

\$~18

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

+ **CS (COMM) 673/2022**

JMD HERITAGE LAWNS PRIVATE LIMITED ..... Plaintiff

Through: Mr. Jayant Mehta, Sr. Advocate with  
Ms. Deepika Pokharia, and Mr. Mohit  
Dagar, Advocates. (M:7838947828)

versus

MR . ANKIT CHAWLA PROPRIETOR SADDA PIND  
RESTAURANT ..... Defendant

Through: None.

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**ORDER**

% **07.10.2022**

1. This hearing has been done through hybrid mode.

**I.A. 15852/2022 (exemption)**

2. This is an application filed on behalf of the Plaintiff, seeking exemption from filing original documents. Recording the Plaintiff's undertaking that the inspection of original documents shall be given, if demanded, or that the original documents shall be filed prior to the stage of admission/denial, the exemption is allowed.

3. *I.A. 15852/2022* is disposed of.

**I.A. 15851/2022 (additional documents)**

4. 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.

5. *I.A. 15851/2022* is disposed of.

**I.A. 15853/2022 (for placing redacted documents)**

6. This is an application filed on behalf of the Plaintiff, seeking leave to file redacted copies of guest invoices on record. Let the same be taken on record.

7. *I.A. 15853/2022* is disposed of.

**I.A. 15854/2022 (exemption from advance service to the Defendant)**

8. This is an application filed on behalf of the Plaintiff seeking exemption from making an advance service of the present suit. In view of the fact that the Plaintiff has sought *ex parte ad-interim* injunction, the exemption from advance service to the Defendant is granted.

9. *I.A. 15854/2022* is disposed of.

**CS (COMM) 673/2022**

10. Let the Plaint be registered as a suit.

11. Issue summons to the Defendant through all modes upon filing of Process Fee.

12. The summons to the Defendant shall indicate that a written statement to the Plaint shall be positively filed within 30 days from the 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, in the absence of which, written statement shall not be taken on record.

13. Liberty is given to the Plaintiff to file a replication within 15 days of receipt of the written statement. 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, in the absence of 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 prescribed timelines.

14. List before the Joint Registrar for marking of exhibits on 24<sup>th</sup> November, 2022. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

15. List before Court on 9<sup>th</sup> January, 2023.

**I.A. 15850/2022 (u/O XXXIX Rules 1 & 2 CPC)**

16. Issue notice.

17. The present suit has been filed by the Plaintiff - JMD Heritage Lawns Private Limited, which is engaged in the hospitality and allied services industry, seeking an injunction to restrain the Defendant - Mr. Ankit Chawla, who is an individual operating a restaurant/hotel/resort-cum-party lawn in Rajasthan, from its brazen acts of infringement, passing off, unfair competition and misuse of the Plaintiff's mark and name 'SADDA PIND' and the logo:





18. The case of the Plaintiff is that it adopted the mark 'SADDA PIND' and the unique and distinctive logo form and device mark in the year 2015. The above-extracted logo is the original artistic work bearing Copyright registration No. A-126451/2018. The said mark and name was adopted in respect of hospitality services showcasing Punjabi Culture. It is averred that the property of the Plaintiff which spreads across 12 acres of land in Amritsar comprises of a Punjabi Culture Living Museum under the same

name and style of 'SADDA PIND' which was inaugurated in the year 2016. The venue provides dining, accommodation and entertainment among other services. It offers informative and immersive paid tours of its traditional rural village project which reflects on the rural life during the pre-1950's era of the geographical location where the property is located.

19. The Plaintiff claims that the said property is in the form of a village, which features various elements of Punjab including houses of potters, weavers, blacksmiths and artisans who make *parandis*, *juttis*, *phulkaris*, clays toys, musical instruments, durries and other traditional items originating from Punjab. The said resort has 20 guest rooms, which are designed with rustic motifs offering its customers a traditional Punjabi village experience. The mark and name 'SADDA PIND' was coined and adopted as the mark for the said resort which has been visited by various dignitaries, both from India and abroad. The annual turnover of the Plaintiff ranges between Rs.12 - 20 crores for the last 3 years except in the pandemic year and a substantial amount has also been spent on advertisement of the mark and name 'SADDA PIND' as well. The Plaintiff also has a dedicated website [www.saddapind.co.in](http://www.saddapind.co.in) which offers a virtual tour and a comprehensive overview of the services offered by the Plaintiff. In addition, it also has various social media handles and accounts on Instagram, Facebook, Twitter and LinkedIn. The said resort also features on various online travel booking portals like Make My Trip, Goibibo, Trivago, Trip Advisor, Cleartrip, Bookmyshow etc. The mark 'SADDA PIND' and the logo as also the various expressions used such as 'SADDA PIND, Jewel of Punjab' 'SADDA PIND, Flavours Celebrations Culture' etc. are all registered trademarks under class 43 since 2015. The details of the trade

mark registrations as set out in the plaint are as under:

S. No.	Trademark	Application No.	Date of Application	User Claim	Status
1	SADDA PIND	3080032	16.10.2015	01.09.2015	Registered
2		3185952	15.02.2016	01.09.2015	Registered
3		3639066	19.09.2017	01.09.2015	Registered
4	SOHNA PIND	3080031	16.10.2015	01.09.2015	Registered

20. It is submitted by Mr. Jayant Mehta, Id. Sr. Counsel appearing for the Plaintiff that the Defendant is running the SADDA PIND Restaurant, which is run at NH-48, Ramchandpura, Rajasthan. The said Defendant has started almost identical services under an identical mark, logo and device. The comparative mark/logo of the parties as depicted in the plaint is as under:

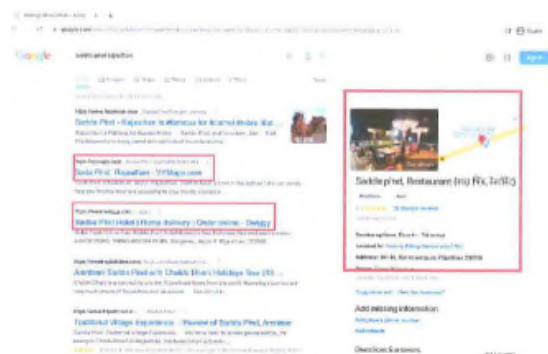
Plaintiff's Registered Trademarks	Defendant's Infringing trademarks
SADDA PIND	HOTEL SADDA PIND
	



21. The Plaintiff on acquiring knowledge of the said adoption by the Defendant sometime in May, 2022, is stated to have got an enquiry conducted into the said usage. Ld. Sr. Counsel, further submits that as per the enquiries, the Defendant in addition to having adopted an almost identical logo and device mark has also brazenly used various other content which includes photographs, images, etc. from the Plaintiff's website and photo gallery. The Plaintiff also discovered that the Defendant had put up online listings on popular food delivery app and third-party website, Swiggy and vymaps.com. The photographs of the Defendant's resort and the screen shots of the Google listing have also been placed on record and extracted hereunder:



Google Image of Defendant's "Hotel Sadda Pind" in Rajasthan



Google Image showing use of the infringing mark(s) in the Defendant's hotel/restaurant

22. Heard Ld. Sr. Counsel for the Plaintiff and perused the record.

Considering the fact that the Plaintiff had already exchanged correspondence with the Defendant, on 27th September, 2022, this Court deemed it appropriate to direct issuance of notice by way of a communication to the counsel who had replied to the legal notice, on behalf of the Defendant. Affidavit of service has been placed on record showing that the said communication/intimation was issued by Id. Counsel for the Plaintiff. However, from the whatsapp message exchanges, the Defendant's counsel initially had replied that he would communicate the same to the Defendant, about filing of the present suit, thereafter, resiled from the same and claimed that he was only engaged to tend the legal notice.

23. The Plaintiff had issued a notice to the Defendant on 31st May, 2022 and in reply to the said notice, the Defendant claimed that the specific logo it is using bears no similarity with the specific logo of the Plaintiff as it is using the mark 5 ADDA PIND.



24. Despite the said claim of the Defendant of using ‘5 ADDA PIND’ hotel, it is seen that what is being used by the Defendant is ‘SADDA PIND’ instead, which is an identical mark, name, logo and device as that of the

Plaintiff. Even the letter 5 is in a manner so as to appear close to `S` so that `5adda` is read as `Sadda`. The goodwill and reputation of the Plaintiff is clearly determinable from the various media articles, brochures, catalogues, advertisement material, coverage by third party and well known publications such as Amristsar Bhaskar, Amristsar Savera, Hindustan Times, Tribune, NDTV etc.

25. Though the Plaintiff may be having only one property/resort that is located in Amristsar, its registered office is in Delhi, and there is a reasonable scope of expansion for the Plaintiff as contemplated in the 2 judge bench judgement of the Supreme Court in *Laxmikant V Patel vs. Chetanbhat Shah and Anr., (2002) 3 SCC 65*. It is a fact of which judicial notice can be taken that presently, bookings through online portals have become the norm and the geographical location of parties does not, in any manner, avoid the chances of confusion between identical marks and names. The listing of the Plaintiff and the Defendant using an identical mark and name as also logo is bound to create deception in the minds of the customers that the Defendant's property is in some manner associated or a part of the Plaintiff. The Defendant has not only adopted an identical mark and name but has also adopted an almost identical logo and device. Photographs of the Plaintiff's property are being showcased on the Defendant's Google listings. The Defendant obviously has complete knowledge of the Plaintiff's reputation and goodwill and has made a deliberate attempt to encash upon the same. Hence, the Court has no doubt that the adoption by the Defendant is dishonest and the continuous use by the Defendant would constitute infringement of the registered trademark and passing off, inasmuch as the customers, who may have visited the Plaintiff's location in Amristsar, as they



may also believe that there is some linkage between the resorts of the Plaintiff and that of the Defendant.

26. The Plaintiff has made out a *prima facie* case in its favour for grant of an *ex-parte* interim injunction. Accordingly, till the next date of hearing, the Defendant shall stand restrained from using the mark & name 'SADDA PIND' including the device thereof in respect of any resort/restaurant, accommodation, hotel and entertainment venue or in relation to any other allied or cognate services. The Defendant shall also stand restrained from using any identical or deceptively similar name as that of the Plaintiff, i.e., 'SADDA PIND'.

27. Insofar as the existing property/services being provided by the Defendant at SADDA PIND Restaurant at NH-48, Ramchandpura, Rajasthan is concerned, the injunction granted today, shall come into effect from 15th November, 2022. No further outlets or properties or resorts etc. shall be opened by the Defendant under the impugned mark and name with immediate effect.

28. Compliance of Order XXXIX Rule 3 CPC be effected within two weeks.

29. Reply to the present application be filed within four weeks from the service of the present order along with the paper-book upon the Defendant.

30. List the application before the Court on 9<sup>th</sup> January, 2023.

31. Order *Dasti*.

**PRATHIBA M. SINGH, J.**

**OCTOBER 7, 2022/dk/sr**