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

+ **CS(COMM) 180/2024**

ABHI TRADERS

..... Plaintiff

Through: Mr. Anshuman Upadhyay,
Mr. Naseem, Mr. Apoorva Sharma,
Mr. Rahul Singh and Ms. Sunanda
Chowdhury, Advocates.

versus

FASHNEAR TECHNOLOGIES PRIVATE LIMITED & ORS.

..... Defendants

Through: Mr. Sidharth Chopra, Ms. Savni Dutt
Endlaw, Mr. Vivek Ayyagari, Ms. R.
Ramya and Mr. Sanidhya
Meheshwari, Advocates for D-1.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

%

29.02.2024

I.A. 4772/2024 (for exemption of filing clearer, typed copies, vernacular and originals of certain documents)

1. Exemption is granted, subject to all just exceptions.
2. The Applicant shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.
3. Accordingly, the application stands disposed of.

I.A. 4771/2024 (seeking leave to file additional documents)

4. This is an application seeking leave to file additional documents under the Commercial Courts Act, 2015.



5. Applicant, if it wishes to file additional documents at a later stage, shall do so strictly as per the provisions of the said Act.

6. Accordingly, the application stands disposed of.

I.A. 4773/2024 (seeking exemption from the requirement of effecting advance service on D-2 to 10)

7. In view of the fact that the Plaintiff has sought *ex parte ad-interim* injunction, the exemption from advance service to Defendant Nos. 2 to 10 is granted.

8. Application is disposed of.

CS(COMM) 180/2024

9. Let the plaint be registered as a suit.

10. Issue summons. Ms. Savni Dutt Endlaw, counsel accepts summons on behalf of Defendant No. 1. Upon filing of process fee, issue summons to the remaining Defendant(s) by all permissible modes. Summons shall state that the written statement shall be filed by the Defendant within 30 days from the date of receipt of summons. Along with the written statement, the Defendants 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.

11. Liberty is given to the Plaintiff to file a replication within 15 days of the receipt of the written statement. Along with the replication, if any, filed by the Plaintiff, an affidavit of admission/denial of documents of the Defendants, 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.



12. List before the Joint Registrar for marking of exhibits on 1st May, 2024. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

13. List before Court for framing of issues thereafter.

I.A. 4770/2024 (for ex-parte ad interim injunction)

14. Issue notice. Ms. Endlaw, counsel accepts notice on behalf of Defendant No. 1.

15. The present suit has been filed by the Plaintiff, Abhi Traders, trading through its sole proprietor Mohd Ovals Ali Ansari, for copyright infringement and passing off, and other reliefs including damages against the known Defendant Nos. 1 to 9 and unknown Defendant No. 10, where Defendants No. 2-10 are advertising, publishing and offering for sale, the garments, which are a complete copy of the Plaintiff's garments and are also misusing the photographs and images in which the Plaintiff owns rights.

16. The case of the Plaintiff is that the Plaintiff is a retailer in clothing items for men and women selling it under its mark "IBRANA



". They also specialize in ethnic wear, which are designed by their own in-house designers. They offer for sale and advertises their goods on various E-Commerce platforms such as Flipkart and Defendant No.1's platform 'www.meesho.com' [hereinafter 'Meesho']. The said products are advertised and promoted through photographs over which the copyright of Plaintiff subsists. Expenditure incurred to run advertisements on Meesho is claimed to be around INR 6,64,315/- from 2021 to till date.



17. The Plaintiff claims to be popular on various E-commerce platforms as indicated by its gross sales turnover of INR 1,54,24,936/- for the year 2023-24. On the Platform of Defendant No. 1, the Plaintiff has an average rating of 4.0 with over 30,250 ratings and 6060 reviews by the consumers.


18. Defendant No.1- Fashnear Technologies Private Limited is the company which runs www.meesho.com, the e-commerce platform. Defendant Nos. 2- 9 are alleged to be unlawful and unauthorized operators who use Plaintiff's copyrighted pictures and photographs and sell their own counterfeit goods thereunder on the online platform owned, run, managed and administered by Defendant No. 1. Defendant No.10- Ashok Kumar (John Doe) are unknown identities that may either be one or various unlawful parties who are using Plaintiff's product images to sell products.

19. Mr. Anshuman Upadhyay, counsel for the Plaintiff submits that the present suit has been filed against various known and unknown sellers, who are offering to sell garments and ethnic wears by misusing the Plaintiff's photographs. It is submitted that Plaintiff is the sole manufacturer, promoter, marketer and seller (directly and only on online retail platforms) of the products listed under its own copyrighted pictures and therefore the question of genuine reselling or authorized re-selling does not arise. It is also submitted that the Plaintiff has not authorized Defendant No. 2 to 10 to use any photographs of the Plaintiffs products over which they have copyright. The repeated misuse of the Plaintiffs copyrighted photographs, published on Defendant No. 1's platform shows that, Defendant No. 2 to 10 are riding upon the goodwill and reputation of the Plaintiff and making unauthorized gains. The following images are relied upon to show the manner in which Defendants No.2 -10 have completely imitated the Plaintiff's products:



PLAINTIFF'S LISTINGS

<https://www.meesho.com/women-kurta-trouser-set-cotton/p/1cqhf? ms=2>



Women Kurta Trouser Set Cotton
 ₹345
 4.1★ (107 Ratings, 198 Reviews) • **Free Delivery**

Select Size
 (M) (L) (XL) (XXL) (XXXL)


Product Details
 Name: Women Kurta Trouser Set Cotton
 Kurta Fabric: Cotton
 Bottomwear Fabric: Cotton
 Fabric: Cotton
 Sleeve Length: Three-Quarter Sleeves
 Set Type: Kurta With Bottomwear
 Bottom Type: Pants
 Pattern: Striped
 Neck Quantity (N): Single
 Size:

8 Similar Products

Sold By
 IBRANA
 4.0★ (36,317 Ratings) 1,325 Followers 20 Products

DEFENDANT NO. 2'S LISTING

<https://www.meesho.com/kurta-set-with-pant/p/5d8hhj? ms=3.0.1&source=Meri+Shop>



KURTI SET WITH PANT
 ₹260
 3.8★ (34 Ratings, 13 Reviews) • **Free Delivery**

Select Size
 (M) (L) (XL) (XXL) (XXXL)


Product Details
 Name: KURTI SET WITH PANT
 Kurta Fabric: Khadi Cotton
 Bottomwear Fabric: Khadi Cotton
 Fabric: Cotton
 Sleeve Length: Three-Quarter Sleeves
 Set Type: Kurta With Dupatta And Bottomwear
 Bottom Type: Pants
 Pattern: Solid
 Neck Quantity (N): Single
 Size:

4 Similar Products

Sold By
 JJ Handloom
 3.9★ (6,520 Ratings) 177 Followers 24 Products

PLAINTIFF'S LISTINGS

<https://www.meesho.com/women-kurta-trouser-set-cotton/p/1cqhf? ms=2>



Women Kurta Trouser Set Cotton
 ₹345
 4.1★ (107 Ratings, 198 Reviews) • **Free Delivery**

Select Size
 (M) (L) (XL) (XXL) (XXXL)


Product Details
 Name: Women Kurta Trouser Set Cotton
 Kurta Fabric: Cotton
 Bottomwear Fabric: Cotton
 Fabric: Cotton
 Sleeve Length: Three-Quarter Sleeves
 Set Type: Kurta With Bottomwear
 Bottom Type: Pants
 Pattern: Striped
 Neck Quantity (N): Single
 Size:

8 Similar Products

Sold By
 IBRANA
 4.0★ (36,317 Ratings) 1,325 Followers 20 Products

DEFENDANT NO. 3'S LISTING

<https://www.meesho.com/women-kurta-trouser-set-cotton/p/3p7eb1? ms=3.0.1&source=Meri+Shop>



Women Kurta Trouser Set Cotton
 ₹332
 3.9★ (11 Ratings, 13 Reviews) • **Free Delivery**

Select Size
 (M) (L) (XL) (XXL)

Product Details
 Name: Women Kurta Trouser Set Cotton
 Kurta Fabric: Cotton
 Bottomwear Fabric: Cotton
 Fabric: Cotton
 Sleeve Length: Three-Quarter Sleeves
 Set Type: Kurta With Bottomwear
 Bottom Type: Pants
 Pattern: Striped
 Neck Quantity (N): Single
 Size:

4 Similar Products

Sold By
 F.Z COLLECTION
 3.9★ (8,061 Ratings) 247 Followers 38 Products

Introducing the F.z Collection Cotton Kurti - the perfect blend of comfort, style and quality. Made from high-quality cotton fabric, this kurti is designed to provide maximum comfort, breathability, and durability, making it perfect for everyday wear.



The kurti features a classic round neck design that is both elegant and versatile, making it suitable for a variety of occasions. Its knee-length design adds a touch of sophistication while ensuring maximum coverage, making it perfect for both formal and casual wear.



The F.z Collection Cotton Kurti comes in a range of vibrant colors and unique patterns, each one handpicked to complement your unique style. With its superior quality and attention to detail, this kurti is sure to become a staple in your wardrobe.

So why wait? Add the F.z Collection Cotton Kurti to your collection today and experience the perfect combination of style, comfort, and quality.

HAPPY SHOPPING
 Country of Origin: India
 More Information




<p align="center">PLAINTIFF'S LISTINGS</p> <p align="center">https://www.meesho.com/kurtti-pant-sets/p/64x0eu? ms=2</p>  <p>KURTTI PANT SETS ₹369 <small>4.5</small> (16 Ratings, 35 Reviews) Free Delivery</p> <p>Select Size <input type="radio"/> S <input type="radio"/> M <input type="radio"/> L <input type="radio"/> XL <input type="radio"/> XXL <input type="radio"/> XXXL</p> <p>Product Details Name: KURTTI PANT SETS Kurta Fabric: Cotton Bottomwear Fabric: Cotton Fabric: Cotton Sleeve Length: Three-Quarter Sleeves Set Type: Kurta With Dupatta And Bottomwear Bottom Type: Palazzo Pattern: Striped Net Quantity (N): Single Size: S, M, L, XL, XXL, XXXL Country of Origin: India More Information</p> <p>Sold By IBRANA <small>4.0</small> (1,125 Ratings) 1,125 Followers 20 Products</p>	<p align="center">DEFENDANT NO. 4'S LISTING</p> <p align="center">https://www.meesho.com/stylish-kurta-pant-set-for-girls-womans/p/64vg71? ms=3.0.1&source=Meri+Shop</p>  <p>Stylish kurta pant set for girls & woman,s ₹394 <small>4.5</small> (16 Ratings, 35 Reviews) Free Delivery</p> <p>Select Size <input type="radio"/> M <input type="radio"/> L <input type="radio"/> XL <input type="radio"/> XXL <input type="radio"/> XXXL</p> <p>Product Details Name: Stylish kurta pant set for girls & woman,s Fabric: Khadi Cotton Sleeve Length: Three-Quarter Sleeves Pattern: Solid Size: M (Bust Size - 38 in) L (Bust Size - 40 in) XL (Bust Size - 42 in) XXL (Bust Size - 44 in) XXXL (Bust Size - 46 in) Country of Origin: India More Information</p> <p>Sold By Zunaira collection Mrt <small>3.9</small> (45 Ratings) 45 Followers 34 Products</p>
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<p align="center">PLAINTIFF'S LISTINGS</p> <p align="center">https://www.meesho.com/kurtti-pant-for-women/p/64x0ev? ms=2</p>  <p>KURTTI PANT FOR WOMEN ₹447 <small>4.1</small> (121 Ratings, 34 Reviews) Free Delivery</p> <p>Select Size <input type="radio"/> M <input type="radio"/> L <input type="radio"/> XL <input type="radio"/> XXL <input type="radio"/> XXXL</p> <p>Product Details Name: KURTTI PANT FOR WOMEN Kurta Fabric: Cotton Bottomwear Fabric: Cotton Fabric: Cotton Sleeve Length: Three-Quarter Sleeves Set Type: Kurta With Dupatta And Bottomwear Bottom Type: Pants Pattern: Solid Net Quantity (N): Single Size: M, L, XL, XXL, XXXL Country of Origin: India More Information</p> <p>Sold By IBRANA <small>4.0</small> (1,122 Ratings) 1,122 Followers 19 Products</p>	<p align="center">DEFENDANT NO. 5'S LISTING</p> <p align="center">https://www.meesho.com/kurtti-pant-with-dupatta-for-women/p/5gmzjh? ms=2</p>  <p>Kurtti Pant with Dupatta for Women ₹402 <small>3.7</small> (1167 Ratings, 216 Reviews) Free Delivery</p> <p>Select Size <input type="radio"/> M <input type="radio"/> L <input type="radio"/> XL <input type="radio"/> XXL <input type="radio"/> XXXL</p> <p>Product Details Name: Kurtti Pant with Dupatta for Women Kurta Fabric: Khadi Cotton Bottomwear Fabric: Khadi Cotton Fabric: Khadi Cotton Sleeve Length: Three-Quarter Sleeves Set Type: Kurta With Dupatta And Bottomwear Bottom Type: Pants Pattern: Solid Net Quantity (N): Single Size: M (Bust Size - 38 in) L (Bust Size - 40 in) XL (Bust Size - 42 in) XXL (Bust Size - 44 in) XXXL (Bust Size - 46 in) Country of Origin: India More Information</p> <p>Sold By S.A. ENTERPRISES <small>3.9</small> (71 Ratings) 71 Followers 35 Products</p>
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PLAINTIFF'S LISTINGS

<https://www.meesho.com/kurta-sets/p/4v8gvv? ms=2>



Kurta Sets
₹398

4.1★ 1547 Ratings, 178 Reviews

Free Delivery

Select Size
M L XL XXL XXXL


Product Details
Name: Kurta Sets
Kurta Fabric: Cotton
Bottomwear Fabric: Cotton
Sleeve Length: Three-Quarter Sleeves
Pattern: Solid
Set Type: Kurta with Dupatta and Bottomwear
Sleeve Type: Striped
Neck Quantity (N): Single
Size: M, L, XL, XXL, XXXL
Country of Origin: India
More Information

Sold By
IBRANA
4.0★ 1,125 20
30,317 Ratings Followers Products

8 Similar Products

DEFENDANT NO. 6'S LISTING

<https://www.meesho.com/women-kurta-trouser-with-dupatta-set-cotton/p/55vvs? ms=2&source=Meri+Shop>



Women Kurta Trousers With Dupatta Set Cotton
₹330

4.2★ 23 Ratings, 8 Reviews

Free Delivery

Select Size
S M L XL XXL XXXL


Product Details
Name: Women Kurta Trousers With Dupatta Set Cotton
Make a winning choice for an upcoming occasion by picking trendy set. Match this kurta with flashy pearl stud earrings, and fitted round sunglasses.
Size: S (Bust Size: 56 in, Top Length Size: 42 in, Bottom Waist Size: 30 in, Bottom Length Size: 37 in, Dupatta Length Size: 2.25 m, Shoulder Size: 13 in), M (Bust Size: 58 in, Top Length Size: 42 in, Bottom Waist Size: 38 in, Bottom Length Size: 37 in, Dupatta Length Size: 2.25 m, Shoulder Size: 14 in), L (Bust Size: 42 in, Top Length Size: 42 in, Bottom Waist Size: 40 in, Bottom Length Size: 37 in, Dupatta Length Size: 2.25 m, Shoulder Size: 16 in), XL (Bust Size: 44 in, Top Length Size: 42 in, Bottom Waist Size: 44 in, Bottom Length Size: 37 in, Dupatta Length Size: 2.25 m, Shoulder Size: 15 in), XXXL (Bust Size: 46 in, Top Length Size: 42 in, Bottom Waist Size: 46 in, Bottom Length Size: 37 in, Dupatta Length Size: 2.25 m, Shoulder Size: 16 in)
Country of Origin: India
More Information

Sold By
CREATION LILY
4.0★ 235 39
9,267 Ratings Followers Products

3 Similar Products

PLAINTIFF'S LISTINGS

<https://www.meesho.com/women-kurta-trouser-set-cotton/p/1cqhf? ms=2>



Women Kurta Trousers Set Cotton
₹345

4.1★ 1547 Ratings, 178 Reviews

Free Delivery

Select Size
M L XL XXL XXXL


Product Details
Name: Women Kurta Trousers Set Cotton
Kurta Fabric: Cotton
Bottomwear Fabric: Cotton
Fabric: Cotton
Sleeve Length: Three-Quarter Sleeves
Set Type: Kurta With Bottomwear
Bottom Type: Pants
Pattern: Striped
Neck Quantity (N): Single
Size: M (Bust Size: 38 in, Shoulder Size: 14.5 in, Kurta Waist Size: 34 in, Kurta Hip Size: 40 in, Kurta Length Size: 42 in, Bottom Waist Size: 30 in, Bottom Hip Size: 40 in, Bottom Length Size: 38 in), L (Bust Size: 40 in, Shoulder Size: 15 in, Kurta Waist Size: 36 in, Hip Size: 42 in, Kurta Length Size: 42 in, Bottom Waist Size: 30 in, Bottom Hip Size: 40 in, Bottom Length Size: 38 in), XL (Bust Size: 42 in, Shoulder Size: 15.5 in, Kurta Waist Size: 38 in, Kurta Hip Size: 44 in, Kurta Length Size: 42 in, Bottom Waist Size: 30 in, Bottom Hip Size: 40 in, Bottom Length Size: 38 in), XXL (Bust Size: 44 in, Shoulder Size: 16 in, Kurta Waist Size: 40 in, Kurta Hip Size: 46 in, Kurta Length Size: 42 in, Bottom Waist Size: 30 in, Bottom Hip Size: 42 in, Bottom Length Size: 38 in), XXXL (Bust Size: 46 in, Shoulder Size: 17 in, Kurta Waist Size: 42 in, Kurta Hip Size: 48 in, Kurta Length Size: 42 in, Bottom Waist Size: 30 in, Bottom Hip Size: 42 in, Bottom Length Size: 38 in)
Country of Origin: India
More Information

Sold By
IBRANA
4.0★ 1,125 20
30,317 Ratings Followers Products

8 Similar Products

DEFENDANT NO. 7'S LISTING

<https://www.meesho.com/lurex-dark-2-kurta-sets/p/37a080? ms=3.0.1>



LUREX DARK-2 Kurta Sets
₹367

4.0★ 2920 Ratings, 528 Reviews

Free Delivery

Select Size
S M L XL XXL XXXL


Product Details
Name: LUREX DARK-2 Kurta Sets
Kurta Fabric: Khadi Cotton
Bottomwear Fabric: Khadi Cotton
Fabric: Khadi Cotton
Sleeve Length: Three-Quarter Sleeves
Set Type: Kurta With Bottomwear
Bottom Type: Pants
Pattern: Striped
Size: S, M, L, XL, XXL, XXXL
Country of Origin: India
More Information

Sold By
NATIONAL TEXTILES
3.9★ 1,311 45
31,971 Ratings Followers Products

Similar Products



PLAINTIFF'S LISTINGS
<https://www.meesho.com/kurti-pant-set/p/64x0er? ms=2>



Kurti Pant Set
 ₹379
 4.1★ 155 Ratings, 35 Reviews
 Delivery 992


Select Size
 No sizes available, try similar products

Product Details
 Name : Kurti Pant Set
 Kurta Fabric : Cotton
 Fabric : Cotton
 Bottomwear Fabric : Cotton
 Sleeve Length : Three-Quarter Sleeves
 Pattern : Solid
 Set Type : Kurti with Dupatta and Bottomwear
 Stitch Type : Stitched
 Net Quantity (N) : Single
 Sizes : M, L, XL, XXL, XXXL
 Country of Origin : India
 More Information

Sold By
 IBRANA
 4.0★ 1,125 20
 30,317 Ratings Followers Products

6 Similar Products

DEFENDANT NO. 8'S LISTING
<https://www.meesho.com/kurti-with-sharara-and-dupatta-set/p/5chvmd? ms=3.0.1&source=Meri+Shop>



kurti with sharara and dupatta set
 ₹387
 4.0★ 177 Ratings, 333 Reviews
 Free Delivery

Select Size
 (M) (L) (XL) (XXL) (XXXL)

Product Details
 Name : kurti with sharara and dupatta set
 Kurta Fabric : Cotton
 Fabric : Cotton
 Bottomwear Fabric : Cotton
 Sleeve Length : Three-Quarter Sleeves
 Pattern : Solid
 Set Type : Kurti with Dupatta and Bottomwear


Net Quantity (N) : Single
 J.N ENTERPRISES is one of the best Women's Online Clothing Fashion Dresses for Women, Latest Women Kurtis, Rajasthan Kurtis, Short Kurtis, Best Designer Kurtis Online, Latest Online Kurtis to Buy, Indian Long Kurtis, Latest New Design Kurtis.

Designer Kurtis Collection, Cheap Kurtis, Indian Short Kurtis Online, Best Kurtis to Buy Online, Designer Short Kurtis, Cotton Long Kurtis, Branded Kurtis, Summer Clothes for Women, Plus Size Fashion and Women's Kurti Pant Set. These Indian Latest Stylish Summer Women Kurtis are attractive, good looking and available in many different colors.

Happy Shopping #kurtiandpantsetforwomen #kurtiandpantset #kurtiblack

3 Similar Products

PLAINTIFF'S LISTINGS
<https://www.meesho.com/women-kurta-trouser-set-cotton/p/1cqhF9? ms=2>



Women Kurta Trouser Set Cotton
 ₹290
 4.3★ 147 Ratings, 148 Reviews
 Delivery 978


Select Size
 (M) (L) (XL) (XXL) (XXXL)

Product Details
 Name : Women Kurta Trouser Set Cotton
 Kurta Fabric : Cotton
 Fabric : Cotton
 Bottomwear Fabric : Cotton
 Sleeve Length : Three-Quarter Sleeves
 Set Type : Kurta With Bottomwear
 Bottom Type : Trousers
 Pattern : Solid
 Net Quantity (N) : Single
 Sizes : M (Bust Size : 38 in, Shoulder Size : 14.5 in, Kurta Waist Size : 34 in, Kurta Hip Size : 40 in, Kurta Length Size : 42 in, Bottom Waist Size : 27 in, Bottom Hip Size : 38 in, Bottom Length Size : 38 in), L (Bust Size : 40 in, Shoulder Size : 15 in, Kurta Waist Size : 36 in, Kurta Hip Size : 42 in, Kurta Length Size : 42 in, Bottom Waist Size : 29 in, Bottom Hip Size : 40 in, Bottom Length Size : 38 in), XL (Bust Size : 42 in, Shoulder Size : 16 in, Kurta Waist Size : 38 in, Kurta Hip Size : 44 in, Kurta Length Size : 42 in, Bottom Waist Size : 31 in, Bottom Hip Size : 42 in, Bottom Length Size : 38 in), XXL (Bust Size : 44 in, Shoulder Size : 16.5 in, Kurta Waist Size : 40 in, Kurta Hip Size : 46 in, Kurta Length Size : 42 in, Bottom Waist Size : 33 in, Bottom Hip Size : 44 in, Bottom Length Size : 38 in), XXXL (Bust Size : 46 in, Shoulder Size : 17 in, Kurta Waist Size : 42 in, Kurta Hip Size : 48 in, Kurta Length Size : 42 in, Bottom Waist Size : 35 in, Bottom Hip Size : 46 in, Bottom Length Size : 38 in)
 Country of Origin : India
 More Information

Sold By
 IBRANA
 4.0★ 1,125 20
 30,317 Ratings Followers Products

8 Similar Products

DEFENDANT NO. 9'S LISTING
<https://www.meesho.com/womens-cotton-kurta-pant-set/p/57r4wn? ms=3.0.1&source=Meri+Shop>



Women's Cotton Kurta Pant Set
 ₹332
 4.2★ 9 Ratings
 Free Delivery

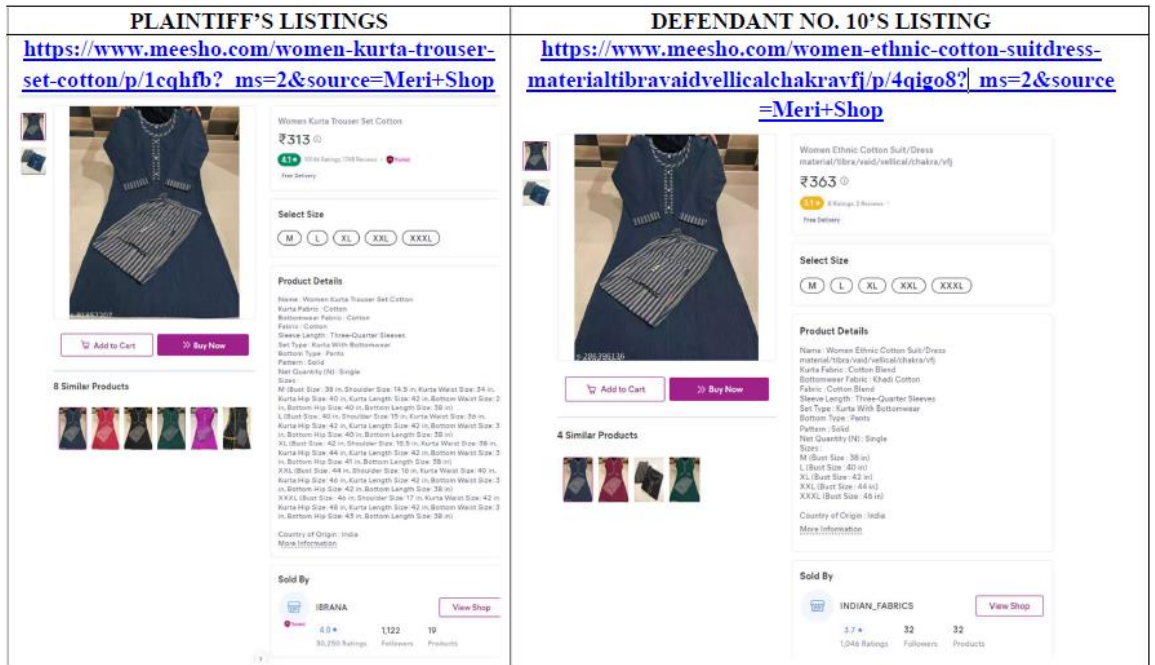
Select Size
 (M) (L) (XL) (XXL) (XXXL)

Product Details
 Name : Women's Cotton Kurta Pant Set
 Kurta Fabric : Khadi Cotton
 Fabric : Khadi Cotton
 Bottomwear Fabric : Khadi Cotton
 Fabric : No Dupatta
 Sleeve Length : Three-Quarter Sleeves
 Set Type : Kurta With Bottomwear
 Bottom Type : Pants
 Pattern : Solid
 Net Quantity (N) : Single
 Sizes : M (Bust Size : 38 in), L (Bust Size : 40 in), XL (Bust Size : 42 in), XXL (Bust Size : 44 in)

A.B Collection is one of the best Women's Online Clothing Shop Fashion Dresses for Women, Latest Women Kurtis, Rajasthan Kurtis, Short Kurtis, Best Designer Kurtis Online, Latest Online Kurtis to Buy, Indian Long Kurtis, Latest New Design Kurtis.

Designer Kurtis Collection, Cheap Kurtis, Indian Short Kurtis Online, Best Kurtis to Buy Online, Designer Short Kurtis, Cotton Long Kurtis, Branded Kurtis, Summer Clothes for Women, Plus Size Fashion and Women's Kurti Pant Set. These Indian Latest Stylish

1 Similar Products



20. Mr. Upadhyay contends that Defendants No. 2-10 are not only replicating the Plaintiff's products but are also using identical photographs for marketing purposes and deliberately pricing their goods lower to inflict financial harm on the Plaintiff. Despite the inferior quality of the Defendants No. 2-10's products, their external appearance is remarkably similar to that of the Plaintiff's offerings, creating a deceptive semblance of equivalence that misleads consumers.

21. Mr. Upadhyay argues that Defendant No. 1 is under an obligation to publish contact details of all sellers on its platform under Rule 5(3)(a) of Consumer Protection (E Commerce) Rules, 2020. Defendant No. 1 does not provide any contact information on its website at any point during the transaction process. Furthermore, even following the successful purchase of counterfeit products via Defendant No. 1's website, the invoices failed to disclose the names and addresses of Defendants No. 2 to 9. The Plaintiff



sought to rectify this lack of transparency by submitting a grievance via email on the 23rd of February, 2024, directly to Defendant No. 1, requesting the disclosure of Defendants No. 2 to 9's details. Despite this attempt, Defendant No. 1 did not furnish the requested information. Given these circumstances, Defendant No. 1 cannot claim the protections ordinarily afforded under Section 79 (1) of the Information Technology Act, 2000. The omission of essential contact information, combined with the failure to respond to legitimate requests for transparency regarding the entities involved in the sale of counterfeit goods, suggests that Defendant No. 1 is complicit in the activities of Defendants No. 2 to 9. Such conduct not only contravenes the legal obligations incumbent upon e-marketplaces but also implicates Defendant No. 1 in aiding and abetting the other Defendants in their infringing activities. Consequently, Defendant No. 1's operations, as conducted, are in violation of the regulatory framework established for e-commerce platforms, thereby disqualifying it from availing itself of the specific immunities provided under section 79 (1) of the Information Technology Act, 2000.

22. Further, Mr. Upadhyay argues that Plaintiff's sales experienced a significant decline coinciding with the appearance of similar-looking products, which utilized identical photographs, on Defendant No. 1's platform. This correlation suggests a direct impact on the Plaintiff's market performance attributable to the consumer confusion induced by the Defendant No.2-10's actions in distributing counterfeit products that mimic the Plaintiff in both appearance and presentation.

23. Ms. Endlaw counters the allegations directed at Defendant No. 1, arguing that as an 'intermediary', Defendant No. 1's responsibilities are



limited to removing URLs of look-alike images and products from its platform, contingent upon receiving a court order to do so. She asserts her readiness to comply with any such takedown orders issued by this Court in the instant proceedings, indicating a willingness to adhere to the legal requirements for intermediaries under the relevant statutes.

24. The Court, having considered the submissions presented and the comparative chart of look-alike products provided by the Plaintiff, finds that a *prima facie* case has been established. It appears that Defendants No. 2 to 9, along with the unidentified Defendant No. 10, are egregiously exploiting the Plaintiff's product images, listing visuals, and product designs for their financial gain, leveraging the Plaintiff's reputation. Such sellers are unequivocally not entitled to replicate the Plaintiff's photographs, images, or product designs in such a manner, thereby inflicting harm upon the Plaintiff. While this Court acknowledges the pivotal role of e-commerce platforms in offering new opportunities for small designers and enterprises, it is imperative that these platforms are not exploited to facilitate the imitation of products and the infringement of intellectual property rights. The production of look-alike products, misuse of product images that infringe upon the Plaintiff's copyrights undermines the integrity of fair trade and competition, warranting intervention to protect the Plaintiff's lawful interests.

25. There is also an obligation upon the E-Commerce platform to ensure that complete details of the sellers are available on the platform so that the consumer is aware of the sellers from whom the product has been purchased and the entity, who is listing the product. The Consumer Protection (E-Commerce) Rules, 2020, notified on 23rd July, 2020, imposes an obligation as per section 5, on the e-commerce platform to give the full geographic



address, customer care number, rating and other feedback about the seller for enabling consumers to make informed decision at the pre-purchase stage.

26. Under these circumstances and considering the complete imitation, which has been indulged by Defendant Nos.2 to 9 and other unknown Defendants, the Plaintiff has made out a case for grant of an *ex-parte ad interim* Injunction. It is also in the interest of consumers that such look-alike products are not permitted to be sold. Balance of convenience is also in favour of the Plaintiff. Irreparable harm would be caused if the injunction is not granted, as on online platforms and marketplaces, it is extremely easy for sellers to proliferate the images and continue to dupe customers. Accordingly, following directions are being issued in the matter:

- (1) Defendants No. 2 to 9, along with any other sellers who are showcasing their products on the Meesho.com platform, are hereby prohibited from reproducing, copying, publishing, or imitating any designs of the Plaintiff's clothing. This injunction also extends to the prohibition against reproducing any images related to the Plaintiff's products, including photographs.
- (2) The aforesaid Defendants are also restrained from duplicating any of the Plaintiff's designs, as illustrated above for comparative purposes, as well as any other designs/images belonging to the Plaintiff concerning its clothing line.
- (3) The Defendant No.1 shall reveal all the available details of the aforesaid sellers including the address, mobile numbers, email addresses, total sales made by the sellers, GST details, payments made to the sellers since the time listings have been put up.



- (4) The Plaintiff shall give a complete list of infringing URLs to counsel for Defendant No.1 within seven working days in order to enable the Defendant No.1 to take down the said listings. The said taking down shall be carried out within 72 hours.
- (5) While Ms. Endlaw has assured that Defendant No.1 is complying with this requirement, the Court nonetheless directs that Defendant No. 1 must take definitive action to ensure that the geographic address of all sellers is clearly displayed in the invoice published on the platform. This would enhance transparency and accountability among sellers utilizing the platform, facilitating easier resolution of any disputes or inquiries related to copyright or trademark infringement, and ensuring compliance with legal and regulatory requirements.
27. Reply to the applications be filed within four weeks from the service of the present order along with the paper book. If any of the sellers/defendants wish to seek modification of the present order, they are given liberty to move an appropriate application.
28. Compliance of Order XXXIX Rule 3 CPC be made within one week.
29. List on 1st August, 2024.

SANJEEV NARULA, J

FEBRUARY 29, 2024

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