



\$~39

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

+ CS(COMM) 478/2026

AVAIA VENTURES PRIVATE LIMITED & ANR.Plaintiffs

Through: Mr. Devashish Bharuka, Senior
Advocate with Mr. Akshat Agrawal,
Mr. Raj Karn and Mr. Disha Thakkar,
Advocates.

versus

WILDSHIP ENTERPRISES PRIVATE LIMITED
& ANR.Defendants

Through:

CORAM:
HON'BLE MR. TEJAS KARIA

ORDER

% **05.05.2026**

I.A. 12555/2026 (Exemption)

1. Exemption is allowed, subject to all just exceptions.
2. The Application stands disposed of.

I.A. 12554/2026 (Exemption from pre-institution Mediation)

3. This is an Application filed by the Plaintiffs seeking exemption from instituting pre-litigation Mediation under Section 12A of the Commercial Courts Act, 2015 ("CC Act").
4. As the present matter contemplates urgent interim relief, in light of the judgment of the Supreme Court in *Yamini Manohar v. T.K.D. Krithi*, 2023 SCC OnLine SC 1382, exemption from the requirement of pre-institution Mediation is granted.
5. The Application stands disposed of.

CS (COMM) 478/2026

6. Let the Plaint be registered as a Suit.
7. Issue Summons. Let the Summons be served to the Defendants through all permissible modes upon filing of the Process Fee.

CS(COMM) 478/2026

Page 1 of 16



8. The Summons shall state that the Written Statement(s) shall be filed by the Defendants within 30 days from the date of the receipt of Summons. Along with the Written Statement(s), the Defendants shall also file Affidavit(s) of Admission / Denial of the documents of the Plaintiffs, without which the Written Statement(s) shall not be taken on record.

9. Liberty is granted to the Plaintiffs to file Replication(s), if any, within 30 days from the receipt of the Written Statement(s). Along with the Replication(s) filed by the Plaintiffs, Affidavit(s) of Admission / Denial of the documents of Defendants be filed by the Plaintiffs, without which the Replication(s) shall not be taken on record.

10. 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.

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

12. List before the learned Joint Registrar on 17.08.2026 for completion of service and pleadings.

I.A. 12553/2026 (O-XI R-1(4) of the Code of Civil Procedure, 1908)

13. 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 CC Act seeking leave to place on record additional documents.

14. 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.

15. Accordingly, the Application stands disposed of.



I.A. 12552/2026 (U/O XXXIX Rule 1 & 2 of CPC)

16. Issue Notice. Notice be served through all permissible modes upon filing of the Process Fees.

17. The present Suit has been filed for permanent injunction under Section 60 of the Copyright Act, 1957 (“Act”) read with Section 151 of the CPC restraining Defendant No. 1 from issuance of groundless threats of legal proceedings and directing Defendant No. 2 to reinstate the Plaintiffs’ marketplace listings listed and resold by Plaintiff No. 1 on the e-commerce platform, Amazon under and to desist from giving effect to any further complaints by Defendant No. 1.

18. The learned Senior Counsel for the Plaintiff has made the following submissions:

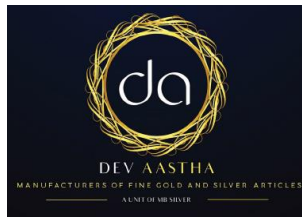
18.1. Plaintiff No. 1, *M/s AVAIA Venture Private Limited* is a private limited company duly incorporated under Companies Act, 2013 having its registered office at Pitampura, New Delhi. Plaintiff No. 1 has three directors, namely, Mr. Roshan Lal Mittal, Mr. Apoorv Mittal, and Ms. Anubha Gaur. Plaintiff No. 1 is engaged in the business of online retail and re-selling of branded merchandise on e-commerce marketplaces including Amazon, Flipkart etc.

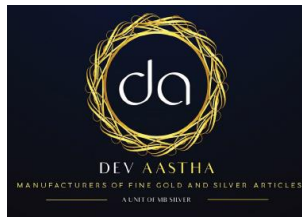
18.2. Plaintiff No. 2, *M/s Dev Aastha Impex* is a sole proprietary concern of Mr. Roshan Lal Mittal. Plaintiff No. 2’s sole proprietor is also the Director of Plaintiff No. 1. Plaintiff No. 1 is the duly authorized re-seller of Plaintiff No. 2’s branded products on Amazon pursuant to a comprehensive Letter of Authorization dated 24.04.2026 executed by Plaintiff No. 2.



18.3. Plaintiff No. 2 has been continuously engaged in the manufacture and trade of silver and silver-plated religious articles for over fifteen years and has an established and verifiable commercial presence in both the offline wholesale trade and on e-commerce platforms. Plaintiff No. 2 has an official website, <https://www.devaastha.com> and its Instagram handle, @devaastha.in. Plaintiff No. 2 has its products on e-commerce platform, Amazon, <https://www.amazon.in/stores/DEVAASTHA>.

18.4. Plaintiff No. 2 is the proprietor of the registered Trade Mark



‘DEV AASTHA / ’ bearing Registration No. 3737991 in Class 14 registered with effect from 27.01.2018 under the Trade Marks Act, 1999. Plaintiff No. 2 is, the manufacturer, brand owner and originator of the Kamdhenu Cow Silver-Plated Idol bearing SKU ‘DEV-SP-Kamdhenu Cow-Small’ listed and resold by Plaintiff No. 1 on the e-commerce platform, Amazon under Amazon Standard Identification Number (“ASIN”) B0FPXK26V6 with the product title “*Dev Aastha 999 Pure Silver Plated Kamdhenu Cow Idol | 2.5 inch Vastu Home Decor for Pooja Room & Mandir | Symbol of Prosperity & Abundance | Ideal Religious & Spiritual Gift*”, (“**B0FPXK26V6**”).

18.5. Defendant No. 1, *Wildship Enterprises Private Limited*, is a private limited company incorporated under the Companies Act,



2013 on 28.10.2022. Defendant No. 1 operates in the trade and on the e-commerce platform, Amazon under the brand name 'Svastika' through its website, <https://svastika.in>.

- 18.6. Defendant No. 2, *Amazon Seller Services Private Limited*, is the entity which owns and operates the Amazon marketplace platform and the 'Seller Central' interface used by Plaintiff No. 1, and which receives, processes and acts upon Copyright and other intellectual property complaints under its 'Intellectual Property Complaint' / 'Brand Registry' / 'Account Health' regime, in purported compliance with the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 ("**Rules**").
- 18.7. The Plaintiffs have made substantial and verifiable investments in the manufacture, branding, photography, listing, marketing, and on-platform advertising of ASIN B0FPXK26V6 on Defendant No. 2's marketplace, evidenced *inter alia* by Plaintiff No. 2's tax invoices to Plaintiff No. 1 including Bill No. 1549 dated 09.02.2026 for ₹25,30,080/- and Bill No. 1552 dated 20.02.2026 for ₹21,00,000/- and Plaintiff No. 1's Vendor Central tax invoices. Plaintiff No. 1, as the authorized re-seller, holds substantial inventory of ASIN B0FPXK26V6 and the connected ASINs in Defendant No. 2's Fulfilment Centers for fulfilment under Defendant No. 2's 'Fulfilment by Amazon' programme.
- 18.8. Section 60 of the Act confers a statutory remedy on any person aggrieved by groundless threats of legal proceedings or liability in respect of an alleged infringement of Copyright, made 'by circulars, advertisements or otherwise'.



- 18.9. In *Associated Broadcasting Company Limited v. Google LLC and Others*, 2026 SCC OnLine Del 815, the Court held that the issuance of a copyright strike notice or platform-level takedown complaint, without instituting and diligently prosecuting a meaningful infringement action before a competent court, constitutes a ‘groundless threat’ within Section 60 of the Act, and that a strike notice / marketplace complaint, being an ‘intermediary-driven compliance process’, is not, by itself, capable of affording any resolution of the dispute on the question of infringement, and therefore cannot satisfy the *proviso* to Section 60 of the Act. Section 60(b) of the Act further entitles the person aggrieved to recover such damages, if any, as he has sustained by reason of such threats.
- 18.10. On 10.04.2026, Defendant No. 1 filed two successive Copyright infringement complaints with Defendant No. 2 namely, Complaint ID 12350035722 against ASIN B0FPXK26V6, Complaint ID 12357527022 against ASIN B0GH7D1HCT, Kamdhenu Cow Silver-Plated Idol bearing SKU ‘*DEV-SP-Kamdhenu Cow-3.5 inch*’ with product title, ‘*Dev Aastha 999 Pure Silver Plated Kamdhenu Cow Idol - 3.5 Inch Auspicious Vastu Home Decor for Pooja Room and Mandir - Sacred Symbol of Prosperity, Abundance and Luck - Ideal Religious*’ (“**B0GH7D1HCT**”) and ASIN B0GP6L2LN3, Kamdhenu Cow Silver-Plated Idol bearing SKU ‘*DEV-SP-Kamdhenu Cow-6 inch*’ with product title, ‘*Dev Aastha 999 Pure Silver Plated Kamdhenu Cow Idol - 6 Inch Large Auspicious Vastu Home Decor for Pooja Room and Mandir - Sacred Symbol of*



Prosperity, Abundance and Success (“B0GP6L2LN3”).

Pursuant to these complaints, Defendant No. 2 issued Notice of Policy Warning dated 10.04.2026 and mechanically deactivated the affected listings, without affording the Plaintiffs any prior opportunity of being heard.

18.11. Plaintiff No. 1 filed its first appeal with Defendant No. 2 on 10.04.2026 with the requisite documents. After two same-day rejections and a further rejection on 12.04.2026, Defendant No. 2, on its own evaluation reinstated ASIN B0GH7D1HCT under Complaint ID 12357527022 and recorded that the violation had been removed.

18.12. On 13.04.2026, Defendant No. 1 further surfaced ASIN B0FPXK26V6, in which the field for ‘Copyright No.’ was, in place of any registration particulars, populated with the URL of Defendant No. 1’s own product page on its Shopify, website, <https://svastika.in/products/silverplated-kamdhenu-cow-with-calf-idol>.

18.13. On 14.04.2026, Plaintiff No. 1 reached out to Defendant No. 1 at e-mail address: contact@svastika.in, attaching a Kamdhenu Cow Root Cause Analysis seeking amicable resolution. Defendant No. 1’s representative Mr. Ravi Kumar, legal@wildship.org responded *vide* e-mail characterizing the differences between the products as mere “*finish and minor base variations*” that are “*superficial in nature*”, demanding takedown within 48 hours and threatening escalation.

18.14. Further on 14.04.2026, Plaintiff No. 1 asked Defendant No. 1’s representative to provide its design and Copyright registrations.



On 15.04.2026, Plaintiff No. 1 addressed a comprehensive Detailed Appeal Letter to Defendant No. 2's Seller Performance Team.

- 18.15. On 18.04.2026, Defendant No. 2, on the strength of the same evidentiary record, itself reinstated ASIN B0GP6L2LN3 under Complaint ID 19902535771 and recorded that the violation had been removed. ASIN B0FPXK26V6 continued to be deactivated. Further, on the same day, Plaintiff No. 1 addressed a comprehensive letter to Mr. Saurabh Joshi, Grievance Redressal Officer of Defendant No. 2. Defendant No. 2 has not responded to the Grievance Officer Letter dated 18.04.2026 which has a statutory timeline of 15 days under the Rules.
- 18.16. The Plaintiffs sent a Legal Notice dated 23.04.2026 (“**Legal Notice**”) to Defendant No. 1 to: (i) unconditionally withdraw the complaints, (ii) cease and desist, (iii) tender an unconditional apology and a binding undertaking, and (iv) reimburse the costs of the Legal Notice quantified at ₹50,00,000/-, all within 5 days of receipt of the Legal Notice.
- 18.17. On 24.04.2026, Defendant No. 1 filed a fresh Complaint ID 12457102802 against 6 connected ASINs of Plaintiff No. 1, B0GH7D1HCT, B0GP6L2LN3, B0GP7RF64K, DEV-SP-Cow Laxmi Gold & Silver-2.5 inch bearing SKU ‘*DEV-SP-Cow Laxmi Gold & Silver-2.5 inch*’ with product title, ‘*Dev Aastha 24K Gold and 999 Pure Silver Plated Kamdhenu Cow Idol - 2.5 Inch Auspicious Vastu Home Decor for Pooja Room and Mandir - Sacred Two-Tone Symbol of Prosperity and Success*’ (“**B0GP7RF64K**”), B0GP6L2J15, Kamdhenu Cow Silver-Plated



Idol, Size: 6 Inch bearing SKU ‘*DEV-SP-Kamdhenu Cow - 6 Inch*’ with product title, ‘*Dev Aastha 24K Gold and 999 Pure Silver Plated Kamdhenu Cow Idol - 6 Inch Auspicious Vastu Home Decor for Pooja Room and Mandir - Sacred Two-Tone Symbol of Prosperity and Success*’ (“**B0GP6L2J15**”), B0GWX8BYFD, Kamdhenu Cow Silver-Plated Idol, Size: 2.5 Inch bearing SKU ‘*DEV-SP-2.5 Inch Kamdhenu Cow*’ with product title, ‘*Silver Plated Kamdhenu Cow Idol | Vastu Home Decor for Pooja Room & Mandir | Ideal Religious & Spiritual Gift | 2.5 inch*’ (“**B0GWX8BYFD**”), and B0GP6VD5XP, DEV-SP-Cow Laxmi Gold & Silver-3.5 inch bearing SKU ‘*DEV-SP-Cow Laxmi Gold & Silver-3.5 inch*’ with product title, ‘*Dev Aastha 24K Gold and 999 Pure Silver Plated Kamdhenu Cow Idol - 3.5 Inch Auspicious Vastu Home Decor for Pooja Room and Mandir - Sacred Two-Tone Symbol of Prosperity and Success*’ (“**B0GP6VD5XP**”).

18.18. Pursuant to Complaint ID 12457102802 against 6 connected ASINs of Plaintiff No. 1, B0GH7D1HCT, B0GP6L2LN3, B0GP7RF64K, B0GP6L2J15, B0GWX8BYFD and B0GP6VD5XP, Defendant No. 2 issued Notice of Policy Warning and immediately deactivated all 6 ASINs, including ASINs B0GH7D1HCT and B0GP6L2LN3, which Defendant No. 2 had itself reinstated only a few days earlier.

18.19. Plaintiff No. 1 *vide* e-mail dated 24.04.2026 to grievanceofficer@amazon.in addressing an urgent escalation. Defendant No. 2’s customer service at e-mail address, csreply@amazon.in acknowledged Plaintiff No. 1’s e-mail dated



24.06.2026 on 25.04.2026 and recorded the matter as Case ID D438871332. On 25.04.2026, Defendant No. 2 reinstated ASINs B0GP6L2J15, B0GP6L2LN3, B0GP7RF64K and B0GWX8BYFD under Complaint ID 12457102802 and recorded that the violation had been removed.

18.20. By operation of Section 15(2) of the Act, copyright in any underlying artistic work ceases to subsist the moment the design is industrially reproduced more than fifty (50) times by an industrial process, as held by the Division Bench of this Court in *Microfibres Inc. v. Girdhar & Co.*, 2009 (40) PTC 519 (Del) (DB). Defendant No. 1's own website at <https://svastika.in>, evinces an industrial 50+ run as a matter of bare commercial reality, disentitling it from any copyright protection. Independently, the Kamdhenu cow with calf is a sacred motif from the Hindu religious tradition in the public domain; the elements relied upon by Defendant No. 1 are stock motifs flowing inevitably from the underlying public-domain motif and incapable of attracting copyright protection on the settled idea-expression distinction.

18.21. After institution of the Suit, Defendant No. 1 replied to the Legal Notice on 01.05.2026 (“**Reply**”) claiming that it is the original creator, prior user and first commercial adopter of the concerned product / design / artistic expression / get-up / product configuration. Although the Reply asserts that the Plaintiffs have copied Defendant No. 1’s original product design and that Defendant No. 1 is in possession of documentary evidence including, *inter alia*, design drafts, product photographs,



manufacturing records, vendor communications, invoice records, listing chronology, Amazon listing records, social media and website publication records, and commercial sale evidence, all allegedly predating the Plaintiffs' adoption and sale of the impugned product, no legal proceedings have been instituted before a competent Court by Defendant No. 1.

18.22. As held by this Court in *Associated Broadcasting (supra)*, a platform-level takedown complaint, if not accompanied by the diligent prosecution of a meaningful infringement action before a competent Court, constitutes a groundless threat under Section 60 of the Act. The *prima facie* groundlessness of Defendant No. 1's complaints is further evident from the fact that, in its re-filed complaint, the 'Registration No.' field contained no valid registration particulars and merely reproduced the URL of its own commercial product page.

18.23. There is an admission on the part of Defendant No. 1 that the differences are merely superficial weakens any claim of substantial similarity. In these circumstances, the repeated takedown complaints filed by Defendant No. 1 *prima facie* amount to a misuse of Amazon's intermediary complaint mechanism to suppress and undermine the Plaintiffs' business operations. Such conduct squarely attracts the remedy under Section 60 of the Act, which entitles any person aggrieved by groundless threats of legal proceedings or liability in respect of an alleged Copyright infringement to seek relief before the Court. Hence, the threats issued by Defendant No. 1 are 'groundless' within the meaning of Section 60 of the Act.



19. The Reply to the Legal Notice is handed over during the hearing is directed to be taken on record.

20. Having considered the submissions advanced by learned Senior Counsel for the Plaintiffs, as well as the pleadings and documents placed on record, this Court is of the view that the Plaintiffs have made substantial and verifiable investments in the manufacture, branding, photography, listing, marketing, and on-platform advertising of ASINs B0FPXK26V6, B0GH7D1HCT, B0GP6L2LN3, B0GP7RF64K, B0GP6L2J15, B0GWX8BYFD and B0GP6VD5XP on the e-commerce platform Amazon.in and further hold substantial inventory in Fulfilment Centers of Defendant No. 2.

21. The Plaintiffs are aggrieved by the successive complaints lodged by Defendant No. 1 before Defendant No. 2 alleging infringement of Defendant No. 1's copyright in respect of the products sold by the Plaintiffs on Defendant No. 2's platform. Acting upon the said complaints, Defendant No. 2 has deactivated the Plaintiffs' listings. It is the Plaintiffs' case that the complaints so made by Defendant No. 1 constitute groundless threats within the meaning of Section 60 of the Act.

22. After Plaintiff No. 1 approached Defendant No. 2, certain products came to be reinstated however, some of the Plaintiffs' products continue to remain deactivated. The Plaintiffs contend that the same is causing grave prejudice to their business. It is further the Plaintiffs' case that Defendant No. 1, while lodging complaints before Defendant No. 2, failed to identify any registered copyright or any copyrightable work and also failed to furnish any material demonstrating originality. Moreover, Defendant No. 1 has not instituted any suit for infringement against the Plaintiffs before a Court of competent jurisdiction.



23. In view of the aforesaid, this Court is of the *prima facie* view that Section 60 of the Act is attracted in the facts of the present case. As held in *Associated Broadcasting (supra)*, the making of a complaint to a marketplace platform falls within the ambit of a groundless threat of legal proceedings. The said decision further clarifies that the issuance of a copyright strike notice or platform-level takedown complaint, without the institution and diligent prosecution of a meaningful infringement action before a competent Court, constitutes a “groundless threat” within the meaning of Section 60 of the Act. Since a strike notice or marketplace complaint cannot, by itself, resolve the dispute on the question of infringement, the proviso to Section 60 is not satisfied. In the present case, Defendant No. 1 had not instituted any suit for infringement as on the date of filing of the present Suit, and the Reply to the Legal Notice also does not disclose any clear particulars of copyright registration, originality, or prior use.

24. The Plaintiffs have further contended that Defendant No. 1 does not enjoy copyright in any underlying artistic work, inasmuch as the same has been industrially reproduced more than fifty times, thereby attracting Section 15(2) of the Act. In this regard, as held by the Division Bench of this Court in *Microfibres Inc. (supra)*, copyright in such a work ceases to subsist once the design has been applied more than fifty times by an industrial process. Accordingly, Defendant No. 1 does not, *prima facie*, appear to hold any enforceable copyright in view of Section 15(2) of the Act considering the admission on Defendant No. 1’s website, <https://svastika.in>, that the products of Defendant No. 1 have been commercially produced in quantities exceeding fifty units.



25. Additionally, the Plaintiffs' contention that the Kamdhenu cow with calf constitutes a sacred motif drawn from the Hindu religious tradition and forms part of the public domain appears, at this stage, to be well founded, since the elements relied upon by Defendant No. 1 are stock motifs that flow inevitably from the underlying public-domain subject and are, therefore, incapable of attracting copyright protection in view of the settled idea-expression dichotomy.

26. Moreover, Defendant No. 1 has itself admitted that the differences between the Plaintiffs' products and its own products are merely superficial. In view thereof, any claim of substantial similarity cannot, at this stage, be sustained on the basis of the complaints filed by Defendant No. 1.

27. In these circumstances, the repeated takedown complaints lodged by Defendant No. 1 appear to be a misuse of Amazon's intermediary complaint mechanism with a view to suppressing and undermining the Plaintiffs' business operations. Such conduct of Defendant No. 1 squarely attracts the remedy under Section 60 of the Act, which entitles any person aggrieved by groundless threats of legal proceedings or liability in respect of an alleged copyright infringement to seek relief therein. Accordingly, the threats issued by Defendant No. 1 are, *prima facie*, groundless within the meaning of Section 60 of the Act.

28. Such groundless threats issued by Defendant No. 1 appear to constitute an attempt to ride upon the goodwill and reputation of the Plaintiffs by removing Plaintiffs' competing products from the platform of Defendant No. 2. The balance of convenience also lies in favour of the Plaintiffs, who are stated to hold substantial inventory in Amazon's Fulfilment Centers of Defendant No. 2, which is duly supported by tax invoices.



29. Therefore, the Plaintiffs have, at this stage, been able to establish a *prima facie* case to the effect that the threats issued by the Defendant No. 1 are unjustified. In the event the Defendant No. 1 is not restrained from issuing further groundless threats, the Plaintiffs are likely to suffer irreparable loss and injury. There exists a real and imminent risk of substantial reputational and business harm being occasioned to the Plaintiffs on account of such conduct of Defendant No. 1. Further, Defendant No. 2 is also required to be directed to reinstate the products of the Plaintiffs that are deactivated pursuant to the complaints filed by Defendant No. 1. Accordingly, the balance of convenience lies in favour of the Plaintiffs and against the Defendant No. 1, and irreparable injury would ensue to the Plaintiffs if an *ex-parte ad interim* injunction is not granted.

30. Accordingly, till the next date of hearing, it is directed as under:

- a. Defendant No. 1, its directors, officers, employees, associates, affiliates, assignees and/or any other person claiming through or under it, are restrained from issuing any further groundless threats, circulars, advertisements or marketplace complaints to Defendant No. 2 against the Plaintiffs, alleging copyright infringement or any other intellectual property infringement in respect of the subject products i.e. silver-plated Kamdhenu cow idol having ASINs: BOFPXK26V6, BOGH7D1HCT, BOGP6L2LN3, BOGP7RF64K, BOGP6L2J15, BOGWX8BYFD and BOGP6VD5XP; and
- b. Defendant No. 2 is directed to reinstate the products of the Plaintiffs having ASINs: BOFPXK26V6, BOGH7D1HCT, BOGP6L2LN3, BOGP7RF64K, BOGWX8BYFD and BOGP6VD5XP on the Amazon.in Marketplace, if the same are



not already restored, and remove all consequential infringement records corresponding to Defendant No. 1's Complaint IDs 12350035722, 12372635782, 12357527022, 19902535771, 12457102802 entered against the Plaintiff No. 1's Account Heath Page.

31. Let the Reply to the present Application be filed within four weeks after service of Notice. Rejoinder thereto, if any, be filed before the next date of hearing. Compliance with the provisions of Order XXXIX Rule 3 of the CPC shall be done within three weeks.

32. List before this Court on 02.09.2026.

TEJAS KARIA, J

MAY 5, 2026

ap