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

+ CS(COMM) 35/2022

KAJARIA CERAMICS LIMITED ..... Plaintiff  
Through Ms. Priya Adlakha, Advocate

versus

GODADDY.COM LLC & ORS. .... Defendants  
Through

**CORAM:  
HON'BLE MR. JUSTICE AMIT BANSAL**

**ORDER**

% **17.01.2022**

**[VIA VIDEO CONFERENCING]**

**I.A.820/2022 (for Exemption)**

1. Subject to the plaintiff filing the clear and legible copies of any dim documents relied upon within four weeks from today, exemption is granted for the present.
2. The application is disposed of.

**I.A.821/2022 (for seeking leave to file Addl.Documents)**

3. The present application filed on behalf of the plaintiff seeks leave to file additional documents under the Commercial Courts Act, 2015.
4. 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, 2015.
5. Accordingly, the application stands disposed of.

**I.A.822/2022 (for seeking permission to file relevant audio recordings)**

6. Plaintiff is at liberty to file a CD containing the audio recording relied

upon in the plaint.

7. The application is disposed of.

**I.A.823/2022 (for exemption)**

8. For the reasons stated in the application, the same is allowed.

**I.A.824/2022 (u/Section 12A of the Commercial Courts Act, 2015 r/w Section 151 of the Code of Civil Procedure, 1908 (CPC) for exemption from filing pre-litigation mediation)**

9. For the reasons stated in the application, the same is allowed.

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10. Let the plaint be registered as a suit.

11. Summons be issued to the defendant through all permissible modes. The summons shall state that the written statement shall be filed by the defendant within thirty days from the date of the 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

12. Liberty is given to the plaintiff to file replication, if any, within fifteen days from the receipt of the written statement. Along with the replication filed by the plaintiff, an affidavit of admission/denial of the documents of the defendant, be filed by the plaintiff.

13. The parties shall file all original documents in support of their respective claims along with their respective pleadings. In case parties are placing reliance on a document, which is not in their power and possession, its detail and source shall be mentioned in the list of reliance, which shall be also filed with the pleadings.

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 Joint Registrar for marking of exhibits on 19<sup>th</sup> April, 2022.

16. List before this Court on 6<sup>th</sup> July, 2022 for framing of issues.

**I.A.819/2022 (O-39, R-1 & 2)**

17. The suit has been filed seeking a decree of mandatory injunction against the defendants restraining the defendants from infringing the plaintiff's registered trade mark and copyright and misusing the plaintiff's domain name, website etc. and other ancillary reliefs. It has been averred in the plaint that the plaintiff is a reputed manufacturer of ceramic tiles. It has further been averred in the plaint that the plaintiff came across a fraudulent website by the name of [www.kajariadealership.com](http://www.kajariadealership.com) on the internet in the top Google search results which is offering fake Kajaria tiles dealership. The said website is a replica of the plaintiff's genuine website [www.kajariaceramic.com](http://www.kajariaceramic.com). The defendant no.5 has copied all the distinctive features from the plaintiff's website with the intention to defraud the general public with the dealership of Kajaria. It is further stated that defendant no.5 is charging Rs.10,00,000/- towards grant of fake dealership of Kajaria. Plaintiff has also filed complaint with the Cyber Cell Badarpur Police Station, New Delhi on 04<sup>th</sup> January, 2021, which is being investigated.

18. Issue notice to the defendants through all permissible modes.

19. Reply be filed within four weeks.

20. Rejoinder, if any, be filed within two weeks thereafter.

21. List before the Joint Registrar on 19<sup>th</sup> April, 2022.

22. List before the Court on 06<sup>th</sup> July, 2022.

23. In my view, the plaintiff has established a prima facie case in its favour. Defendant no.5 is defrauding the public by deceiving them into

believing that they are associated with the plaintiff and authorized to grant dealership on behalf of the plaintiff. In this regard, defendant no.5 is also seeking personal documents such as Aadhaar Card, PAN Card, bank accounts statement etc. from dealership aspirants, which can be misused further in defrauding such people. Balance of convenience lies in favour of the plaintiff and irreparable harm and injury would be caused to the plaintiff, if the interim reliefs are not granted. Consequently, till the next date of hearing:

- (i) Defendant No.5, by themselves, their partners, proprietors, agents, servants, representatives, employees and/or any one claiming under them, directly or indirectly, is restrained from infringing the plaintiff's registered trade marks, Kajaria and variations thereof, copyright in its

brand logo  and website content and from using any domain names, website, emails Ids, business paper, corporate stamps, business listings, social media accounts etc. or any other similar business identification.

- (ii) Defendant No.1 is directed to suspend the domain name kajariadealership.com from its server.
- (iii) Defendant No.1 is directed to disclose the complete identity of the registrant of the impugned domain name kajariadealership.com from its records including, the names, address, phone numbers, email Ids, billing and payment details.
- (iv) Defendant No.2 is directed to immediately freeze the bank account Nos.309015346265 (ISFC Code: RATN0000088 Lower Parel Branch, Mumbai) and 309014502086 (IFSC Code: RATN0000324, Andheri East, Mumbai).

- (v) Defendant No.2 is directed to disclose the identity of the beneficiaries of account nos. 309015346265 and 309014502086, file their complete bank account opening forms, KYC documents, bank statement from the date of the opening of accounts, and disclose if any other bank account has been opened on the basis of said Aadhaar Card, PAN Card, in any of its other branches.
  - (vi) Defendants No.3 and 4 are directed to immediately disable the two mobile Nos.8276016223 and 9088746672.
  - (vii) Defendants No.3 and 4 are directed to disclose the identity of the holder of the two mobile Nos. 8276016223 and 9088746672.
  - (viii) Liberty is granted to the plaintiff to implead and include any other impugned domain name/website/bank account, mobile number, which is connected with the cause of action of the present suit, which the Plaintiff may come across during the pendency of the suit, upon filing of an affidavit by the plaintiff to that effect with one week of such identification. After filing of the affidavit, this said order shall also apply in respect of any such domain name/website/bank account, mobile number.
24. The aforesaid directions issued to defendants no. 1, 2 3 and 4 would be complied with forthwith and affidavit of compliance be filed by defendants no.1, 2, 3 and 4 within two weeks from today.
25. Compliance of Order XXXIX Rule 3 of the CPC be done within one week.

**AMIT BANSAL, J.**

**JANUARY 17, 2022**

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