



\$~26

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

+ **CS(COMM) 1165/2025 & I.A. 27077-27081/2025**

CAPITAL FOODS PRIVATE LIMITEDPlaintiff

Through: Mr. Pravin Anand, Mr. Rohil Bansal
and Mr. Chirayu Prahlad, Advs.

versus

DAMYAA (PJ) FOODS PRIVATE LIMITEDDefendant

Through: None

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **03.11.2025**

I.A. 27078/2025

1. This is an application seeking leave to file additional documents under Order XI Rule 1(4) of the Code of Civil Procedure, 1908 ('CPC') [as amended by the Commercial Courts Act 2015] read with Section 151 CPC, within thirty (30) days.
2. The Plaintiff, if it wishes to file additional documents will file the same within thirty (30) days from today, and it shall do so strictly as per the provisions of the Commercial Courts Act and the Delhi High Court (Original Side) Rules, 2018.
3. For the reasons stated in the application, the same is allowed.
4. Accordingly, the application is disposed of.

I.A. 27079/2025

5. This application has been filed by the Plaintiff under Section 151 CPC seeking exemption from filing clearer copies of documents which are, dim,



illegible and unclear.

6. The typed and/or fair copies of the illegible documents be filed within two (2) weeks.

7. Accordingly, the application stands disposed of.

I.A. 27080/2025

8. This is an application under Section 12A of the Commercial Courts Act, 2015 read with Section 151 CPC, filed by the Plaintiff seeking exemption from instituting pre-litigation mediation.

9. Having regard to the facts that the present suit contemplates urgent interim relief and in light of the judgement of the Supreme Court in **Yamini Manohar v. T.K.D. Keerthi**¹, exemption from the requirement of pre-institution mediation is granted to the Plaintiff.

10. Accordingly, the application stands disposed of.

I.A. 27081/2025

11. This is an application filed under section 149 CPC read with section 151 CPC, seeking extension of time to file court fees.

12. It is stated that Court Fees shall be deposited within one (1) week. The plaintiff is granted one week to file the Court Fees certificate, failing which the plaint shall stand rejected under Order VII Rule 11(b) CPC.

13. Accordingly, the application is disposed of.

CS(COMM) 1165/2025

14. Let the plaint be registered as a suit.

15. Summons be issued to the Defendant by all permissible modes on filing of process fee. Affidavit of service be filed within two (2) weeks.

16. The summons shall indicate that the written statement must be filed



within thirty (30) days from the date of receipt of the summons. The Defendant shall also file affidavit of admission/denial of the documents filed by the Plaintiff, failing which the written statement shall not be taken on record.

17. The Plaintiff is at liberty to file replication thereto within thirty (30) days after filing of the written statement. The replication shall be accompanied by affidavit of admission/denial in respect of the documents filed by Defendant, failing which the replication shall not be taken on record.

18. It is made clear that any unjustified denial of documents may lead to an order of costs against the concerned party.

19. Any party seeking inspection of documents may do so in accordance with the Delhi High Court (Original Side) Rules, 2018.

20. List before the learned Joint Registrar (J) on **17.12.2025**.

21. List before Court on **09.04.2026**.

I.A. 27077/2025

22. This is an application filed under Order XXXIX, Rules 1 and 2 read with Section 151 CPC on behalf of the Plaintiff seeking ad-interim injunction against the Defendant.

23. Case setup in the plaint is as under:

23.1 The Plaintiff Company [now acquired by Tata Consumer Products Limited], is an associate of the TATA Group and is a leading food enterprise engaged for over two decades in manufacturing, marketing, and retailing a diverse range of food products including sauces, noodles, condiments, soups, and ready-to-eat items. It pioneered the concept of 'Desi Chinese'

¹ (2024) 5 SCC 815



cuisine. For the financial year 2024-2025, the Plaintiff recorded a total revenue of ₹93,417 lakhs, with significant expenditures including ₹6,388.01 lakhs on advertising.

23.2 The Plaintiff's flagship product is sold under the trademark



‘SCHEZWAN CHUTNEY/² [‘Plaintiff's trademark’] bearing Trademark Registration No. 2431851 (Class 30) and also Copyright Registration No. A-149563/2023 for its unique and artistic trade dress. It is a distinctive and original mark combining words from two different languages, symbolizing a fusion of Indian and Chinese culinary styles. The said trademark was conceived and adopted in 2012 for a unique, spicy sauce developed after extensive research and innovation.

23.3 Since its inception, the Plaintiff has used the mark continuously and extensively, investing heavily in advertising and promotional activities, with expenditure rising to over ₹15.99 crores in 2024–2025 and annual turnovers reaching ₹18,677 lakhs for products under this mark.

23.4 The Plaintiff has actively promoted ‘SCHEZWAN CHUTNEY’ across social media through its official website and verified handles. The mark has been recognized as a Consumer Superbrand by Superbrands India. Search engine results associating the term ‘Schezwan Chutney’ exclusively with the Plaintiff, demonstrate its dominant public recognition and the strong link consumers.

² Registration details are given at paragraph 29 of the plaint.



23.5 The Plaintiff has actively protected its intellectual property by initiating legal proceedings and issuing cease-and-desist notices against infringers. The Division Bench of this Court vide order dated 25.01.2023 passed in FAO(OS)(COMM) 16/2023 titled as ‘Capital Foods Pvt. Ltd. v. Radiant Indus Chem Pvt. Ltd.’ has acknowledged that the Plaintiff’s ‘SCHEZWAN CHUTNEY’ trademark has acquired secondary significance.

Defendant’s Infringing Acts

23.6 The Defendant is engaged in the manufacture, marketing, and sale of food products across India. The cause of action arose due to Defendant’s unauthorized use of the Plaintiff’s registered trademark ‘SCHEZWAN CHUTNEY’, which they modified to ‘SCHEZWAN TUFANI CHUTNEY’



on their product packaging ‘ / ’ and are selling on their website (www.9am.co.in). The Defendant’s products are sold through a highly interactive website, with nationwide shipping, online payment facilities, and listings on major e-commerce platforms like Amazon, Flipkart, and IndiaMart.

23.7 Upon learning of this infringement in May 2025, the Plaintiff issued a legal notice dated 09.05.2025 demanding cessation of use, to which the Defendant responded on 04.06.2025 refusing the compliance of the notice and continued their infringing activities.

23.8 On 19.06.2025, the Plaintiff’s investigator in New Delhi ordered the Defendant’s infringing product ‘SCHEZWAN TOOFANI CHUTNEY’ through Flipkart, which was delivered on 22.06.2025. The infringing



product and invoice clearly show the Defendant's dishonest use of the Plaintiff's registered trademark 'SCHEZWAN CHUTNEY', prominently displayed on packaging and online listings. The Defendant has been actively promoting these infringing products across major social media platforms such as Instagram, LinkedIn, and Facebook under the name 'SCHEZWAN CHUTNEY' without the use of the word 'TUFANI', despite having no authorization from the Plaintiff. The use of the Plaintiff's mark 'SCHEZWAN CHUTNEY' stand alone on the social media platforms and the website shows that the real intent of the Defendant is to pass off its goods as that of the Plaintiff.

Submissions by the Plaintiff

24. Mr. Pravin Anand, learned counsel for the Plaintiff submits that the Defendant's infringing product label reads 'SCHEZWAN TUFANI CHUTNEY', and their website misleadingly advertises the product simply as 'SCHEZWAN CHUTNEY', clearly seeking to exploit the Plaintiff's goodwill and reputation.

24.1. He submits that the Defendant's unauthorized use of the Plaintiff's registered trademark 'SCHEZWAN CHUTNEY' amounts to deliberate and dishonest infringement intended to deceive the public, wrongfully profit at the Plaintiff's expense, and cause irreparable harm to the Plaintiff's goodwill and reputation. He submits that the Plaintiff's trademark has no dictionary meaning.

24.2. He further emphasized that while other players in the food industry freely use generic terms like 'Schezwan Sauce' or 'Chinese Chutney', the Plaintiff's coined expression 'SCHEZWAN CHUTNEY' is distinctive and not descriptive. The Defendant's use of an identical mark is clearly intended



to pass off their products as those of the Plaintiff, misleading consumers into believing an affiliation or endorsement.

Findings and Directions

25. This Court has heard the learned counsel for the Plaintiff and has perused the record.

26. Learned counsel for the Plaintiff states that the advance service of a paper-book has been effected on the Defendant through email. However, none appears on behalf of Defendant.

27. Plaintiff is the registered proprietor of the trademark 'SCHEZWAN CHUTNEY' and has extensively used this mark since 2012. The Division Bench in its order dated 25.01.2023 (supra) has observed that Plaintiff's trademark has acquired secondary significance. The Plaintiff has placed on record its voluminous sales of its flagship product and significant advertisement expenditure for promotion of the said product and trademark.

The Defendant's adoption of an identical and deceptively similar mark, 'SCHEZWAN TUFANI CHUTNEY', and its online promotion under the term 'SCHEZWAN CHUTNEY', is a clear case of dishonest imitation intended to ride upon the Plaintiff's reputation and mislead consumers.

28. In view of the above the Plaintiff has made out a prima facie case for grant of an ad-interim injunction. Balance of convenience lies in favour of the Plaintiff, and irreparable harm will be caused to the Plaintiff, if the Defendant is not restrained prejudice would also be caused to the public as the marks of the defendant is deceptively similar to that of the plaintiff and likely to cause confusion in the market.

29. Accordingly, until the next date of hearing Defendant and all others acting for and on its behalf are restrained from directly or indirectly dealing



in any products/packages/labels bearing the marks SCHEZWAN TUFANI CHUTNEY and/or SCHEZWAN CHUTNEY and/or from using any other mark that may be deceptively similar to the Plaintiff's trademark 'SCHEZWAN CHUTNEY'.

30. Compliance of Order XXXIX Rule 3 of CPC be done within a period of one (1) week from today.

31. Upon steps being taken by the Plaintiff, issue notice to the Defendant through all modes.

32. Reply be filed within four (4) weeks from receipt of notice. Rejoinder thereto, if any, be filed within four (4) weeks thereafter.

33. List before the learned Joint Registrar (J) on **17.12.2025**.

34. List before Court on **09.04.2026**.

35. 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

NOVEMBER 3, 2025/msh/AM