



\$~37

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

+ **CS(COMM) 418/2026**

HIMALAYA GLOBAL HOLDINGS LTD & ANR.Plaintiffs
Through: Ms. Suhrita Majumdar, Mr. Vishal
Nagpal, Mr. Sharad Besoya and Mr.
Bal Krishan Singh, Advocates.

versus

KBIR WELLNESS PRIVATE LIMITED & ANR.Defendants
Through:

CORAM:
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

% **21.04.2026**

I.A. 10891/2026 (Additional Documents)

1. The present application has been filed on behalf of the plaintiffs 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 place on record additional documents.

2. The plaintiffs are 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. 10890/2026 (Pre-Institution Mediation)

4. This is an application filed by the plaintiffs seeking exemption from instituting pre-litigation mediation under Section 12A of the CC Act.

5. As the present matter contemplates urgent interim relief, in light of the judgment of the Supreme Court in *Yamini Manohar vs. T.K.D. Keerthi: (2024) 5 SCC 815*, exemption from the requirement of pre-institution



mediation is granted.

6. The application stands disposed of.

I.A. 10892/2026 (Exemption)

7. This is an application filed on behalf of the plaintiffs under Section 151 of CPC seeking exemption from filing typed copies of documents which may be dim/illegible at page nos.48, 60, 69 to 174 and 577 and in vernacular language at page nos.644 to 872 of plaintiffs' documents.

8. Exemption allowed, subject to just exceptions. However, true typed/translated/legible/clear copies of the documents with proper margins be filed within four weeks with an advance copy to the defendants.

9. The application stands disposed of.

I.A. 10889/2026 (Order XXXIX Rules 1 & 2, CPC)

10. Present application has been filed on behalf of the plaintiffs under Order XXXIX Rules 1 & 2 of CPC, 1908 seeking *ex-parte ad-interim* injunction against the defendants.

11. Plaintiff no.1, a company registered under the laws of the Cayman Islands, claims to be the owner of trademarks, patents and other intellectual property rights, which are licensed to and used by the plaintiff no.2/Himalaya Wellness Company which is a partnership firm, for the purpose of manufacture and sales of products in India and abroad. Plaintiff no.2 is in the business of manufacture and marketing of ayurvedic medicines and health products since 1930 and has over the years diversified into manufacturing and selling of cosmetic products as well. Plaintiff no.2, having been in the said business for over nine decades, claims to be one of the most renowned and respected business concerns in India as well as abroad.

12. It is claimed that the plaintiffs started their operations in Dehradun, way back in the 1930s, and later spread the wings to Mumbai and across the country. In 1975, the plaintiffs set up an advanced manufacturing facility in




Makali, Bangalore, India, which today houses the principal office of plaintiff no.2. Over the years, the plaintiffs claim to have initiated the use of tools of modern science to create pharmaceutical-grade ayurvedic products to pioneer research and converting Ayurveda's herbal tradition into a complete range of proprietary formulations dedicated to healthy living and longevity, which has been the foundation of the plaintiff companies' ethos. It is claimed that today, the plaintiffs' products address the healthcare needs of consumers in over 100 countries and have been endorsed by 400,000 doctors around the globe. The plaintiffs claim to have been awarded an ISO 9001:2000 certification.

13. The plaintiffs claim to be a leading global herbal health and personal care organization, offering close to 500 health care products in the domain of pharmaceuticals, herbal medicines, personal care and wellness in over 100 countries, and deals in several well-known products and brands including Liv.52, Septilin, Cystone, Bonnisan, Serpina and Rumalaya forte, amongst others.

14. It is claimed that the trademark 'Liv.52' was adopted by the predecessors-in-interest of the plaintiffs way back in the year 1955 and has been in open, continuous and extensive use ever since. The said product is the flagship brand of the plaintiffs and a top selling herbal medicine synonymous with the plaintiffs' HIMALAYA brand. The plaintiffs' goods under the 'Liv.52' trademark are available in the market in different variants such as Liv.52 Syrup, Liv.52 DS Syrup, Liv.52 Tablets, Liv.52 DS Tablets, Liv.52 Drops, Liv.52 HB Capsules, Liv.52 Protec Liquid, Liv.52 Protec-PPS, Liv.52 Pet Liquid, Liv.52 Vet, Liv.52 Protec Poultry, Liv.52 Protec and Liv.52 Furglow Liquid. The photographs of the plaintiffs' goods under the trademark 'Liv.52' and its variants are reproduced hereunder:-



15. Plaintiffs' goods under the 'Liv.52' trademark and its variants are sold

under the plaintiffs' house mark Himalaya/  , which is represented in a unique and stylized manner with a distinctive get up, placement and colour combination of green and orange along with a device of an orange leaf. Further, the plaintiffs' goods under the trademark 'Liv.52' since 2001 are sold in trade dress/packaging that employs a predominantly green colour in a colour combination of green, white and orange.

16. It is claimed that the trademark 'Liv.52' was adopted by the plaintiffs in the year 1955 and has been in continuous and extensive use since then, i.e. for almost 71 years. Further, the current trade dress of plaintiffs' goods under the 'Liv.52' trademark remains unchanged and has been in circulation in the market from 2001, i.e., since 24 years. Therefore, it is claimed that by virtue of such long, continuous and extensive use, the plaintiffs have garnered immense goodwill and reputation in respect of the same, so much so that the plaintiffs' trademark 'Liv.52' and its attendant trade dress is today a



household name amongst the consumers. In fact, the plaintiffs' 'Liv.52' brand is claimed to have been inducted in the Limca Book of Records as India's highest selling herbal drug and today, around 1 billion tablets and 13 million syrup bottles under the trademark 'Liv.52' are claimed to be sold every year across the globe.

17. The plaintiffs further in the course of their business have applied for and obtained registrations in relation to the trademark 'Liv.52', and its variants in Class-5. In fact, the said trademark is claimed to be registered in over 25 countries. The details of the trademark registrations in favor of the plaintiffs are mentioned hereunder:-

Sl. No.	Registration No.	Application Date	Trade Mark
1.	180564	10/07/1957	LIV. 52 (Word Mark)
2.	290061	10/08/1973	
3.	401959	25/02/1983	
4.	839263	01/02/1999	LIV.52 PROTEC (Word Mark)
5.	1115539	01/07/2002	
6.	1813135	30/04/2009	LIV.52 HB (Word Mark)
7.	5738547	26/12/2022	Liv.52 HAEMOTEC

18. It is claimed that the plaintiffs' goods under the trademark 'Liv. 52' and its attendant trade dress have achieved tremendous sales which is *prima facie* evidence of the immense goodwill and reputation associated with the



plaintiffs' trademark 'Liv.52' and its attendant trade dress. The details of plaintiff no.2's turnover of its products under the trademark 'Liv.52' and its variants are provided hereunder:-

Year	Sales Value ₹ Cr.
2012-13	198.29
2013-14	222.44
2014-15	237.8
2015-16	269.05
2016-17	296.4
2017-18	329.27
2018-19	364.78
2019-20	397.07
2020-21	430
2021-22	544.43
2022-23	525.16
2023-24	634.73
2024-25	684.54

19. Further, the plaintiffs are claimed to have made significant investments towards advertisement and promotion of the goods bearing the trademark 'Liv.52' and its attendant trade dress, through various electronic media and print media etc., globally. Additionally, the plaintiffs claim to have been vigilant in safeguarding their intellectual property rights in their trademark 'Liv.52' and have taken necessary actions at various forums, the details of which are mentioned in para 19 of the plaint. The plaintiffs assert that the trademark 'Liv.52' is entitled to be treated as a well-known trademark under Section 2(1)(zg) of the Trade Marks Act, 1999 and entitled to statutory protection by this Court.

20. It is claimed that the defendant no.1 is engaged in the business of manufacturing/marketing of herbal and Ayurvedic medicinal preparations and



defendant no.2 is engaged in the business of manufacturing of pharmaceuticals and Ayurvedic products, etc. As per the packaging of the impugned goods, the defendant no.1 is marketing and defendant no.2 is manufacturing the said goods under the infringing mark 'Liv-82'.

21. In and around March, 2026, the plaintiffs claim to have come across listings of defendant no.1's goods namely capsules and syrups for liver care under the mark 'Liv-82 DS', which is deceptively similar to the plaintiffs' registered trademark 'Liv.52'. The said goods were being advertised and offered for sale on defendant no.1's website - <http://kbiwellness.com>, as well as on various e-commerce platforms such as Tata 1mg, Amazon, Flipkart etc.

22. It is stated that the plaintiffs conducted an investigation which revealed that the defendants do not hold any registration in respect of the infringing mark. It was however discovered that the defendant no.1 has filed an

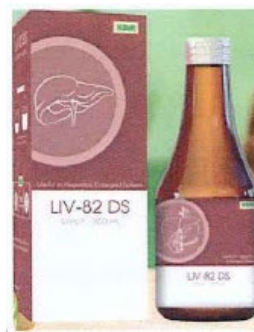
application for registration of the infringing mark



under Trade Mark Application No.5947348 in Class-5, claiming user since 24.12.2022, which has been objected to by the Registrar of Trade Marks under Section 11(1) of the Trade Marks Act, 1999, on the ground of the plaintiffs' prior registered trademark 'Liv.52'.

23. It is further stated that the internet searches revealed that the defendants were previously using a different packaging for the impugned goods under the

infringing mark. The earlier packaging



featured distinct



colour scheme, which has now been altered to a green and white combination in the current iteration, as depicted hereunder:-

Plaintiffs' Liv.52 goods	Defendant's impugned goods
	

It is stated that the change of packaging clearly is not coincidental but a deliberate attempt by the defendants to adopt a trade dress closely resembling that of the plaintiffs.

24. The plaintiffs thus state that the adoption and use of the infringing mark by the defendant no.1 is, therefore, subsequent and pales into insignificance in comparison to the plaintiffs' long, continuous, and extensive use of the 'Liv.52' trademark since 1955. In any case, it is submitted that the adoption and use of the infringing mark is *ex facie* dishonest and in bad faith and no rights can accrue in favour of the defendants on the basis of such unlawful adoption and use.

25. Predicated thereon, an *ex-parte ad-interim* injunction is being sought against the defendant.

26. Having perused the plaint and the documents annexed therewith and having heard the arguments of learned counsel for the plaintiffs, this Court is of the considered opinion that an *ex-parte ad-interim* injunction would be in



order.

27. At the outset and on the visual examination of both the marks ‘Liv.52’ and ‘Liv.52 DS’ of the plaintiff on the one hand and ‘Liv-82 DS’ of the defendants, the similarities between both appear to be striking. The letters ‘Liv’ of the plaintiff and ‘LIV’ of the defendant are identical except for the mark of the defendant is in capital letters, which hardly matters when considered as a whole. The use of the numerical ‘82’ is also confusing when compared with ‘52’ of the plaintiffs’ mark. From a distance and on the counter of the retailer, the distinction may not be that clear and would cause confusion. The letters ‘DS’ in both are identical and clearly, there is no distinction there too. Considering the point of the entire get up and packaging, the marks of the defendant are likely to cause confusion and deception in the general public. Regard must also be had to the fact that the products manufactured by the defendant are in respect of liver care, which too is identical with the goods of the plaintiffs. The trade circles, distribution channels and retailers too appear to be common. The consumers too are common for such products, significantly raising the likelihood of confusion or deception. It is likely that an unwary consumer with average intelligence and imperfect recollection may get confused or deceived into purchasing the goods of the defendant believing them to be as those of the plaintiffs or associated with the plaintiffs.

28. Moreover, according to the plaintiffs, the marks of the defendants are not registered and seem to have entered into the market much after the plaintiffs had established its brand and trademarks. The plaintiffs have also been vigilant in protecting their proprietary rights over their trademarks by preferring lawsuits against infringers in the past too. The sales turnover and expenditure on advertisements and promotion lend credibility to the fact that the plaintiffs have garnered substantial goodwill over the years.



29. Having regard thereto, the plaintiffs have been able to *prima facie* establish a strong case in its favour. The balance of convenience is clearly tilted in favour of the plaintiffs. The plaintiffs shall suffer irreparable loss and injury which may not be adequately compensated in monetary terms in case appropriate *ex-parte ad-interim* injunction orders are not passed against the defendants.

30. In view of the aforesaid, the following directions are passed:-

- a) Defendants, its partners, proprietors, servants, agents, and all others in active concert or participation with the defendants are restrained from manufacturing, selling, offering for sale, advertising, marketing, directly or indirectly dealing in impugned goods bearing the infringing mark 'Liv-82 DS' and/or any other mark/name which is identical and/or deceptively similar to the plaintiffs' registered trademark 'Liv.52';
- b) Defendants, their directors, employees, officers, servants, agents, manufacturers, sellers, distributors, dealers, stockists and all others acting for and on their behalf are restrained from making, selling, distributing, advertising, exporting, offering for sale, and in any other manner, directly or indirectly, dealing in any goods or goods packaging formats including pouches, sachets, boxes, cartons and containers, bearing the infringing mark 'Liv-82 DS' and/or any other mark which is identical to and/or deceptively similar to the plaintiffs' trademark 'Liv.52' so as to result in passing off of the defendants' goods as those of the plaintiffs';
- c) Defendant no.1 is directed to file an affidavit, within a period of two weeks from the service of notice of the present application, disclosing the following facts:-
 - (i) Quantum of the impugned goods under the infringing mark 'Liv-82



DS' in possession of defendant no.1 as of April, 2026 and market value of the said stock in Indian Rupee.

(ii) Statement reflecting the earnings of defendant no.1 in Indian Rupee, from the sale of the impugned goods under the infringing mark 'Liv-82 DS' from the date of first sale upto April, 2026.

d) Defendant no.2 is directed to file an affidavit, within a period of two weeks from the service of notice of the present application, disclosing the following facts:-

(i) Quantum of the impugned goods under the infringing mark 'Liv-82 DS' manufactured by defendant no.2 from the date of first manufacture till April, 2026 and market value of the said stock in Indian Rupee.

(ii) Quantum of the impugned goods under the infringing mark 'Liv-82 DS' in possession of defendant no.2 as on April, 2026 and market value of the said stock in Indian Rupee.

(iii) Statement reflecting the earnings of defendant no.2 in Indian Rupee from manufacture of the impugned goods under the infringing mark 'Liv-82 DS' from the date of first manufacture upto April, 2026.

31. Issue notice.

32. Let a reply to this application be filed by the defendants within four weeks from service. Rejoinder, thereto, if any, be filed within two weeks thereafter.

33. Compliance of Order XXXIX Rule 3 of CPC shall be done within ten days from date.

CS(COMM) 418/2026

34. Let the plaint be registered as a suit.

35. Upon filing of the process fee, issue summons of the suit to the defendants through all permissible modes.



36. The summons shall state that the Written Statement shall be filed by the defendants within 30 days from the date of the receipt of summons. Alongwith the Written Statement, the defendants shall also file Affidavit of Admission/Denial of the documents of the plaintiffs, without which the Written Statement shall not be taken on record.

37. Liberty is granted to the plaintiffs to file Replication, if any, within 30 days from the receipt of the Written Statement. Along with the Replication filed by the plaintiffs, an Affidavit of Admission/Denial of the documents of defendants be filed by the plaintiffs, without which the Replication shall not be taken on record.

38. In case any party is placing reliance on a document, which is not in their power and possession, its details and source shall be mentioned in the list of reliance, which shall also be filed with the pleadings.

39. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the prescribed timelines.

40. List before the Joint Registrar (Judicial) on 20.07.2026 for completion of service and pleadings.

41. List before the Court on 30.09.2026.

TUSHAR RAO GEDELA, J

APRIL 21, 2026/anj