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

+ **CS(COMM) 313/2022**

NIKHIL CHAWLA Plaintiff

Through: Mr. Adarsh Ramanujan & Mr.
Lzafeer Ahmad, Advocates.

versus

THE COCA COLA COMPANY Defendant

Through: Ms. Anuradha Salhotra, Mr. Naval
Kastia, Mr. Naval Bhardwaj & Ms.
Priyanka Anand, Advocates (M-
9560175428)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **12.05.2022**

1. This hearing has been done through hybrid mode.

CAV 124/2022

2. Caveat is discharged as infructuous.

I.A. 7465/2022

3. Allowed, subject to all just exceptions.

4. ***I.A. 7465/2022*** is disposed of.

I.A. 7464/2022 (for additional documents)

5. This is an application filed on behalf of the Plaintiff seeking leave to file additional documents under the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (hereinafter, 'Commercial Courts Act'). The Plaintiff, if it wishes to file additional documents at a later stage, shall do so strictly as per the provisions of the Commercial Courts Act.

6. *I.A. 7464/2022* is disposed of.

CS(COMM) 313/2022

7. Let the plaint be registered as a suit.

8. Issue summons to the Defendant. Ld. counsel for the Defendant accepts summons.

9. The summons to the Defendant shall indicate that a written statement to the plaint shall be positively filed within 30 days from date of receipt of summons. Along with the written statement, the Defendant shall also file an affidavit of admission/denial of the documents of the Plaintiff, without which the written statement shall not be taken on record.

10. Liberty is given to the Plaintiff to file a replication within 15 days of the receipt of the written statement(s). Along with the replication, if any, filed by the Plaintiff, an affidavit of admission/denial of documents of the Defendant, be filed by the Plaintiff, without which the replication shall not be taken on record. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

11. List before the Joint Registrar for marking of exhibits on 28th July, 2022. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

12. List before Court on 12th September, 2022.

I.A. 7463/2022 (u/O XXXIX Rule 1 and 2 CPC)

13. The present suit is in the nature of a threat action under Section 142 of the Trademarks Act, 1999 and a suit seeking declaration of non-infringement of the registered trademark COKE STUDIO. The Plaintiff is the proprietor of the firm trading as “The Chawla Group” and is stated to be running a very popular online platform called ‘COOK STUDIO’ engaged in

the activity of blogging, production of video films, training, etc., particularly relating to cooking. The Plaintiff has received notices from the Defendant which is the owner of the registered trademark named 'COKE STUDIO' calling upon him to desist from using the mark COOK STUDIO for his culinary related blog.

14. Issue notice. Ms. Salhotra, ld. Counsel accepts notice on behalf of the Defendant and submits that the suit would not be maintainable under Section 142 as the use of the mark 'COOK STUDIO' by the Defendant would constitute infringement of the Plaintiff's registered trademark 'COKE STUDIO'.

15. On the other hand, Mr. Adarsh Ramanujan, ld. Counsel submits that there is complete disparity in the logos and the colour combination of the Plaintiff's and the Defendant's marks. He further submits that the words 'COOK' and 'STUDIO' are generic words.

16. It appears to this Court that an attempt ought to be made to amicably resolve this dispute through mediation in the first place. Accordingly, both parties are referred to the Delhi High Court Mediation and Conciliation Centre on 31st May, 2022 at 4:00 p.m. Mr. Rajeev Virmani, ld. Senior Counsel is appointed to act as the Mediator in this matter.

17. Parties to appear before the Mediation Centre either virtually or physically, subject to convenience of all concerned. It shall be ensured that competent officials on behalf of the Plaintiff and the Defendants shall be present in the mediation proceedings.

18. In the meantime, let the pleadings in the suit, as also, in the application be also completed, strictly in terms of the timelines as prescribed under the Commercial Courts Act, 2015.

19. List before the Court on 12th September, 2022. If the matter is resolved, parties may move an application.

PRAITHIBA M. SINGH, J.

MAY 12, 2022/Rahul/AD