademark registrations of the Plaintiff No. 1 are valid and subsisting as on date and there are no disclaimers in the aforesaid registrations obtained by it.

3.6. The details of the expenditure incurred by the Plaintiff No. 1 for advertisement, marketing and promotion of unique and original garments sold under the trademark/trade name 'GAURAV GUPTA' for the last five (5) years, are provided at paragraph no. 21 of the plaint. The details of the annual sales turnover of the Plaintiff No. 1 for the last five (5) years, are provided at paragraph no. 22 of the plaint.

3.7. The Plaintiffs operate from five (5) independent stores in major cosmopolitan cities and more than 20 points of sales across India. The Plaintiffs' garments are also available for sale on online platforms. The Plaintiffs have significant online presence through their official website, available at www.gauravguptastudio.com, as well as social media pages on Facebook (<https://www.facebook.com/GauravGuptaStudio/>) and Instagram (<https://www.instagram.com/gauravguptaofficial/?hl=en>).

3.8. In March 2024, the Plaintiffs came across the YouTube channel of the Defendant under the name - Designer Salem, available at <https://www.youtube.com/@iqrasalamdesigner8113>, which contains 242 videos and is followed by more than 4000 subscribers.

In the said videos, the Defendant is openly showcasing the process of



making garments as well as displaying finished garments, which are complete replicas/ substantial imitations of the Plaintiffs' unique and artistic garments.

3.9. The Defendant is offering the counterfeit garments, not only on his YouTube channel but also on his Instagram page [Aimim Saprt Salam Khan] and Facebook page [iqra salam #designer]. The relevant screenshots of the Defendant's YouTube channel, Instagram and Facebook page, are provided at paragraph no. 31 of the plaint.

3.10. The Defendant has mentioned the name and trade mark 'GAURAV GUPTA' in the description and title of several videos, so that anyone who searches for original 'Gaurav Gupta' garments on YouTube is directed to the Defendant's YouTube page. The relevant screenshot showing the same, is provided at paragraph no. 35 of the plaint.

3.11. The Defendant is creating and selling the counterfeit products from a store located at Sector 7, Rohini, Delhi under the name and style of 'Designer Salam Studio'. The photograph of the said store is provided at paragraph no. 41 of the plaint.

3.12. The Plaintiffs are aggrieved by the infringing activities of the Defendant, as the Defendant is not only making and selling substantial imitations and replicas of the Plaintiffs' original and unique garments but is also showcasing the process by which he is replicating/ substantially imitating the original and unique garments of the Plaintiffs, in order to solicit customers.

3.13. The use of the Plaintiff No. 2's identity by the Defendant has been misleading consumers into believing that the Plaintiff No. 2 has been endorsing the Defendant's garments. The unauthorised use of the Plaintiffs'



trade mark ‘GAURAV GUPTA’ as well as the unique and artistic garment concepts of the Plaintiffs, by the Defendant is being deliberately done to ride on enormous reputation and goodwill of the Plaintiffs.

3.14. In view of the aforesaid, the Plaintiffs have filed the present suit.

Submissions made on behalf of the Plaintiffs

4. Mr. Siddharth Bambha, learned counsel for the Plaintiffs states that the Defendant’s use of the Plaintiffs’ trademark “Gaurav Gupta” [Trademark registration no. 2425635 dated 08.11.2012] in the course of business amounts to infringement of the Plaintiffs’ registered trademarks in terms of Section 29(1) and 29(9) of the Trade Marks Act, 1999.

4.1. He states that the Defendant is infringing the Plaintiffs’ copyright by manufacturing, selling, offering for sale and advertising imitations and/or substantial reproductions of the Plaintiffs’ original artistic works in the garments produced by the Plaintiffs. The Defendant is also infringing the artistic work in the drawings/sketches of the garments.

4.2. He states that the Defendant by referring to the imitations as “Gaurav Gupta” designs is passing off that its products/services are associated with the Plaintiffs.

4.3. He states that the Defendant, by applying the registered designs of Plaintiff No. 1, as well as fraudulent and obvious imitations thereof, on its garments without obtaining any license, authorization, or consent from Plaintiff No. 1, has committed infringement and piracy of the registered designs of the Plaintiff No. 1.

4.4. He states that the infringing acts of the Defendant not only amounts to a clear dilution of uniqueness of the Plaintiff No. 2’s designs and gives rise to a false belief that the Plaintiff No. 2 has either licensed or the Defendant



has some connection with the Plaintiff No. 2, to misuse his name while marketing the impugned garments.

4.5. He states that the drawings/sketches of the Plaintiffs to make the garments and also the garments produced entail “artistic work” and are protected under the Copyright Act, 1957. He relies upon the judgment of this Court in **Tahiliani Design (P) Ltd. v. Rajesh Masrani**¹.

4.6. He states that the claim of Copyright by the Plaintiffs is of the drawings/sketches and the three-dimensional reproductions of such sketches being the garments produced by the Plaintiffs. He relies upon the judgment of the Supreme Court in **Cryogas Equipment (P) Ltd. v. Inox India**², to contend that the drawings are subject to protection, both as copyrightable artistic work and design.

4.7. He states that the Defendant has wrongfully taken undue advantage of the substantial monetary investments made by the Plaintiffs towards advertisements and promotion of their original artistic works.

4.8. He states that since neither Written Statement nor affidavit of admission/denial has been filed on behalf of the Defendant, all the averments made in the plaint and the documents filed along with the plaint have to be taken to be admitted.

4.9. He states that since no material dispute arises in the present matter, this Court may grant an ex-parte summary judgment under Order XIII-A of CPC in favour of the Plaintiffs.

Findings and Analysis

5. This Court has heard the learned counsel for the Plaintiffs and perused

¹ 2008 SCC OnLine Del 1737

² 2025 SCC OnLine SC 780



the material on record.

6. It is matter of record that the Defendant was duly served with summons on 30.08.2024 through email and WhatsApp. The affidavit of service dated 30.08.2024 is filed on record. The same finds mention in the order dated 19.11.2024 passed by the learned Joint Registrar (J). It is stated that this mobile number is enlisted as the contact detail of the defendant on its social media accounts and the Defendant acknowledged receipt of the summons on WhatsApp. However, since the said Defendant despite being served with summons, failed to file its written statement, its right was closed vide order dated 03.02.2025.

Since the Defendant did not appear before this Court, the defendant was proceeded ex-parte vide order dated 19.08.2025.

7. The plaint has been duly verified and is supported by the affidavit(s) of the Plaintiff as well the Statement of Truth. As noted above, no written statement has been filed by the Defendant and therefore, all the averments made in the plaint against the said Defendant had remain unrebutted and are deemed to be admitted. Furthermore, no affidavit of admission/denial of the documents filed by the Plaintiff, has been filed by the Defendant. Accordingly, the documents filed by the Plaintiffs are deemed to have been admitted.

8. At this stage, it would be apposite to refer to Order VIII Rule 10 of CPC. The said rule reads as under: -

“10. Procedure when party fails to present written statement called for by Court.— Where any party from whom a written statement is required under rule 1 or rule 9 fails to present the same within the time permitted or fixed by the Court, as the case may be, the Court shall pronounce judgment against him, or make such order in relation to the suit as it thinks fit and on the pronouncement of such



judgment a decree shall be drawn up.”

9. It would be relevant to refer to the dicta of **Satya Infrastructure Ltd. & Ors. v. Satya Infra & Estates Pvt. Ltd.**³, wherein the Co-ordinate Bench of this Court held as under: -

“4. The next question which arises is whether this Court should consider the application for interim relief and direct the plaintiffs to lead ex parte evidence. The counsel for the plaintiffs states that the plaintiffs are willing to give up the reliefs of delivery, of rendition of accounts and of recovery of damages, if the suit for the relief of injunction alone were to be heard today.

5. I am of the opinion that no purpose will be served in such cases by directing the plaintiffs to lead ex parte evidence in the form of affidavit by way of examination-in chief and which invariably is a repetition of the contents of the plaint. The plaint otherwise, as per the amended CPC, besides being verified, is also supported by affidavits of the plaintiffs. I fail to fathom any reason for according any additional sanctity to the affidavit by way of examination-in-chief than to the affidavit in support of the plaint or to any exhibit marks being put on the documents which have been filed by the plaintiffs and are already on record. I have therefore heard the counsel for the plaintiffs on merits qua the relief of injunction.”

(Emphasis Supplied)

10. In view of the aforesaid facts and circumstances, this Court is of the view that no purpose would be served if the Plaintiffs are directed to lead ex-parte evidence by way of filing an affidavit of examination-in-chief and the Plaintiff is entitled to a summary judgment.

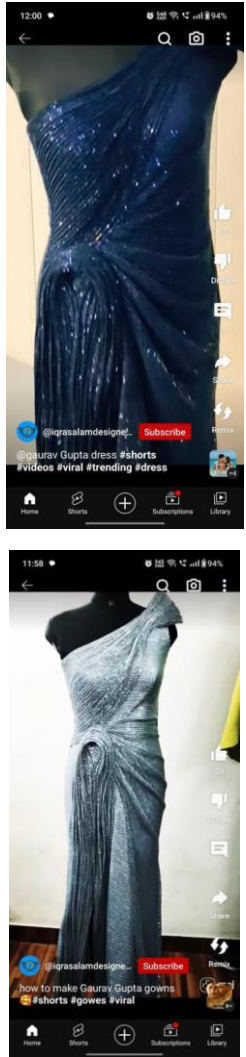
11. The documents filed on record shows that the Plaintiff No. 1 is the registered owner of the trademark “GAURAV GUPTA” in Class 25, 35 and 41 [Trademark registration no. 24256355 dated 08.11.2012] and in Class 6, 14, 18, 19 and 20 [Trademark registration no. 4185205 dated 23.05.2019].

12. The comparison table of the Defendant’s counterfeit garments with

³ 2013 SCC OnLine Del 508



the original and unique garments of the Plaintiffs as well as the Plaintiffs' original drawings and sketches for the garments, as set out in paragraph no. 43 of the plaint is reproduced herein below: -

Sr. No.	Plaintiff's original sketch/drawing	Plaintiff's original garment along with style code	Counterfeit Garments by the Defendant
1.	GW-5 	GW – 581 	



2.	GW-635	GW-635	



			
3.	GW-635 	GW-494 	
4.	SG-218 	SG-218 	
5.	OFT-80	OFT-80	



6. LEH-172			
7. GHW-971/DRS 272			



13. The Plaintiff No. 1 has also placed on record the registration certificates to show that the garments listed at serial nos. 1, 5 and 7 in the table reproduced hereinabove, are registered as designs by the Plaintiff No. 1 vide design Application No. 339188-004, Application No. 378237-012, and Application No. 378218-003 respectively.

14. On a perusal of the Defendant's counterfeit garments with the Plaintiff's original garments, it is evident that the garments being manufactured and sold by the Defendant are deceptive identical to the garments and designs created by the Plaintiffs; however, the only difference is the colour of the fabric used in the said garments. The design of the Defendant's garments is replica of the designs of the Plaintiffs which amounts to infringement of the Plaintiff's copyright in the said work and design applications bearing No. 339188-004, Application No. 378237-012, and Application No. 378218-003.

15. It is evident from the screenshots of the YouTube channel as well as Social Media accounts of the Defendant [placed on record by the Plaintiffs], the Defendant through its YouTube channel as well as Social Media accounts has claimed and assured the customers that the Defendant can manufacture the exact replica of any garment of the Plaintiffs and that too at very low prices. This evidences that the Defendant is aware of the Plaintiff's rights and is willfully infringing the Plaintiff's intellectual property rights to unlawfully ride upon the Plaintiff's goodwill and reputation by unabatedly copying the Plaintiffs' work.

16. Thus, the allegations of infringement of the Plaintiff's trademark "GAURAB GUPTA"; copyrights in styles GW-581, GW-635, GW-494,



SG-218, OFT-80, LEH-172 and GW-971/ DRS 272; registered designs including Design Nos. 339188-004, 378237-012 and 378218-003, put forth by the Plaintiffs and passing off founds merit.

17. The Defendant has elected not to contest the present suit makes it evident that Defendant has accepted the interim injunction order dated 03.04.2024 passed by this Court. The said interim order was made absolute vide order dated 19.08.2025. There is therefore no opposition from Defendant, who has accepted the injunction. This Court finds no ground to take a view different from the prima facie expressed in the injunction order dated 03.04.2024.

18. In **Su-Kam Power Systems Ltd. v. Kunwer Sachdev**⁴, a Co-ordinate Bench of this Court in the context of commercial suits has observed that summary judgment ought to be passed in case, where Defendant No. 1 lacks a real prospect of defending the claim. In this case, infact Defendant No. 1 has elected to not to defend this case and therefore this Court is satisfied that the Plaintiff need not be put through the costs and rigours of trial. The relevant portion of the aforesaid judgment reads as under: -

“90. To reiterate, the intent behind incorporating the summary judgment procedure in the Commercial Court Act, 2015 is to ensure disposal of commercial disputes in a time-bound manner. In fact, the applicability of Order XIII A, CPC to commercial disputes, demonstrates that the trial is no longer the default procedure/norm.

91. Rule 3 of Order XIII A, CPC, as applicable to commercial disputes, empowers the Court to grant a summary judgement against the defendant where the Court considers that the defendant has no real prospects of successfully defending the claim and there is no other compelling reason why the claim should not be disposed of before recording of oral evidence. The expression “real” directs the Court to examine whether there is a “realistic” as opposed to “fanciful”

⁴ 2019 SCC OnLine Del 10764



prospects of success. This Court is of the view that the expression “no genuine issue requiring a trial” in Ontario Rules of Civil Procedure and “no other compelling reason....for trial” in Commercial Courts Act can be read mutatis mutandis. Consequently, Order XIII A, CPC would be attracted if the Court, while hearing such an application, can make the necessary finding of fact, apply the law to the facts and the same is a proportionate, more expeditious and less expensive means of achieving a fair and just result.

92. Accordingly, unlike ordinary suits, Courts need not hold trial in commercial suits, even if there are disputed questions of fact as held by the Canadian Supreme Court in Robert Hryniak (supra), in the event, the Court comes to the conclusion that the defendant lacks a real prospect of successfully defending the claim.”

[Emphasis Supplied]

19. In view of the aforesaid facts and settled law, the present suit is a fit case, where a summary judgment in terms of Order VIII Rule 10 of CPC read with Order XIII-A of CPC can be passed in favour of the Plaintiff and against the Defendant.

20. Thus, the Plaintiff is held entitled to reliefs of permanent injunction as claimed in the plaint. Accordingly, a decree of permanent injunction is passed in favour of the Plaintiff and against Defendant No. 1 in terms of prayer clauses (a), (b), (c), (d), (e) and (f) mentioned in paragraph no. 74 of the plaint. The interim injunction dated 03.04.2024 [made absolute vide order dated 19.08.2025] shall merge into the decree.

21. Learned counsel for the Plaintiffs submits that the Plaintiffs are not pressing the reliefs sought vis-à-vis prayer clauses (g), (h) and (i) mentioned in paragraph no. 74 of the plaint.

22. The said statement of the Plaintiff is taken on record and the prayer clauses (g), (h) and (i) mentioned in paragraph no. 74 of the plaint are disposed of as not pressed.

23. At this stage, learned counsel for the Plaintiffs submits that however,



the Plaintiffs have suffered substantial litigation costs contesting the present suit and despite issuance of summons and restraining directions passed against the Defendant, the Defendant has been negligent and has not appeared before this Court. As a deterrent to the Defendant, it would be prudent if this Court imposes some legal costs against the Defendant. He prays for the relief of actual costs of sum of Rs. 10,39,400/- to be paid by the Defendant to the Plaintiffs. In this regard, he relies upon the 'Cost Sheet' filed along with the written submissions dated 25.08.2025 enlisting the costs suffered.

24. Insofar as the reliefs of costs sought in prayer clauses (j) of the plaint are concerned, it would be apposite to refer to the judgment passed by the Co-ordinate Bench of this Court in **Hindustan Lever Ltd. v. Satish Kumar**⁵. The relevant paragraph of the said judgment is as under: -

“23. One of the reasons for granting relief of punitive damages is that despite of service of summons/notice, the defendant had chosen not to appear before the court. It shows that the defendant is aware of the illegal activities otherwise, he ought to have attended the proceedings and give justification for the said illegal acts. Since, the defendant has maintained silence, therefore, the guilt of the defendant speaks for itself and the court, under these circumstances, feels that in order to avoid future infringement, relief of punitive damages is to be granted in favour of the plaintiff.”

25. Having perused the averments in the plaint, and the conduct of the Defendant, this Court is satisfied that Defendants' actions of adopting the impugned mark and not appearing before this Court despite being served, are not innocent and invites award of nominal damages so as to deter the Defendants from indulging in from any further illegal activities. The



Plaintiffs have incurred substantial costs towards Court Fees, fees of the Local Commissioner and professional fees of the advocates. In this view of the matter and in addition to decree passed hereinabove, this Court awards damages and costs amounting to INR 5,00,000/- in favour of the Plaintiffs and against the Defendant.

26. With the aforesaid directions, this suit along with pending applications (if any) stands disposed of.
27. Let the decree sheet be drawn up in terms of this order.
28. All future dates stand cancelled.

MANMEET PRITAM SINGH ARORA, J

SEPTEMBER 19, 2025/MG

⁵ 2012 SCC OnLine Del 1378