



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION

INTERIM APPLICATION (L) NO. 39269 OF 2025
IN
COMMERCIAL IP SUIT (L) NO. 31885 OF 2025

Delhi Zaika through Partners Mr. Aamir Siddiqui ...Applicant

Versus

Zidz Hospitality LLP and Others ...Respondents

Mr. Amogh Singh, Mr. Rahul Arora for Plaintiff/Applicant.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : MARCH 11, 2026

P. C. :

1. This is an action for infringement of trade mark, copyright and passing-off.
2. At the outset, Mr. Singh would seek to replace Exhibit-I of the plaint which is an incorrect statement annexed to the plaint. Liberty granted to annex the correct statement of income and expenditure. Amendment to be carried out forthwith. Re-verification is dispensed with.
3. Mr. Singh, learned counsel appearing for Plaintiff would submit that Defendants were attempted to be served, however, Defendant No. 2 has refused service and that Affidavit of service will be filed in the course of day.

4. He submits that the Plaintiff coined the name "DELHI ZAIKA-the Pure Taste of Delhi" for running the restaurant business in or around the year 2010 and filed for registration of the mark on 13th January, 2011 in class 43 which was granted registration on 29th February, 2016. He submits that the Plaintiff's trade mark "DELHI ZAIKA" has earned substantial reputation and goodwill and currently the Plaintiff is running five restaurants using the registered trade mark. He submits that copyright in the original artwork was designed at the instance of the Plaintiff and the ownership subsists in the favor of Plaintiff. He would submit that the Plaintiff has been bestowed with several Awards and points out to extensive promotional activities carried out by the Plaintiff in respect of its registered trade mark.

5. He submits that Defendant No. 2 in the year 2010 had entered into verbal partnership with Plaintiff for running restaurant services under the Plaintiff's registered trade mark at Kurla. He submits that in or about the year 2022, as the Defendant's established a new kitchen at Kurla for carrying out large scale catering operations by reason of which there was dispute and the Defendant's started carrying out restaurant activities from different kitchen. He submits that as the verbal agreement was that there should be common kitchen from which the food was supplied to various hotels and as the Defendants have established separate kitchen and separate business, the

Defendants should cease using the Plaintiff's registered trade mark. He submits that despite thereof, the Defendants are continuing the use of the registered trademark and points out to photographs which are annexed to the plaint. He would submit that the Defendant's instagram page uses the Plaintiff's registered trade mark and merely adds the word "Kurla" which is immaterial. He would further point out to menu card which are at page nos. 182 and 183 to demonstrate the use of the registered mark by the Defendants.

6. I have considered the submissions and perused the record.

7. The Defendants have refused to accept service despite notice having been issued by this Court. The Plaintiff's proprietary right in the registered trade mark of "DELHI ZAIKA" is *prima facie* demonstrated from the registration certificate which has been placed on record. The registration has been secured by the Plaintiff in the year 2011. Considering the proprietary right of the Plaintiff in the registered trademark, without the consent of the Plaintiff, the Defendants are *prima facie* not entitled to use the registered trade mark. The material on record *prima facie* demonstrates that there was verbal arrangement between the parties under which restaurant business was being carried out from a common kitchen. It is specifically pleaded that Defendant No. 2 is the biological brother of Plaintiff and Defendant No. 2 was permitted under the mutual arrangement and understanding to use

the trade mark subject to condition that there would be sharing of profits. In the year 2023, the Defendants have *prima facie* established a new kitchen at Kurla and that being so, permissive user by Plaintiff ceased and the Defendants were therefore, *prima facie* not entitled to use the registered trade mark. The photographs which are placed on record would *prima facie* demonstrate the use of the registered trade mark by the Defendants.

8. There are sufficient disclosures as far as the Defendants are concerned. The sales turnover and promotional material which have been placed on record *prima facie* demonstrates the enormous reputation and goodwill which has been earned by the Plaintiff. *Prima facie* the use of identical mark by the Defendants is likely to result into confusion amongst the public and misled the public that the Defendant's business is that of the Plaintiff. There is no probable defense available to the Defendants particularly, considering the use of the Plaintiff's registered trade mark.

9. In light of the above, *prima facie* case has been made out for grant of ad-interim relief in terms of prayer clause (a).

10. Stand over to **6th April, 2026.**

11. Ad-interim relief granted earlier to continue till next date.

[SHARMILA U. DESHMUKH, J.]