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

+ **CS(COMM) 235/2022**

LIVING MEDIA INDIA LIMITED & ANR. Plaintiffs

Through: Mr. Rahul Beruar and Ms. Jyotsna
Sinha, Advocates

versus

SATBIR BHARDWAJ & ORS. Defendants

Through: Ms. Mamta Jha, Mr. Rehan Ahuja,
Ms. Shruttima, Mr. Vatsalya Vishal and Ms. Riya
Gupta, Advocates for D-4

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

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13.04.2022

I.A. 5792/2022(seeking leave to file additional documents)

1. Present application has been preferred on behalf of the Plaintiffs seeking leave to file additional documents under Order 11 Rule 1(4) CPC.
2. Plaintiffs, if they wish to file additional documents at a later stage, shall do so strictly as per the provisions of the Commercial Courts Act, 2015.
3. Application is allowed and disposed of.

I.A. 5793/2022(exemption)

4. Subject to the Plaintiffs filing originals, clearer copies and certified copies of documents, which they may seek to place reliance on, within four weeks from today, exemption is granted.
5. Application is allowed and disposed of.

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6. Let plaint be registered as a suit.

7. Issue summons.
8. Ms. Mamta Jha, learned counsel enters appearance on behalf of Defendant No.4.
9. Written statement be filed by Defendant No. 4 within 30 days from today along with affidavit of admission/denial of the documents of the Plaintiffs.
10. Replication thereto be filed by the Plaintiffs within 15 days of the receipt of the written statement along with an affidavit of admission/denial of the documents filed by Defendant No. 4.
11. Upon requisite steps being taken by the Plaintiffs, summons be issued to the remaining Defendants, through all permissible modes, returnable on 19.07.2022 before the learned Joint Registrar.
12. Summons shall state that written statement be filed by the remaining Defendants within 30 days from the date of receipt of summons. Along with the written statement, Defendants shall also file an affidavit of admission/denial of documents of the Plaintiffs.
13. Replication be filed by the Plaintiffs within 15 days of the receipt of the written statement. Along with the replication, an affidavit of admission/denial of documents filed by the Defendants shall be filed by the Plaintiffs.
14. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.
15. List before the Court on 18.08.2022.

I.A. 5791/2022 (under Order 39 Rules 1 and 2 CPC)

16. Present application has been preferred by the Plaintiffs under Order 39 Rules 1 and 2 read with Section 151 of the Code of Civil Procedure 1908

for grant of *ex-parte ad-interim* injunction.


17. Issue notice to the Defendants.


18. Ms. Mamta Jha, Advocate accepts notice on behalf of Defendant No.4.

19. Reply be filed within a period of four weeks from today. Rejoinder, if any, be filed within two weeks thereafter.

20. On steps being taken by the Plaintiffs, notice be issued to the remaining Defendants, through all permissible modes, returnable on 18.08.2022. *Dasti* in addition.

21. It is averred that the Plaintiffs are a part of the well-reputed and well-established India Today Group, which is one of India's most respected and diversified media conglomerate that has successfully created an enviable legacy of trust, leadership and admiration since the Group's inception over four decades ago. The Group publishes Nation's leading magazines such as India Today, Business Today, besides Indian editions of leading International titles like Reader's Digest.

22. It is averred that the India Today Group has four leading 24-hour news channels including "AAJ TAK" "आज तक" and , the Nation's undisputed No.1 Hindi News channel for over two decades, from the date of its launch on 31.12.2000 as well as "India Today Television", the Nation's leading English News Channel.


23. It is averred that Plaintiffs' news channel under the marks "AAJ TAK"/ "आज तक" and  has taken its leadership beyond the newsroom by winning at each and every industry award as the Nation's best

and most preferred Hindi news channel, with awards for editorial and journalistic brilliance. Plaintiffs' channel under the **AAJ TAK** trademarks and formative marks thereof with its various shows, programmes and events, command leadership status as the Country's most watched news channel and has held Numero Uno position unchallenged for close to two decades besides huge prominence and popularity, internationally in Countries such as USA, UK, Canada, etc. The channel has crossed an average weekly viewership of 101 million viewers, touching a maximum of 188 million in 2019-2020. The colossal number of page views received by the Plaintiffs' website, across India has reached 9,44,86,48,140 upto the end of year 2020.

24. It is averred that the Plaintiffs have spent colossal resources in terms of time, human intellect and money with a view to promote their brand **AAJ TAK/ "आज तक"**, including the AAJ TAK trademarks as well as formative marks thereof and the services thereunder and maintain their strong hold as the leading news/media house. The promotional expenses incurred by the Plaintiffs between the period 2002-2021 with respect to the trademarks **AAJ TAK/ "आज तक"** and formative marks thereof are furnished in para 24 of the *Plaint*, which as in the year 2021 is to the tune of INR 170.34 Crores. Additionally, Plaintiffs have generated huge revenues from the provision of goods and services under the said trademarks, which is reflected from the sales figures furnished in para 25 of the *plaint* and amount to INR 856 Crores for the financial year 2019-2020.

25. Plaintiffs, as pleaded, conceived, adopted and have been using the word marks "**AAJ TAK**" and **"आज तक"**, as well as the device mark



and further conceived a distinctive logo composite mark , with a view to lend further distinctiveness to their **AAJ TAK/** **“आज तक”** brands.

26. It is further averred that Plaintiffs have secured registrations for the word marks "AAJ TAK" and **“आज तक”**, as well as various other formative marks thereof comprising of "AAJ TAK" and **“आज तक”** as dominant and essential elements in respect of goods and services in various classes. Plaintiff No.1 secured the earliest registration in Class 9 for the mark



on 20.09.1995. A representative list of trade mark registrations is enumerated in para 31 of the plaint. Plaintiffs have been zealously protecting and enforcing their common law as well as statutory rights in the AAJ TAK trademarks and their formative marks and annexed with the plaint are copies of the orders granted by various Courts in their favour against third parties.

27. It is averred that Plaintiffs first came across Defendants No. 1 and 2's mark "AAJ TAK GURGAON" in December 2021, on a YouTube channel titled **"AAJ TAK GURGAON"** accessible at <https://www.youtube.com/channel/UCAIY8xiV7ent9zldJLPMPaO/featured> hosting a number of videos disseminating news. Upon further search, Plaintiffs also learnt of additional social media profiles on Facebook, Twitter and Instagram, all of which use the same impugned mark "AAJ TAK

GURGAON". All the social media profiles, in addition to being titled under the impugned mark "AAJ TAK GURGAON", also use and display the other

infringing marks such as



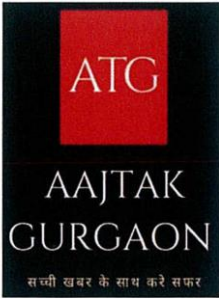
and



28. It is averred that in view of the deceptive similarity of the said impugned marks, which wholly incorporate the Plaintiffs' well-known and registered trademark 'AAJ TAK' as well as other AAJ TAK formative marks, *inter alia*, Plaintiffs on 13.12.2021 issued a cease and desist notice to Defendant No.1 against the infringement of the Plaintiffs' AAJ TAK trademarks. Plaintiffs on 23.12.2021 received a reply on behalf of Defendant No.1 to the said cease and desist notice, wherein Defendant No.1 refused to refrain from infringing activities and unauthorised use of the impugned marks.

29. It is further averred that Defendant No.1's web portal, accessible at 'www.aajtakgurgaon.com' is a digital news disseminating platform wherein news updates not only limited to Gurugram but to the whole of India are made available in addition to third party advertisements and commercials. Defendant No.1 is also engaged in publishing a newspaper under the impugned marks "आज तक गुड़गाँव", **आज तक गुड़गाँव**, which has registration with the Registrar of Newspapers for India.

30. Contention of learned counsel for the Plaintiffs is that given the popularity, goodwill and enviable reputation earned by the Plaintiffs for their journalistic ventures, which has led to AAJ TAK having become a well-known trademark, it is evident that Defendants No.1 and 2 have consciously and craftly adopted the impugned marks so as to deceive the public into believing that the impugned marks and the platforms thereunder are owned by or associated with the Plaintiffs. Defendants No.1 and 2 have adopted the deceptively similar impugned marks for services identical to those offered by the Plaintiffs, being *inter alia*, journalism, news reporting, news publication and news telecast. Despite being put to notice in December 2021, Defendants No.1 and 2 are openly and blatantly using the impugned marks and a comparative of the Plaintiffs' marks as well as the impugned marks, as set out in the plaint, would show a clear case of infringement. The comparative table as set out in para 47 of the plaint is scanned and placed below :






| Sl. No. | Plaintiffs' trade marks | Defendant No. 1 and 2's impugned AAJ TAK mark |
|---------|-------------------------|--|
| i. | AAJ TAK | <p data-bbox="869 1429 1241 1467">AAJ TAK GURGAON</p>  <p data-bbox="869 1780 1436 1904">(used on channel/profiles on YouTube, Facebook, Instagram and Twitter)</p> |

| | | |
|-----|---|---|
| | |  (used on videos YouTube) |
| ii. |     |    (used on videos on YouTube) <hr/>  (used on the website and newspaper publication) |

31. Having heard the learned counsel for the Plaintiffs, this Court is of the view that Plaintiffs have made out a *prima facie* case for grant of *ex parte ad-interim* injunction. Balance of convenience lies in favour of the Plaintiffs and they are likely to suffer irreparable harm in case the injunction, as prayed for, is not granted.

32. Accordingly, Defendants No.1 and 2, their promoters, partners, managers, employees, principals, agents, associates, affiliates, licensees, distributors, or any and all others acting on their behalf, directly or indirectly, as the case may be, are restrained from :-



(a) using the impugned AAJ TAK marks, including "AAJ TAK

GURGAON", , , ,  and/or  or any other trade mark identical or deceptively similar to the

Plaintiffs' registered trade marks "AAJ TAK", , ,  " , , , , ,  " *inter alia* in any manner

whatsoever in relation to any goods and/or services including their print/digital newspaper/publication, website, social media and content sharing platforms including Facebook, Twitter, YouTube, Instagram, LinkedIn, and any other location on the internet, promotional material, printed publications or in any other mode or medium, which amounts to infringement of the Plaintiffs' AAJ TAK trademarks, till the next date of hearing; and

(b) using the impugned marks and/or the words "AAJ TAK" and/or "आज तक" as suffix or prefix or in any manner whatsoever in relation to any goods and/or services including its print/digital newspaper/publication, website, social media and content sharing platforms including Facebook, Twitter, YouTube, Instagram, LinkedIn, and any other location on the internet, promotional material, printed publications or in any other mode or medium, amounting to passing off of the Plaintiffs' well-known trademarks

"AAJ TAK" and "आज तक",  and .

33. Defendant No.3, their directors, partners, proprietors, officers,

affiliates, servants, employees, and all others in capacity of principal or agent acting for and, on their behalf, or anyone claiming through, by or under it, are directed to suspend the domain name registration of the impugned domain name 'aajtakgurgaon.com' registered in the name of Defendant No. 2.

34. Defendant Nos. 4 and 5, their directors, partners, proprietors, officers, affiliates, servants, employees, and all others in capacity of principal or agent acting for and, on their behalf, or anyone claiming through, by or under it, are directed to take down/delete Defendant No.1's channel/profile/pages using the impugned AAJ TAK marks and/or any other trade mark identical or deceptively similar to the Plaintiffs' AAJ TAK trademarks on their respective social media platforms

35. Plaintiffs shall comply with the provisions of Order 39 Rule 3 CPC within five days from today.

JYOTI SINGH, J

APRIL 13, 2022

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