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

+ C.O. (COMM.IPD-TM) 48/2026
ITC LIMITED & ANR.

.....Petitioners

Through: Ms. Shyel Trehan, Sr. Adv. with Mr. Tanmay Mehta, Ms. Suhrita Majumdar, Mr. Afzal B. Khan, Mr. Debjyoti Sarkar, Mr. Sharad Besoya and Ms. Vidhi Jain, Advs.

versus

UMESH ARORA & ANR.

.....Respondents

Through: Ms. Nidhi Raman, CGSC with Mr. Om Ram and Ms. Nikita Singh, Advs. for R-2

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

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16.02.2026

I.A. 4245/2026(Additional Documents)

1. The present application has been filed on behalf of the petitioner under Order XI Rule 1(4) of the Code of Civil Procedure, 1908 (“CPC”) as applicable to Commercial Suits under the Commercial Courts Act, 2015 (“CC Act”) seeking leave to file additional documents.

2. The petitioner is permitted to file additional documents in accordance with the provisions of the CC Act and the Delhi High Court (Original Side) Rules, 2018.

3. Accordingly, the application stands disposed of.

I.A. 4246/2026 (Exemption)

4. This is an application filed under Section 151 CPC filed on behalf of the petitioners seeking exemption from filing clear and true typed copies of the documents.

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5. Application allowed, subject to just exceptions. However, the clear and typed/translated copies of the documents be filed within four weeks with an advance copy to the respondents.

6. The application stands disposed of.

I.A. 4244/2026 (Stay)

7. This is an application seeking stay of the operation of the impugned Registration under Trade Mark No. 4064296 in Class 43 and the rights arising therefrom until the disposal of the accompanying rectification petition.

8. Ms. Shyel Trehan, learned senior counsel appearing for the petitioners states that the petitioners had launched a premium restaurant under the trademark 'BUKHARA' at ITC Maurya Hotel in New Delhi somewhere in the late 1970s. While in use, on 23.04.1985, the first application for registration of the trade mark 'BUKHARA' was filed in Class 30 and on 08.08.2000, the application for the word mark 'BUKHARA' in Classes 29 and 30 respectively was filed. She submits that since the late 1970's, the petitioners have been continuously using the trade mark and device mark 'BUKHARA' for their premium restaurant at ITC Maurya Hotel in New Delhi.

9. She submits that the usage of the word 'BUKHARA' by now is well recognized and it has gathered a lot of goodwill and exclusivity. She also invites attention to the judgment dated 14.11.2022 passed in CS(COMM) 781/2022 captioned *ITC Limited vs Central Park Estates Private Limited & Anr.*, whereby this Court had recognised the trade mark 'BUKHARA' to be a well-known trade mark.

10. She submits that this judgment was rendered in 2022. While the respondent no.1 had applied for the device mark 'THE BREW BUKHARA' on 22.01.2019, the word mark 'BUKHARA' was coined, adopted, used and was registered in the Trade Marks Registry much prior to that of the application of the respondent no.1.



11. She submits that various registered marks of the petitioners are enumerated in para 34 of the petition. She also submits that the trade mark 'BUKHARA' was recognised as a well-known trade mark even by the Trade Mark Registry and included in the list of well-known trade marks and notified in the Trade Marks Journal No.2177 on 07.10.2024, enlisted at serial no.50 of such list.

12. She invites attention of this Court to the comparison table to show the comparison between the registered trade mark of the petitioners with that of the respondent no.1 which clearly shows the deceptive similarity as also the identical nature of the trade mark which is enumerated at para 51 of the petition. The said paragraph 51 is extracted hereunder:-

Representation of the Petitioners' Well-Known Trade Mark	Representation of the Respondent No.1's Impugned Mark
	
	

13. She further invites attention of this Court to page nos. 30 and 31 of the petition, where the usage of the impugned mark of the respondent no.1 in respect of its restaurant is reflected. She fairly states that the Google search showed the said restaurant as permanently closed. She submits that the petition has also been filed under Section 47 of the Trade Marks Act, 1999, for the purpose of establishing non-usage. She states that such trade mark in the name of the respondent no.1 cannot be sustained and is liable to be cancelled or removed from the Register of Trade Marks.

14. This Court has heard the learned senior counsel for the petitioners.

15. *Prima facie*, it appears that the petitioners are the prior adopters of the



trade mark 'BUKHARA' at least since the late 1970s. The various Trade Mark Registrations date back to as early as 23.04.1985. *Prima facie*, it also appears that the said mark 'BUKHARA' has been used continuously till date. This Court in the case of *ITC Limited vs Central Park Estates Private Limited & Anr.*, in the order dated 14.11.2022 in para 48 has declared the mark 'BUKHARA' to be a well-known trade mark. That apart, the Trade Mark Registry has also published the list of well-known trade marks including the trade mark 'BUKHARA' in the Trade Marks Journal No. 2177 on 07.10.2024, enlisted at serial no.50.

16. This Court has also seen the comparison table between the trade mark 'BUKHARA' of the petitioners and the word 'BUKHARA' employed by respondent no.1 in its trade mark 'THE BREW BUKHARA' and finds deceptive similarity. In fact, the style of writing is identical, giving an impression that the trade mark 'THE BREW BUKHARA' is associated with or belongs to the petitioners. This does not seem to be an honest adoption.

17. In that view of the matter, this Court is of considered opinion that in the interregnum, the impugned registration of the trade mark no. 4064296 in Class-43 needs to be stayed.

18. Respondent no.1 shall not use the said trade mark till this order is varied after hearing the respondent no.1.

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19. This is a petition under Section 47 and 57 of the Trade Marks Act, 1999 seeking removal/expunge/cancellation of trade mark no. 4064296 in Class 43 of the respondent no.1.

20. Issue notice.

21. Notice is accepted by Ms. Nidhi Raman, CGSC, learned counsel appearing on behalf of the Registrar of Trade Mark/respondent no.2.

22. Issue notice to respondent no.1 through all permissible modes on



petitioner taking requisite steps within a period of one week.

23. Reply be filed within a period of four weeks by respondent no.1.

24. Written submissions may be filed by respondent no.2 within four weeks with an advance copy to the learned counsel for the petitioners.

25. List before Joint Registrar (Judicial) for service and completion of pleadings on 28.04.2026.

26. List before the Court on 22.07.2026.

TUSHAR RAO GEDELA, J

FEBRUARY 16, 2026/rr