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

+ **CS(COMM) 562/2026**

CAPITAL FOODS PRIVATE LIMITEDPlaintiff
Through: Mr. Dhruv Anand, Mr. Rohil Bansal
and Mr. Chirayu Prahlad, Advocates.
versus

KISHAN RAMESHBHAI KASWALA TRADING AS K3 MASALA
.....Defendant
Through:

CORAM:
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER
% **22.05.2026**

I.A. 14614/2026 (Additional Documents)

1. The present application has been filed on behalf of the plaintiff under Order XI Rule 1(4) of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') as applicable to commercial suits under the Commercial Courts Act, 2015 (hereinafter referred to as 'CC Act') seeking leave to place on record additional documents.
2. The plaintiff 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. 14616/2026 (Pre-Institution Mediation)

4. This is an application filed by the plaintiff 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. 14615/2026 (Exemption)

7. This is an application filed on behalf of the plaintiff under Section 151 of CPC seeking exemption from filing typed/legible copies of dim/illegible documents as referred to in para 2 of the present application.

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

9. The application stands disposed of.

I.A. 14617/2026 (Seeking Additional time to file Court Fees)

10. The present application has been filed by the plaintiff under Section 149 read with Section 151 of CPC, seeking exemption from payment of Court Fees at the time of the filing of the suit.

11. Mr. Dhruv Anand, learned counsel for the plaintiff states that the Court Fees has been deposited, however, the certificate needs to be obtained and filed thereafter. The plaintiff is granted ten days' time to file the Certificate of payment of Court Fees.

12. The application is allowed to the aforesaid extent and is disposed of.

I.A. 14613/2026 (Order XXXIX Rules 1 & 2, CPC)

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

14. It is stated that the plaintiff was incorporated in 2003 and is now acquired by Tata Consumer Products Limited, which is an associate of the TATA Group and is a leading food enterprise engaged, *inter alia*, in manufacturing, marketing and retailing of a wide variety of food products and



services including sauces, dips, spreads, noodles, dressings, condiments, spices, sauce mixes, soups, pastes, ready-to-eat food products and other food preparations and related services for over two decades. It is also stated that the plaintiff is operating a website, www.capitalfoods.co.in for its products.


15. It is claimed that the plaintiff conceived and adopted the mark 'SCHEZWAN CHUTNEY' in the year 2012, which is derived from and is a unique and distinctive combination of two words, i.e., 'Schezwan' and 'Chutney' in respect of a hot, spicy and peppery sauce/dip having a unique proprietary recipe and taste profile developed by the plaintiff after significant amount of research and efforts. It is also claimed by the plaintiff that since inception, the plaintiff's mark has been continuously, extensively and uninterruptedly used by the plaintiff along with huge promotional activities that has resulted in the plaintiff's mark acquiring a secondary significance.

16. It is stated by the plaintiff that for the Financial Year 2024-2025, the plaintiff recorded a total revenue of Rs.93,417 Lakhs, with significant expenditures including Rs.6,388 Lakhs on advertising. It is stated that the advertisement campaign featuring actor Ranveer Singh had an advertising and promotional budget of Rs. 50 Crores, apart from various other celebrities' promotional activities by the plaintiff.

17. Plaintiff claims to have a website at www.chingssecret.com dedicated to the various products bearing the plaintiff's trademark 'SCHEZWAN CHUTNEY', which was registered on 07.09.2002. The plaintiff also has a Facebook page with 835K followers, an Instagram account with 82.3K followers as well as a YouTube channel with 775K subscribers.

18. The details of the trademark as well as copyright registrations with regard to the plaintiff's trademark 'SCHEZWAN CHUTNEY' and the trade dress of the plaintiff's products associated with such mark, as mentioned in para 30 of the plaint, are extracted hereunder:-



TM REGISTRATION DETAILS	PARTICULARS
SCHEZWAN CHUTNEY (Wordmark)	TM Registration no. 2431851 dated 22.11.2012 in Class 30 for Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery, ices; honey, treacle; yeast, baking powder; salt, mustard; vinegar, sauces, (condiments); spices; ice cream, ice cream powder, snack food, farsan, wafer, biscuits, cakes, chocolates, jam, powder milk, noodles, pasta, pulses, foods seasoning, deserts, papad, ketchup, edible articles for human consumption, masala, squash, fruit juice, chutneys, salad dressings, instant tea, ready to eat, samosas, sauce & soup mixes, entrees.
PARTICULARS	COPYRIGHT REGISTRATION
Copyright Registration No. A-149563/2023 dated 08.12.2023	

19. The plaintiff also claims to have initiated legal proceedings against various parties misusing the plaintiff's trademark 'SCHEZWAN CHUTNEY' or using marks that are identical to the said trademark and have also obtained favourable orders from Courts across India. Plaintiff asserts that the learned Division Bench of this Court has, in *Capital Foods Private Limited vs.*



Radiant Indus Chem Pvt. Ltd., FAO(OS)(COMM) 16/2023, *vide* order dated 25.01.2023, categorically noted that the plaintiff's mark has acquired secondary significance.

20. It is claimed that sometime in August, 2025, the plaintiff learnt through various sources that the defendant is manufacturing and selling its products under the mark 'SCHEZWAN DIPPING CHUTNEY' by unauthorisedly using the plaintiff's registered and well-known trademark 'SCHEZWAN CHUTNEY', across India. Plaintiff addressed a legal notice dated 20.08.2025 and a reminder letter dated 13.11.2025 to the defendant, however received no reply.

21. Sometime in early April, 2026, the plaintiff came to know that the defendant is manufacturing other infringing products under the same deceptively similar mark 'SCHEZWAN DIPPING CHUTNEY', however under a different house name 'Fruvanta'. Therefore, the plaintiff addressed another reminder letter dated 16.04.2026 to the defendant, however received no response. It is stated that the defendant is also selling the said impugned product under the brand name 'K3 Masala'.

22. It is further stated that the defendant's impugned products are also listed on various e-commerce platforms such as Amazon, Flipkart etc., which are delivered to New Delhi. Screenshots of such listings are reproduced in para 39 of the plaint. It is further claimed that the defendant is actively marketing and advertising their impugned infringing products on their social media platforms such as Facebook and Instagram amongst others, screenshots of which are reproduced in para 40 of the plaint. The plaintiff also claims to have placed an order for the defendant's product 'GREEN PIECE SCHEZWAN DIPPING CHUTNEY' through its online listing on Meesho, which was delivered to the investigator's address in Delhi on 09.03.2026. The plaintiff further placed an order for the defendant's product 'FRUVANTA



SCHEZWAN DIPPING CHUTNEY' through Flipkart which was delivered on 15.04.2026. The screenshots of such purchases are reproduced in paras.41 and 42 of the plaint.

23. It is also claimed that the defendant sells Jain versions of the impugned products, i.e., without onions or garlic as core ingredients, which shows that the defendant is closely monitoring the plaintiff's products and as and when it comes out with new variations of its popular 'SCHEZWAN CHUTNEY' branded products, the defendant follows suit and launches their own versions of the impugned products in an attempt to come as close as possible to the plaintiff's highly popular products under their registered trademark 'SCHEZWAN CHUTNEY'.

24. Plaintiff claims that this is a classic case of smart copying as the defendant has introduced inconsequential elements in their impugned infringing mark by adding the word 'DIPPING' between 'SCHEZWAN' and 'CHUTNEY', however, the overall commercial impression created by the defendant's infringing mark and the broad similarities between their infringing mark and the plaintiff's registered and well-known trademark 'SCHEZWAN CHUTNEY' are so obvious that the minor inconsequential differences between the two marks have been nudged into oblivion.

25. Predicated thereon, the plaintiff seeks an *ex-parte ad-interim* injunction against the defendant.

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

27. Since the suit has been filed on the basis of infringement and passing off of the registered trademark of the plaintiff, it would be worthwhile to compare the marks of both the parties. Thus, the following pictographical



illustrations would bring out the similarities/deceptive similarities between the rival marks:-

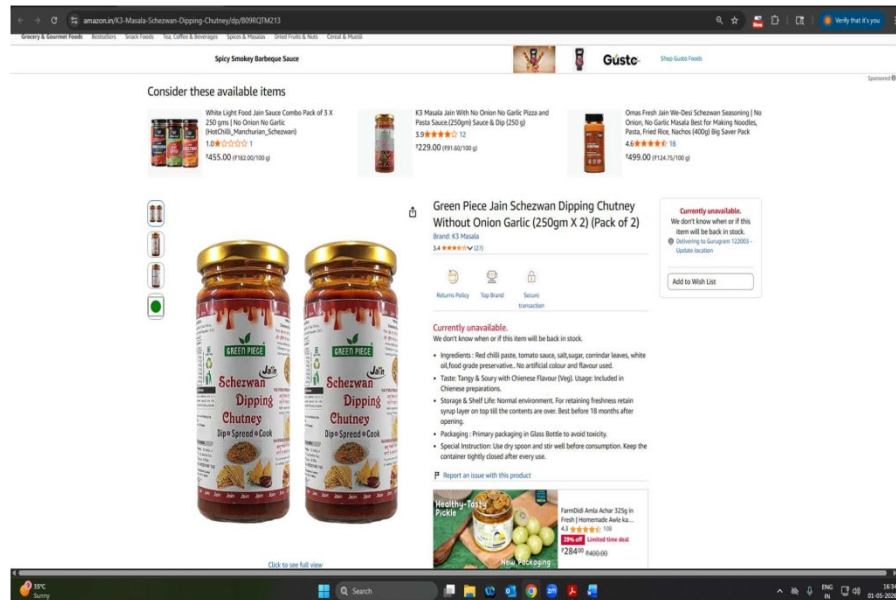


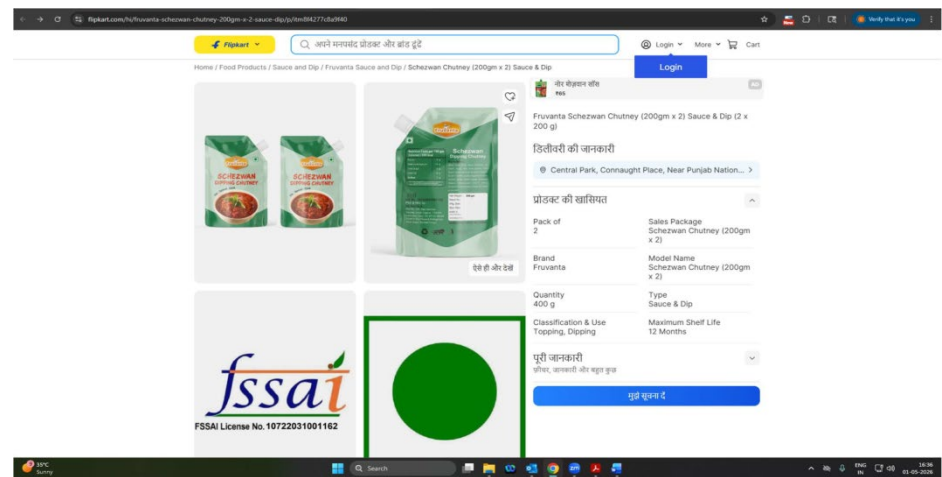
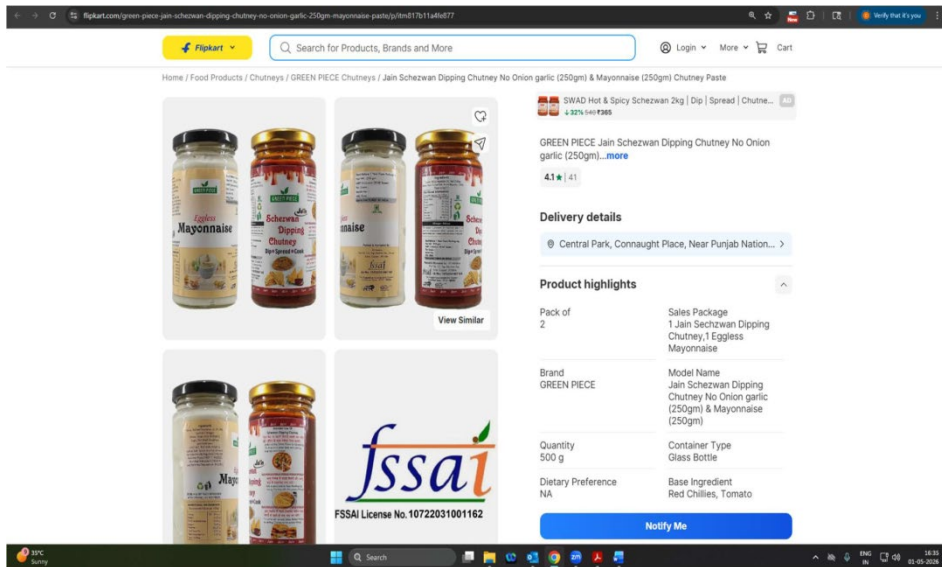
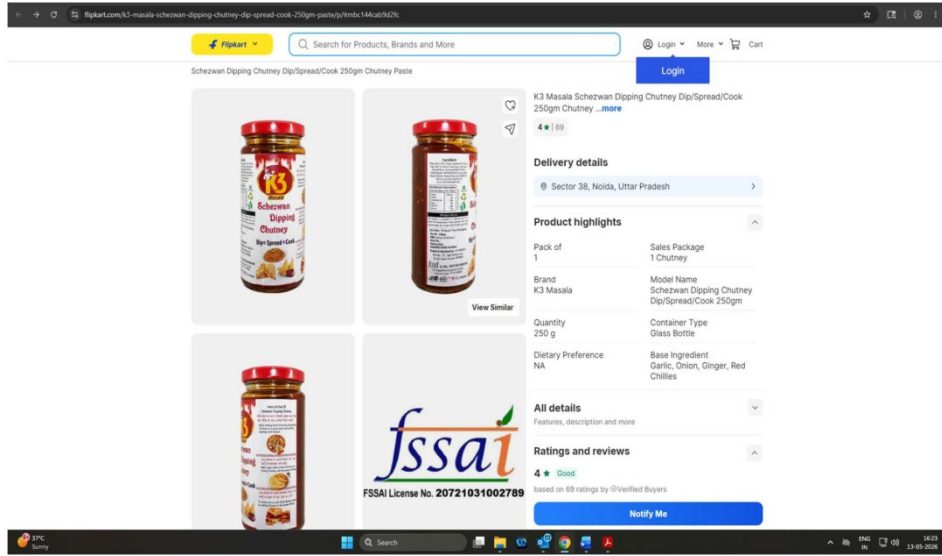
28. It is clear from the aforesaid comparison that the emphasis on the words 'Schezwan' and 'Chutney' on a white background appear to be similar to that of the plaintiff. Merely by using the word 'dipping' between the words 'Schezwan' and 'Chutney' would really not make such a distinction as to enable an unwary consumer with an average intelligence and imperfect



recollection to be able to differentiate between the two products. Even the adoption in different forms, as extracted above and as available on the e-commerce platforms indicate that the defendant has been using the mark 'Schezwan Chutney' openly which is bound to create confusion in the minds of the public as to whether the said products of the defendant are those of the plaintiff or are associated with it. The brand names such as 'K Masala', 'Green Piece' or 'Fruvanta' written on top would really not make such an impact as to make the public aware that the products belong to the defendant and not the plaintiff.

29. The products of the defendant under the said marks which are shown and reflected in the e-commerce websites are deceptively similar to the plaintiff's products bearing the registered trademark 'SCHEZWAN CHUNEY'. The screenshots of online listings of the defendant's products on various e-commerce platforms are reproduced hereunder:-





30. It appears that the adoption of the said mark ‘SCHEZWAN CHUTEY’ with or without the word ‘DIPPING’ in between is clearly not honest or



bonafide. The registered trademark ‘SCHEZWAN CHUTEY’ of the plaintiff has garnered substantial reputation and goodwill in the last many years which is clearly reflected from the sales figures as also the promotional expenses incurred by the plaintiff in respect of the said trademark.

31. The defendant appears to be riding the coattails of the plaintiff’s immense reputation and substantial goodwill. This is bound to dilute the goodwill and reputation of the plaintiff’s trademark. That apart, the documents placed on record also appear to indicate that the plaintiff is the prior adopter and user of the registered trademark ‘SCHEZWAN CHUTNEY’.

32. Having regard to the aforesaid, the plaintiff has evidently made out a *prima facie* strong case in its favour and against the defendant. The balance of convenience clearly tilts in favour of the plaintiff. Plaintiff shall suffer irreparable loss and injury which may not be adequately compensated in monetary terms in case an *ex-parte ad-interim* injunction order is not passed against the defendant.

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

- (i) Defendant, their agents, suppliers and distributors, directors, employees and all others acting for and on their behalf are restrained from directly or indirectly dealing in the impugned products ‘K3 MASALA

SCHEZWAN DIPPING CHUTNEY’,





‘GREEN PIECE SCHEZWAN DIPPING CHUTNEY’,



, and ‘FRUVATA SCHEZWAN DIPPING CHUTNEY’,



, and/or any products/services bearing the mark ‘SCHEZWAN CHUTNEY’ and/or ‘SCHEZWAN DIPPING CHUTNEY’ and/or from using any other mark that may be deceptively similar to the plaintiff’s registered trademark ‘SCHEZWAN CHUTNEY’;

(ii) Defendant shall place on record their books of accounts, invoices, sales memo and/or any other documents recording/evidencing sale of their infringing products as mentioned in sub-para(i) above, till date, in a sealed cover, within 6 weeks from date of service;

34. Issue notice.

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



thereafter.

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

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37. Let the plaint be registered as a suit.

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

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

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

41. 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.

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

43. List before the Joint Registrar (Judicial) on 11.08.2026 for completion of service and pleadings.

44. List before the Court on 17.11.2026.

TUSHAR RAO GEDELA, J

MAY 22, 2026/anj

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