

CS (COMM) No. : 490/2025

Perpetual Vision LLP and Anr. Vs. Vaibhav S Pingale and Ors.

19.11.2025

Present: Counsel Sh. Naseem Sheikh, Sh. Anshuman Upadhyay and Sh. Rahul Singh for the plaintiffs.
Counsel Sh. Saksham Singh for defendant no.3.

1. Defendant no.1 is served by all modes, however, none has appeared on his behalf, despite repeated calls. Reply to application under Order 39 Rules 1 & 2 CPC has also not been filed.
2. Defendant no.2 is also served by email. Proof of service placed on record by Ld. counsel for plaintiffs but none has appeared on behalf of defendant no.2 as well.
3. This is suit for Permanent and Mandatory Injunction for Trademark Infringement and Passing Off, and for Delivery UP, Rendition of Accounts and Damages etc. filed by plaintiff against the defendants. Along with plaint, plaintiff has also filed application under Order XI Rule 1 (4) r/w section 151 CPC, application under Section 151 of Civil Procedure Code 1908, application under section 12-A of Commercial Courts Act and application under Order 39 Rules 1 and 2 of CPC along with supporting affidavits and statement of truth.
4. Arguments addressed by Ld. counsel for plaintiff and counsel for defendant no.3. on all the applications.

Application under Section XII A of Commercial Courts Act

5. Since the suit has been filed by the plaintiff contemplating urgent interim relief for which an application under Order 39 Rule 1 and 2 CPC

has also been filed, the plaintiff is exempted from Pre-Institution Mediation under Section XII A of Commercial Courts Act. Application accordingly stands allowed.

Application under Section under Order XI Rule 1 (4) r/w section 151 CPC.

6. Plaintiffs have sought leave to file additional documents with submission that all the relevant documents in its power, possession and control or custody at the present moment have been filed but the liberty be permitted to the plaintiff to file additional documents which are not in its power, possession and control at the present moment.

7. Plaintiffs shall comply with the requirement of Commercial Courts Act with regard to filing of the additional documents, if any at the later stage. Application stands disposed off.

Application under Order 39 Rule 1 and 2 CPC

8. Plaintiff No. 1, as stated, is a Limited Liability Partnership (LLP), registered under the Limited Liability Partnership Act, 2008, whereas Plaintiff No. 2 is a registered partnership firm. Both Plaintiff No. 1 and Plaintiff No. 2 are managed and operated by Mr. Pritish Vikrant Dharurkar, Mr. Rajas Suresh Sabde, and Mr. Amey Ashok Dhadve. The two firms are under common ownership and management. Certain rights and documents are registered in the name of Plaintiff No. 1, while others are registered in the name of Plaintiff No. 2 like Trademark Registrations etc. Accordingly, the present suit has been jointly filed by both Plaintiffs for the protection of their trademark, 'Shawarmaji'.

9. As stated, plaintiffs, operating under the trademarks- Shawarmaji/



, are pioneer in the Indo-Lebanese quick service restaurant (QSR) sector, known for their unique and culturally adapted shawarma offerings. Since their inception in early 2019, plaintiffs have been consistently engaged in providing high-quality, hygienically prepared, affordable, and delicious shawarmas, fusion wraps, salads, grillers, beverages, and desserts through multiple formats including dine-in, takeaway, and delivery. Plaintiffs launched their business operations with a food truck and have rapidly evolved into a full-fledged restaurant chain with 30+ operational outlets in metropolitan and suburban locations across Thane, Mumbai, Navi Mumbai, and Pune, and aim to expand to Delhi, Nashik and Bangalore and other parts of country.

10. As stated, plaintiffs have coined and adopted the



trademarks-“Shawarmaji/ ”, which are inherently distinctive, arbitrary, and not descriptive of the food products offered. As such, the said marks have, through extensive and uninterrupted use since 2019, acquired tremendous secondary meaning and source-identifying capability in the eyes of the public and the trade, which is exclusively associated with the Plaintiffs’ and has become a badge of origin for quality Indo-Lebanese food. Plaintiffs have served over 5 million shawarmas, fulfilled over 500,000 online delivery orders, and catered to 1 million+ customers, thereby creating a robust customer base and organic brand engagement.

These statistics reflect the strength and reach of the Plaintiffs business, all



of which are conducted under the said mark “Shawarmaji/.”

11. The Plaintiffs enjoy a strong online and offline brand presence. Their listings on food aggregator platforms such as Swiggy, Zomato, and Thrive have allowed for seamless ordering and brand visibility. The brand's digital marketing strategies include influencer collaborations, SEO campaigns, customer loyalty programs, and geo-targeted advertisements. Plaintiffs also maintain a fully functional and regularly updated website www.shawarmaji.co.in, which features the brand story, menu, outlet locations, franchise information, and customer engagement tools. The Plaintiffs’ website serves as a key digital touch point for both existing customers and prospective partners.

12. Due to sustained efforts in promotion, product innovation, and service delivery, the Plaintiffs and their trademarks- “Shawarmaji/



” have earned industry-wide recognition and several accolades.

The goodwill of the Plaintiffs is not only commercial but also reputational. It is endorsed and patronized by social media influencers, food bloggers, celebrities, and loyal repeat customers. The Plaintiffs have acquired such



substantial reputation and goodwill that “Shawarmaji/” has become a prominent name for shawarma and Indo-Lebanese cuisine in



India. The brand “Shawarmaji/” has gained trans-border reputation, with inquiries and social media interest from customers beyond the existing service locations, thereby demonstrating the national and aspirational of the mark.

13. By virtue of being the first and *bona fide* user of the mark



“Shawarmaji/” since 2019, plaintiffs’ have consistently used the mark in relation to their goods and services in commerce, investing heavily in advertising and quality, thereby gaining widespread reputation and consumer trust. Consequently, the Plaintiffs’ have acquired substantial



common law rights in the mark “Shawarmaji/” which entitle them to seek protection against unauthorized, identical, or deceptively similar use of the mark by any third party, including through legal remedies for passing off and unfair trade practices. In order to bolster the said trademarks, the Plaintiffs have invested a substantial amount of time, money and effort on the publicity, advertisement and promotion of the said trademarks. To further secure statutory rights over the marks, the Plaintiffs have obtained registrations in class 43 for their services. Details of registered trademarks of the Plaintiffs was given in tabular format in the plaint.

14. Defendant No. 1, as stated, is engaged in operating a food and

beverage outlet under the trading name/firm name/restaurant/dhaba



“Shawarmaji/”, which is deceptively similar and confusingly identical to the Plaintiffs’ registered trademark “Shawarmaji/



”. The said name is being used in conjunction with an identical get-up, colour scheme, font style, layout, and overall trade dress, all of which bear a striking resemblance to that of the Plaintiffs’ well-known brand. The deliberate imitation of these elements amounts to infringement under Section 29(1),(2),(5) &(6) of the Trade Marks Act, 1999 and also constitutes an act of passing off, intended to mislead consumers and unlawfully benefit from the reputation, goodwill, and brand equity painstakingly established by the Plaintiffs.

15. Defendant No. 1 is being prominently featured and allowed to conduct business on the platforms of Defendant No. 2 and Defendant No. 3. Despite the fact that Defendants No. 2 and 3 are large and established online food delivery aggregators with internal protocols and content moderation mechanisms, they have permitted and are continuing to permit the infringing listings of Defendant No. 1 on their platforms. This conduct not only facilitates the continued infringement by Defendant No. 1 but also aids and abets the acts of trademark violation and passing off, thereby resulting in widespread consumer confusion and causing irreparable harm

and injury to the Plaintiffs statutory and common law rights.

16. It was further stated that defendant No. 1 has in a brazen and blatant



manner, copied the Plaintiffs' registered trademark 'Shawarmaji/'
' and is illegally using the same merely to ride upon the enormous
reputation and goodwill earned by the Plaintiffs over years of continuous
use of their aforesaid trademarks. Defendant No.1 has illegally adopted



Plaintiffs' registered trademark 'Shawarmaji/' by using a nearly



identical trademark "Shawarmaji/" that too for identical services
to that of the Plaintiffs, wherein the Plaintiffs have valid and subsisting



registrations for their trademark-'Shawarmaji/' in Class 43.

17. Comparative Chart of Plaintiff's and Defendant no.1's trademarks
was also filed alongwith the plaint. It was submitted that Defendant No.1
has lifted the Plaintiffs mark in its entirety and has adopted a mark which is
phonetically, visually and structurally identical to the Plaintiffs' registered



trademark 'Shawarmaji/'. This adoption is nothing but a
deliberate attempt by the said Defendant to ride on the enormous goodwill

and reputation that the Plaintiffs have earned over the years. Defendant No.1 is targeting gullible, innocent customers by promoting/ advertising its services in India including Delhi. In fact, the Defendant is providing information under the impugned trademark through internet which can be accessed from Delhi and falls within the territorial jurisdiction of this Court.

18. It is brought on record that Cease and Desist notice dated 06.04.2024 was also issued by plaintiff upon Defendant No.1 calling upon him to immediately cease infringing upon the Plaintiffs' statutory right over their registered marks, passing off their own goods/services as that of the Plaintiffs by misrepresenting itself as somehow associated with the Plaintiffs, and desist from committing such acts in future. Defendant No.1 replied to the aforesaid notice vide their reply dated 26.05.2024 wherein he acknowledged the Plaintiffs' rights, agreed to cease the use of the impugned mark, and requested for time to withdraw the impugned mark completely from the public domain. However, on 25.09.2025, plaintiffs through one of their customers came to know that the trademark infringement and passing off activities were still being perpetrated by the Defendant No. 1. On conducting further search, it was discovered that Defendant No.1 continues to operate under the infringing mark on the platforms of Defendants Nos. 2 and 3 . In and around September, 2025 a prospective client of the Plaintiffs who was in the process of establishing a franchise outlet under franchise license of the Plaintiffs' trademark in Saket, was approached by Defendant no. 1, who falsely represented that it was authorized to grant franchises under the "SHAWARMAJI" brand at

significantly lower rates than those charged by the Plaintiffs.. This fraudulent act has caused confusion among potential business partners and adversely affected the Plaintiffs business reputation as also the commercial exploitation of its statutory as well as common law rights.

19. It is submitted that the deliberate dishonest practices of Defendant No. 1 resulted in loss of business opportunity for the Plaintiffs. The unlawful and unfair use of the Plaintiffs' Trademarks by the Defendants also affects and damages the distinctive nature, character and repute of the Plaintiffs' Trademarks. Therefore, the Defendants' use of the Plaintiffs' Trademarks violates the rights guaranteed to them under the Trade Marks Act, 1999. Defendant no.1 is not the proprietor of the Plaintiffs' Trademarks and has adopted the same with *mala fide* intentions which is to draw undue benefits/unlawful advantage over the huge and enviable goodwill and reputation enjoyed by the Plaintiffs over their Trademarks. Defendant has no right to use the Plaintiffs' Trademarks in any manner including in relation to services that are a blatant copy of the Plaintiffs' services which have been developed through extensive expertise acquired over years of hard work, quality control and experience.

20. It is stated that defendant no.1 by unlawful use of Plaintiffs' Trademarks is not only infringing on the Plaintiff's proprietary rights on its trademarks but is also passing off and enabling others to pass off their impugned products or services as those of the Plaintiffs, without having any connection or association with the Plaintiffs or any leave or license from the Plaintiffs'. The Defendants' unlawful use and enjoyment of the Plaintiffs Trademarks are also diluting the distinctiveness of the Plaintiffs

Trademarks. Unwary consumers are being deceived as to Defendant no.1 being associated, connected, or linked to the Plaintiffs, or that the Defendant no.1 is an extension of the services provided under the mark



‘Shawarmaji/’ .The gains obtained by the Defendant no.1 directly translate into losses for the Plaintiffs for which he is liable to pay damages . These losses are not quantifiable in terms of money and cannot be adequately compensated monetarily, and therefore an order of permanent injunction is the only effective remedy available to the Plaintiffs. As stated, if defendant no.1 is not restrained from continuing the same, plaintiffs shall continue to have irreparable losses of business as well as the said act will injure the goodwill of plaintiff’s trademarks.

21. Plaintiff is the registered trademark holder of trademark



‘Shawarmaji/’, . CA Certificate pertaining to sale details/profits pertaining to operations of plaintiff under the trademark ‘Shawarmaji/




’, is part of record. The material on record prima facie shows that defendant no.1 is selling/marketing/distributing its goods/product



under the identical mark “Shawarmaji/” which is deceptively



similar to the plaintiff's trademark 'Shawarmaji/ ', sufficient to cause confusion to unwary consumers. Despite issuance of Cease and Desist notice dated 06.04.2024 by plaintiff and reply by defendant no.1 dated 26.05.2024 whereby he assured plaintiff that his company was in the process of changing the name and they will finalize a new name and will cease using "Shawarmaji" for which sometime was sought, defendant no.1, as brought on record, is still continuing with the mark "Shawarmaji/



" . Ld. counsel for plaintiff through his laptop shown on record the existence, availability and operations of defendant no.1 even as on date, despite its reply to the legal notice undertaking to close the operations under the impugned name. Balance of convenience also lies in favour of plaintiff and if defendant no.1 is allowed to continue to infringe the trademark of the plaintiff, same shall cause irreparable loss and injury to the plaintiff and the reputation of the plaintiff is likely to be damaged if interim injunction is not granted in its favour.

22. Ld. counsel for defendant no.3 submits that Defendant no.3 is only intermediary and shall abide by the directions issued by this court. There is no representation on behalf of defendant no.2, which is also stated to be intermediary.

23. Accordingly, interim injunction is granted in favour of the plaintiffs and against defendants. Defendant no.1, his family members, servants, subsidiaries, aides, agents, representatives and assigns or others acting on

his behalf are restrained by an interim injunction from :-

(a) using, selling, offering for sale, distributing, marketing, advertising, exporting, importing, directly or indirectly dealing in services



under the mark “Shawarmaji/



similar to the plaintiffs registered mark ‘Shawarmaji/’, in relation to impugned goods and business, thereby infringing the registered trademarks and copyright.

ii. using any mark identical and / or confusingly or deceptively similar to trademarks of the plaintiffs and thereby passing off its goods and business as that of the goods and business of the plaintiff.

iii. Using any indicia whatsoever to show any association or affiliation or connection of defendant no.1 or its product with the plaintiff's firm or their products, till further orders.

(b) Defendants no. 2 & 3 are directed to take down listing/stores/URLs on their platforms created by defendant no.1 under the



mark “Shawarmaji/” or any other variant deceptively similar to



the plaintiff's registered mark ‘Shawarmaji/’.

24. Application under Order 39 Rules 1 & 2 CPC stands disposed off in above terms. Written Statement alongwith SOT and affidavit of admission-

denial of documents be filed by defendants within prescribed period with copy to the Ld. counsel for plaintiffs. Thereafter, replication, if any, alongwith affidavit of admission-denial of documents on behalf of plaintiff, if required, be filed by the plaintiff. Be put up for further proceedings on 17.12.2025.

(SAVITA RAO)
District Judge (Commercial-01)
South/Saket Courts, Delhi/19.11.2025