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

+ CS(COMM) 769/2025, I.A. 18240/2025, I.A. 18241/2025, I.A. 18242/2025, I.A. 18243/2025

CAPITAL FOODS PRIVATE LIMITEDPlaintiff

Through: Mr. Achutam Srikumar, Mr. Rohit Bansal, Mr. Swastik Bisarya, Advocates

versus

ADINATH AGRO PROCESSED FOODS PRIVATE LIMITED

...Defendant

Through: Mr. Rahul Vidhani, Advocate.

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **31.07.2025**

1. This suit has been filed seeking following reliefs: -

“(a) An order of permanent injunction restraining the Defendant and all others acting for and on its behalf from directly or indirectly dealing in any products / services bearing the mark SCHEZWAN CHUTNEY and / or from using any other mark that may be deceptively similar to the Plaintiffs registered and well-known mark SCHEZWAN CHUTNEY, amounting to infringement of the Plaintiff's registered trademark SCHEZWAN CHUTNEY bearing number 2431851; and

(b) An order of permanent injunction restraining the Defendant and all others acting for and on its behalf from directly or indirectly dealing in any products / services bearing the mark SCHEZWAN CHUTNEY and / or from using any other mark that may be deceptively similar to the Plaintiffs registered and well-known mark SCHEZWAN CHUTNEY, amounting to *passing off* of the Defendant's infringing products as that of the Plaintiffs; and



- (c) An order of permanent injunction restraining the Defendant and all others acting for and on their behalf from directly or indirectly engaging in any act whatsoever that will result in the dilution and tarnishment of the distinctiveness and goodwill associated with the Plaintiffs registered trademark SCHEZWAN CHUTNEY; and
 - (d) An order for delivery up of all the goods bearing the impugned trademark, dies, blocks, cartons, labels, carry bags, hoardings, promotional literature and any other infringing material to the authorized representatives of the Plaintiff for the purposes of destruction; and
 - (e) An order for rendition of accounts of profits illegally earned by the Defendant through the sale of the infringing products and a decree for the amount so found be passed in favour of the Plaintiff; and
 - (f) An order formally declaring the Plaintiffs registered trademark SCHEZWAN CHUTNEY as well-known trademark under the provision of Section 2(1)(zg) read with Section 11 (6) of the Trade Marks Act, 1999; and
 - (g) An order for damages of Rs. 2,00,05,000 to be passed in favour of the Plaintiff and against the Defendant on account of the Defendant's deliberate and fraudulent activities of sale of infringing products and a decree for the said amount be passed in favour of the Plaintiff; and
 - (h) An order for costs of the proceedings against the Defendant and in favour of the Plaintiff; and (i) Any other Order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”
2. A copy of the suit paper-book was served in advance to the defendant.
3. Mr. Rahul Vidhani, Advocate enters appearance on behalf of the defendant.



3.1. He states that the plaintiff has suppressed from this Court, the legal notice dated 23.04.2013 issued by the plaintiff through the same attorneys and the subsequent correspondence exchanged between the parties in the year 2013¹.

3.2. He submits that the defendant has adopted the impugned mark SCHEZWAN CHUTNEY since 11.08.2010 to the knowledge of the plaintiff.

3.3. He states that after the exchange of the said correspondences between the parties in the year 2013, there had been no communication between the parties until 26.09.2024.

3.4. He states that these communications between the parties have not been disclosed in the plaint/paper-book and the plaintiff has to the contrary falsely alleged in the plaint that plaintiff learnt about the existence of the defendant for the first time in February, 2025.

3.5. He states that as is evident from letter head, the legal correspondence exchanged between the parties was issued by the same law firm, which has filed the present suit and therefore, the plaintiff as well as the counsel were aware of the correspondence exchange.

4. Learned counsel for the defendant has handed over the communications exchanged between the parties to the Court and the plaintiff.

5. Having perused the correspondence, learned counsel for plaintiff seeks liberty to withdraw the suit. He states that he was personally not aware about the notices and replies exchanged between the parties.

5.1. He states that he will take instructions on these notices/replies and, if deemed appropriate, file a fresh suit after making the full disclosure.

¹ Reply dated 27.05.2013, plaintiff's further notice dated 03.06.2013, defendant's reply dated 03.07.2013



6. The defendant is directed to file the legal notices received from the plaintiff in 2013 and 2024 on record within two weeks. The contents of the notices falsify the averment made by the plaintiff in this plaint at paragraph 69 vis-à-vis cause of action.

7. The suit along with applications is dismissed as withdrawn, with liberty to file a fresh suit, to be exercised in accordance with law.

8. In case the plaintiff elects to file any fresh suit, the plaintiff is directed to give due notice to the defendant one (1) week in advance for the court hearing. This order will be enclosed with any fresh suit filed.

9. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J

JULY 31, 2025/mr/MG