



\$~28

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

+ **CS(COMM) 64/2026**

**PASS CODE HOSPITALITY PRIVATE LIMITED (PROP. OF REGD.
TRADEMARK JAMUN)Plaintiff**

Through: Mr. Sumehar Bajaj and Ms. Lakshmi
Kailasan, Advocates.

versus

JAMUN THE ROOFTOPDefendant

Through: Mr. Ashish Kumar Garg, Defendant in
person.

**CORAM:
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA**

ORDER

% **23.01.2026**

I.A. 1956/2026 (Pre-Institution Mediation)

1. This is an application filed on behalf of the plaintiff seeking exemption from instituting Pre-Litigation Mediation under Section 12A of the Commercial Courts Act, 2015 (“CC Act”).
2. As the present matter contemplates urgent interim relief, in light of the judgment of the Supreme Court in *Yamini Manohar v. T.K.D. Keerthi*, (2024) **5 SCC 815**, exemption from the requirement of Pre-Institution Mediation is granted.
3. The application stands disposed of.

I.A. 1957/2026 (Additional Documents)

4. The present application has been filed on behalf of the plaintiff under Order XI Rule 1(4) of the Code of Civil Procedure, 1908 (“CPC”) as applicable to CC Act seeking leave to place on record additional documents.
5. The plaintiff is permitted to file additional documents in accordance with



the provisions of the CC Act and the Delhi High Court (Original Side) Rules, 2018.

6. Accordingly, the Application stands disposed of.

I.A. 1955/2026 (Stay)

7. Mr. Ashish Kumar Garg, the defendant appears in person through video conferencing mode. He submits that he has voluntarily given an undertaking cum affidavit dated 21.01.2026 to the plaintiff unequivocally agreeing that the plaintiff is the prior adopter, registered proprietor and exclusive owner of the



trademarks . He also further states that in order to amicably resolve the disputes and to avoid further litigation, he has executed the undertaking cum affidavit which shall be binding, irrevocable and enforceable.

8. He submits that the conditions mentioned in the undertaking have been read and correctly understood by him and he stands by the said undertakings. He also further submits that his Aadhar Card has also been annexed to the undertaking cum affidavit.

9. Learned counsel appearing for the plaintiff submits that in view of the said undertaking, this Court may dispose of the suit as being settled under the provisions akin to that of Order XXIII Rule 3 of the CPC.

10. The undertaking cum affidavit is handed over by the learned counsel for the plaintiff and is taken on record. The same is marked as Exhibit-A. For the ease of convenience, the undertaking is extracted hereunder:

“UNDERTAKING-CUM-AFFIDAVIT

I, Ashish Kumar Garg, owner of Jamun The Rooftop under the proprietorship concern M/s Heera Foods, having its place of business at Heera Courtyard, NH-2, Delhi-Mathura Highway, Opposite CNG Filling Station, Mathura, Uttar



Pradesh-281003, do hereby solemnly affirm and state as under:

1. That I am the proprietor of the Respondent in the matter titled Pass Code Hospitality Private Limited v. Jamun The Rooftop and am fully conversant with the facts and circumstances of the present case. I am competent and duly authorized to swear the present Undertaking-cum-Affidavit, which is being executed voluntarily, out of my own free will, and without any coercion or undue influence.
2. That the Plaintiff, namely Pass Code Hospitality Private Limited, has instituted proceedings before the Hon'ble High Court of Delhi, inter alia, seeking reliefs of permanent injunction restraining infringement of its registered trademarks, passing off, unfair competition, dilution, rendition of accounts, damages, delivery-up and other allied reliefs, arising out of the unauthorized adoption and use by me of the Plaintiff's registered trademarks, namely the word mark "JAMUN" and the associated device mark



which is likely to be listed before the Hon'ble Delhi High Court on 23.01.2026.

3. That I have been duly served in advance in the aforesaid proceedings and, thereafter, I approached the Plaintiff expressing my desire not to contest the proceedings and not to continue any use of the **impugned marks**, namely



"JAMUN THE ROOFTOP" WITH LOGO

"JAMUN HEERA", or any other mark identical with or deceptively similar to the Plaintiff's trademarks.

4. That I unequivocally acknowledge and admit that the Plaintiff is the prior adopter, registered proprietor and exclusive owner of the trademarks



"JAMUN", the associated device mark, and all allied and cognate marks (hereinafter collectively referred to as the "Plaintiff's Marks"), and that the Plaintiff alone has the exclusive right to use and commercially exploit the same.

5. That with a view to amicably resolving the dispute and avoiding further litigation, I am executing the present Undertaking-cum-Affidavit, which shall be binding, irrevocable and enforceable, including before the Hon'ble High Court of Delhi, on the following terms:

UNDERTAKINGS



a. I hereby undertake that I shall forthwith and permanently cease and desist from using the Impugned Mark and/or the word mark "JAMUN", or any other mark identical with or deceptively similar thereto, in any manner whatsoever, including but not limited to use as a restaurant name, trade name, corporate name, brand name, logo, signage, menu, packaging, promotional material, social media handle, domain name or otherwise.

b. I further undertake to forthwith and unconditionally withdraw any trademark and/or copyright application(s), if any, filed by me or on my behalf before the Trade Marks Registry and/or the Copyright Office in respect of the Impugned Mark, and to provide copies of the withdrawal letters along with acknowledgements issued by the concerned authorities to the Plaintiff or its authorized representatives within seven (7) days from the date of execution of this Undertaking-cum-Affidavit.

c. I undertake to immediately withdraw from use and circulation all physical materials bearing the Impugned Mark, including but not limited to menus, signboards, hoardings, interior and exterior signage, packaging, delivery materials, uniforms, invoices, letterheads, visiting cards, brochures, advertisements and any other branding or promotional material, whether within or outside the restaurant premises, and to deliver the same to the Plaintiff within seven (7) days from the date of execution hereof.

d. I further undertake to immediately take down, remove and disable all references to the Impugned Mark from all digital and online platforms under my control, including but not limited to websites, food delivery platforms, review portals, social media platforms and third-party listings, and to take all reasonable steps to ensure removal from third-party platforms as well.

e. I undertake to appear before the Hon'ble High Court of Delhi on the date of listing of the matter and to affirm and record my statement in terms of the present Undertaking-cum-Affidavit, if so directed by the Hon'ble Court.

f. I further undertake to cooperate and assist the Plaintiff in the preparation and filing of such further documents as may be required for placing this Undertaking-cum-Affidavit on record and for securing compliance with its terms.

g. I state that, owing to the graciousness of the Plaintiff in not pressing its claim for damages at this stage in view of my present financial incapacity, I shall not indulge in any act that may cause hindrance, disturbance or prejudice to the Plaintiff's business. I also tender my unconditional apology for any inconvenience caused to the Plaintiff on account of my unauthorized adoption and use of the Impugned Mark.



h. I agree and undertake that this Undertaking shall be binding upon me, my entity, employees, agents, representatives, successors and assigns and all persons acting for or on my behalf.

i. I further acknowledge that damages alone may not be an adequate remedy in the event of breach of this Undertaking and that the Plaintiff shall be entitled to seek appropriate injunctive and equitable reliefs, in accordance with law, in the event of any breach or threatened breach.

j. I further acknowledge that this Undertaking-cum-Affidavit is being given to the Hon'ble High Court of Delhi and that any willful breach thereof may amount to contempt of court, apart from other remedies available to the Petitioner in law.

k. I undertake to keep the terms of this Undertaking-cum-Affidavit and all discussions leading to its execution strictly confidential, save and except to the extent disclosure is required for the purposes of court proceedings or compliance with law.

6. *That the contents of the present Undertaking-cum-Affidavit are true and correct to my knowledge and belief, and nothing material has been concealed therefrom."*

11. In view of the aforesaid, learned counsel for the plaintiff submits that the claim for damages and other legal costs are being given up.

12. In view thereof and keeping in mind the undertaking cum affidavit of the defendant, the present suit is decreed in terms thereof binding the defendant to the said undertaking cum affidavit dated 21.01.2026.

13. Let a decree sheet be drawn up accordingly.

14. The refund of Court Fees in accordance with Section 16 of the Court Fees Act, 1870 be processed upon all formalities being completed under the Rules.

TUSHAR RAO GEDELA, J

JANUARY 23, 2026

yrj