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

+ CS(COMM) 590/2026

GLOSSY COLOR AND PAINTS PVT LTD & ANR.Plaintiffs

Through: Mr. Sagar Chandra, Mr. Nikhil Sonker
and Mr. Shivendra Pratap Singh,
Advocates.

versus

ELITECOURT & ORS.Defendants

Through: None.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

% **26.05.2026**

I.A. 15030/2026 (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 (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 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. 15032/2026 (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. 15031/2026 (Exemption)

7. This is an application filed on behalf of the plaintiffs under Section 151 of CPC seeking exemption from filing certified/original/typed copies of documents.

8. Exemption allowed, subject to just exceptions. However, certified/original/typed 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. 15033/2026 (Exemption)

10. This is an application filed on behalf of the plaintiffs under Section 151 of CPC seeking permission to file lengthy brief synopsis and list of dates with the present suit.

11. The permission sought, granted.

12. The application stands disposed of.

I.A. 15034/2026 (Seeking Additional time to file Court fees)

13. The present application has been filed by the plaintiffs 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.

14. Considering the submissions made in the present application, an extension of two weeks is granted to affix the requisite court fees.

15. The application stands disposed of.

I.A. 15029/2026 (Order XXXIX Rules 1 & 2, CPC)

16. 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.

17. Plaintiff no.1 claims that it is a company incorporated under the



Companies Act, 1956 and plaintiff no.2 is its sister concern. The plaintiffs form part of the “Glossy Group of Industries”, which has been engaged in the business of manufacturing, marketing and selling decorative and industrial paints and allied products since 1938. The plaintiffs and their sister concerns manufacture, market and sell a wide variety of decorative and industrial paints including interior and exterior wall paints, varnishes, polishes, epoxies, acrylic water based varnish, epoxy resin, enamel, epoxy paint, flooring paints, putty, automotive paints, primers, lacquers, waterproofing products, protective coating, paints for coating, reducers, acrylic paints, paints for wood, preservatives against rust and against deterioration of wood, furniture coatings, dyestuffs, mordants, resins, road marking paints, metals in foil and powder form for painters and decorators, fire retardant paint, epoxy hardener, floor paint, sports court flooring including concrete primer, acrylic black resurfacer, heavy duty cushion coat, acrylic based top coats, line marking paint and related/ cognate and allied goods under various reputed trademarks including ‘ELITE’. The plaintiffs have established an extensive distribution and dealership network and also through retail, internet and e-commerce spread across India and enjoy substantial goodwill and reputation in the paint and coatings industry.

18. Plaintiffs claim that the trademark ‘ELITE’ is an arbitrary trademark that was adopted by the plaintiff no.1 at least in the year 2001 with respect to unrelated goods being “paints, varnishes, lacquers, preservations against rust and against deterioration of wood, coloring matter, dyes stuff, mordents, resins, metals in foil and powder forms, for painters and decorators” (hereinafter referred to as “*said goods*”) and has been in continuous, extensive and uninterrupted use since then. Over the period of time, the plaintiffs have started using the trademark ‘ELITE’ with respect to goods being Acrylic Water Based Varnish, Epoxy Resin, Epoxy Paint, Road



Marking Paint, Acrylic Colours & Fluorescent Acrylic Colours for art and craft, Acrylic Metallic Colours, Distemper, Interior Emulsion, Enamel, Primer, Solvent Thinnable Primers, Flat oil paint, Putty, Aluminum Paint, Fire Retardant Paint, Epoxy Hardener, Floor Paint, Sports Court Flooring including Concrete Primer, Acrylic Black Resurfacer, Heavy Duty Cushion Coat, Acrylic Based Top Coats, Line Marking Paint.

19. The plaintiffs claim that plaintiff no.1's trademark 'ELITE' is an arbitrary trade mark and has no co-relation with said goods and is inherently distinctive. Furthermore, the plaintiff no.1's trademark 'ELITE' has also acquired secondary meaning through over two decades of continuous, extensive, and uninterrupted use and has come to be exclusively associated with the plaintiff no.1 and its sister/ group concerns with respect to said goods.

20. Plaintiff claims that it has secured its rights in the trademark 'ELITE' and has applied for and obtained registration as enumerated in para 8 of the plaint, which is extracted hereunder:-

Trade Mark	Reg no/Date of grant of certificate	User Claim	Class	Status	Disclaimer
ELITE	1469055 26.03.2010	15.09.2001	2	Registered Valid upto 11.07.2026	NA

21. Plaintiffs claim that they and their sister concerns have extensively promoted and advertised goods under the trademark 'ELITE' throughout India through print media, electronic media, trade channels, social media and online platforms. The plaintiffs have incurred substantial promotional



expenditure and generated significant sales under the trademark 'ELITE'. The plaintiffs' goods under the said trade mark are sold through retail outlets, dealers, distributors and online channels across India. The promotional expenses and sale figures as enumerated in paragraphs 11 and 13 of the plaint are extracted hereunder:

PROMOTIONAL EXPENSES

Year	Promotional Expenses- Plaintiff (INR Lakhs)	Promotional Expenses- Glossy Paints India Pvt. Ltd (INR Lakhs)	Promotional Expenses- Sant Ram Nikka Mal (INR Lakhs)
2005-2006	0.62 L	6.74000	14.23 L
2006-2007	0.21 L	4.83 L	14.88 L
2007-2008	0.91 L	0.44 L	14.46 L
2008-2009	3.81 L	5.12 L	9.01 L
2009-2010	1.37 L	4.07 L	21.43 L
2010-2011	1.67 L	6.47 L	33.94 L
2011-2012	2.62 L	7.05 L	52.38 L
2012-2013	7.68 L	6.49 L	51.94 L
2013-2014	4.17 L	11.05 L	86.34 L
2014-2015	0.8 L	12.89 L	99.80 L
2015-2016	1.20 L	12.23 L	112.33 L
2016-2017	0.73 L	13.51 L	116.54 L
2017-2018	1.62 L	15.53 L	123.19 L
2018-2019	1.16 L	23.04 L	112.68 L
2019-2020	2.39 L	16.26 L	126.15 L
2020-2021	1.19 L	17.77 L	103.91 L
2021-2022	2.26 L	17.85 L	89.13 L
2022-2023	2.19 L	15.91 L	136.76 L
2023-2024	6.35 L	16.75 L	162.92 L
2024-2025	6.12 L	14.43 L	53.12 L

SALE FIGURES

Year	Sales- Plaintiff No.1 (INR Lakhs)	Sales- Plaintiff No.2 (INR Lakhs)	Sales- Sant Ram Nikka Mal (INR Lakhs)
2005-2006	Record NA	Record NA	0.04 L
2006-2007	Record NA	4.42 L	.74 L
2007-2008	1.286 L	2.87 L	.48 L
2008-2009	5.193 L	4.76 L	3.50 L




2009-2010	0.939 L	3.90 L	2.17 L
2010-2011	3.704 L	11.71 L	7.43 L
2011-2012	2.017 L	27.33 L	26.07 L
2012-2013	1.048 L	19.27 L	18.25 L
2013-2014	2.723 L	20.61 L	31.18 L
2014-2015	3.643 L	13.31 L	22.11 L
2015-2016	5.618 L	7.78 L	29.14 L
2016-2017	3.617 L	10.23 L	25.38 L
2017-2018	5.694 L	18.03 L	31.13 L
2018-2019	5.494 L	23.00 L	34.90 L
2019-2020	5.991 L	20.79 L	27.66 L
2020-2021	6.337 L	48.05 L	21.31 L
2021-2022	18.176 L	34.41 L	35.00 L
2022-2023	21.060 L	54.57 L	54.65 L
2023-2024	25.126 L	56.78 L	53.76 L
2024-2025	22.557 L	62.03 L	52.11 L
01.04.2025- 22.01.2026	23.741 L	37.96 L	33.41 L

22. Plaintiffs claim that the defendant no.1 is a partnership firm having defendant nos. 2 and 3 as partners. The defendants are engaged in the manufacturing, marketing and selling of goods being silica and paints such as refiners, primers, resurfacers, synthetic acrylic sports flooring materials, exterior paint, emulsion paints, waterproof paints, acrylic paints, heat-resistant paints, colour coats, line marking paints; sealants, and related cognate and allied goods/services (hereinafter referred to as 'Impugned Goods/ services')

under the mark/label 'ELITECOURT/  through their website <https://elitecourt.in>.

23. Plaintiffs claim that in the last week of August 2025, the plaintiffs came across the defendants' activities involving manufacture, advertisement, marketing and sale of paints and allied products under the impugned mark/trade name/domain name 'ELITECOURT' through the website <https://elitecourt.in>. The screenshot of the website as enumerated in para 20 of the plaint are extracted hereunder:




24. The plaintiffs further discovered that defendant no.1 had also obtained registration of the impugned mark ‘ELITECOURT/ ’, under registration no.5997111 in Class 02 on a “proposed to be used” basis filed on 26.06.2023. Plaintiffs submit that the impugned mark was accepted by the Registrar of Trade Marks and the publication of that in the Trade Mark Journal inadvertently escaped the attention of the plaintiffs and the registration was granted on 16.04.2024. The plaintiffs have also filed rectification proceedings against the impugned registration before this Court being C.O. (COMM.IPD-TM) No.159/2026, which is presently pending adjudication.

25. Plaintiffs further claim that upon acquiring knowledge of the defendants’ activities, the plaintiffs issued a cease-and-desist notice dated 27.08.2025 calling upon the defendants to stop use of the impugned mark and withdraw the impugned registration. The defendants, however, failed to comply and instead sought to justify their adoption by contending that the word “COURT” was central to their business relating to sports court flooring solutions. The plaintiffs thereafter issued a rejoinder notice dated 11.12.2025. Despite repeated demands, the defendants have continued with their



infringing and passing off activities.

26. It is further submitted by the plaintiff that the defendants were promoting/advertising and offering for sale the impugned goods through their website <https://elitecourt.in/>, however, upon market enquiry, the plaintiffs could not come across the defendants physical goods in the physical markets at least till first week of April, 2026. Thereafter, plaintiffs enquired about the defendants' impugned goods in various markets of Delhi which further revealed that the defendants have recently started aggressively promoting and selling the impugned goods in various parts of Delhi.

27. Plaintiff claims that the impugned mark/trade name/domain name 'ELITECOURT/ , wholly incorporates the plaintiffs' prior adopted and registered trademark 'ELITE' as its leading, dominant and essential feature. The addition of the descriptive suffix "COURT" does not distinguish the impugned mark from the plaintiffs' trademark. On the contrary, in the paints and coatings industry, use of descriptive suffixes indicating application of the product is a common trade practice and consumers are likely to perceive the impugned mark as a specialized product line or extension emanating from the plaintiffs themselves. The competing marks are therefore visually, phonetically, structurally and conceptually identical/deceptively similar. The defendants are dealing in identical and allied goods through common trade channels and targeting the same class of consumers including contractors, painters, dealers and members of the general public. The defendants' use of the impugned mark is bound to cause confusion, deception and association amongst consumers and members of trade who are likely to believe that the defendants' goods originate from or are associated with the plaintiffs. The plaintiffs submit that the defendants have dishonestly adopted the impugned mark with full knowledge of the plaintiffs' prior rights and



reputation in the trademark 'ELITE'.

28. Predicated on the above, the plaintiffs seek an *ex-parte ad-interim* injunction against the defendants.

29. Heard Mr. Sagar Chandra, learned counsel for the plaintiffs and perused the pleadings and documents on record.

30. Since the defendants' mark "ELITECOURT" is admittedly registered on 16.04.2024 *qua* which the plaintiffs have filed rectification proceedings before this Court in C.O.(COMM-IPD-TM) no.159/2026, pending adjudication, an *ad-interim* injunction on the allegation of infringement of trademark cannot be granted in view of the judgment of the learned Division Bench in ***Keller Williams Realty, INC vs. Dingle Buildcons Private Limited & Ors.***; ***Neutral Citation: 2025:DHC:7395-DB.***

31. However, that said, since the plaintiffs in its suit, has also claimed passing off and simultaneously sought interim injunction in respect of the said claim, this Court would examine as to whether the ingredients required to be satisfied in a case where a party seeks interim injunction in a suit for passing off, are satisfied (See: ***Kaviraj Pandit Durga Dutt Sharma vs. Navaratna Pharmaceuticals Laboratories: AIR 1965 SC 980.***)

32. The first of such issues is in respect of whether the plaintiffs have been able to *prima facie* establish substantial goodwill and reputation.

33. Plaintiffs have placed on record the document dated 11.07.2006 establishing registration of its mark "ELITE" with user detail of 15.09.2001 which is still valid. The plaintiffs have placed on record Chartered Accountant's certificate for the FY 2005-06 upto 22.01.2026 which discloses the sale figure of Rs.3796 (in thousands as on 22.01.2026). Alongwith the said certificate, another certificate issued by the CA in respect of sales figures for the products sold under the mark "ELITE" by the Stockist/Retailer for the FY 2005-06 upto 22.01.2026 which discloses the sale figure of Rs.3341 (in



thousands as on 22.01.2026). Apart from this, the plaintiffs have also placed on record the CA certificate for the FYs 2005-06 to 2024-25, disclosing the expenditure incurred on account of promotion and advertisements of the products manufactured and sold by the plaintiffs which would include the products manufactured under the mark “ELITE”. The figure as on FY 2024-25 is Rs.612,782/-.

34. Additionally in order to substantiate the efforts undertaken by the plaintiffs to promote and advertise various products manufactured by it including those under the mark “ELITE”, the plaintiffs have placed on record advertisements in the form of calendars dating as far back as on 08.10.2010. The plaintiffs have also placed on record the screenshots of various social media platforms like Facebook and Instagram dating as far back as on 24.10.2013 promoting and advertising its “ELITE” Brand of products.

35. Thus, the plaintiffs have been able to establish from the aforesaid documentary evidence that its products have been and are visible in the market at least since the year 2010. Simultaneously, the sale figures and the figures pertaining to expenditure on promotion and advertisements cumulatively, *prima facie* establish substantial goodwill and immense reputation that the plaintiffs enjoy in respect of products under the mark “ELITE”.

36. The plaintiffs had issued a cease and desist notice to the defendant on 27.08.2025 to which the defendant *vide* the reply dated 28.08.2025 denied any such infringement. Essentially the defendants took a stand that “ELITECOURT” is not a suffix based extension of “ELITE”. It further asserted that the word “COURT” is central to its brand identity as the business is exclusively focused on sports court flooring solutions. The defendants also claimed that the word “ELITE” is a commonly used descriptive word in the market. The defendants also claimed to be in the




market for the last ten years.

37. It would be worthwhile to note that the defendants had applied for registration of its mark on 26.06.2023 on a proposed to be used basis, thus, the user, if any, prior to 26.06.2023 cannot be given any credence at this stage. It would be relevant to note that as on FY 2022-23 the sale figures of plaintiffs itself was Rs.5457 (in thousands) and that of the Stockist/Retailer was Rs.5465 (in thousands) for the same FY. The combined expenditure of the plaintiffs for all its products including the mark “ELITE” on account of advertisement and promotions is Rs.219,477/- for FY 2022-23. Thus, it is clear that by the time the defendants had applied for its registration, that too on a ‘proposed to be used basis’, the plaintiffs had garnered substantial goodwill and reputation.

38. So far as misrepresentation is concerned, i.e. the second test, it is trite that there need not be any *malafide* on the part of the defendants. However, having regard to the fact that the plaintiffs had issued a cease and desist notice and the defendants had continued to use the said mark, the products of the defendants may have the taint of misrepresentation.

39. In view of the above, in case the defendants are permitted to continue to use the mark “ELITECOURT”, it may impact the plaintiffs financially leading to claim of damages.

40. It may be relevant also to compare the rival trademarks by way of a table, as enumerated in the document nos.4 and 5, and extracted hereunder:

PLAINTIFF'S TRADEMARK/GOODS	DEFENDANT'S IMPUGNED TRADEMARK/GOODS
ELITE	



41. A perusal of the aforesaid rival marks clearly indicates that the mark




“ELITECOURT” of the defendants incorporates and subsumes the mark “ELITE” of the plaintiffs. That apart, though the defendant emphasise that its essential element is the word “COURT”, however, to the mind of this Court, the word “COURT” appears to be relatable to the services to be provided by the defendants i.e. Sports Court Flooring solutions, and is thus descriptive. Therefore, the said explanation does not satisfy this Court. There appears to be a deceptive similarity between the two marks in the sense that the mark “ELITE” of the plaintiff is incorporated and subsumed in the mark “ELITECOURT” of the defendant. It cannot be lost sight of the fact that both parties are manufacturing and offering for sale similar or allied and/or cognate products which will require common trade circles, common distribution channels and common retailers. The purchasers of the products too would be common. Thus, an unwary consumer with an average intelligence and imperfect recollection is likely to get confused or deceived as to whether the products of the defendants emanate from the plaintiffs or are associated with it. Thus, all the essential parameters warranting *ex-parte ad-interim* injunction order appears to be satisfied.

42. Accordingly, the following directions are passed:

- a. Defendants by themselves and through their directors/ proprietors/ partners, associates, assigns or assignees in interest, heirs, successors or successors in interest, permitted assigns, sister concerns or group companies, distributors, dealers, wholesalers, retailers, stockists, agents and all others acting for and on their behalf jointly and severally are restrained from using, soliciting, manufacturing, selling, offering for sale, importing, exporting, dealing in or advertising in any manner including on the internet through the website <https://elitecourt.in/> and/or e-commerce platforms and/or any other online sale mode, directly or indirectly dealing in Impugned Goods/services under the



Impugned Mark/ Label/ Trade Name/ Domain Name ELITECOURT/
, or any other marks/ labels/ names/ domain/ email IDs that may be identical or deceptively similar to Plaintiff No.1's TradeMark 'ELITE' that may amount to passing off.

43. Issue notice.

44. 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.

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

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46. Let the plaint be registered as a suit.

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

48. 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.

49. 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.

50. 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.



51. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the prescribed timelines.
52. List before the Joint Registrar (Judicial) on 13.08.2026 for completion of service and pleadings.
53. List before the Court on 20.11.2026.

TUSHAR RAO GEDELA, J

MAY 26, 2026

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