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

+ **FAO (COMM) 166/2026**

**KUMAR FOODS INDUSTRIES** .....Appellant

Through: Mr. Neeraj Grover & Mr. Tushar  
Ranaut, Advocates.

versus

**GRM FOODKRAFT PRIVATE LIMITED** .....Respondent

Through: Mr. Utkarsh Joshi, Ms. Kanishka  
Sharma, Ms. Sudarshana  
Bandyopadhyay, Ms. Anjali Menon,  
Mr. Navneet Kumar & Mr. Vinay  
Thakur, Advocates.

**CORAM:**

**HON'BLE MR. JUSTICE TEJAS KARIA**

**HON'BLE MS. JUSTICE MADHU JAIN**

**ORDER**

% **19.06.2026**

**CM APPL. 39047/2026 (Exemption)**

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

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3. The present Appeal has been preferred under Order XLIII Rule 1 of the Code of Civil Procedure, 1908 (“CPC”), read with Section 13(1A) of the Commercial Courts Act, 2015, seeking setting aside of the order dated 06.06.2026 (“**Impugned Order**”) passed by the learned District Judge (Commercial Court-02), North, Rohini Courts, Delhi (“**Trial Court**”), in CS(COMM.) 6955/2024 (“**Suit**”).
4. Issue Notice. Learned Counsel appearing on behalf of the Respondent accepts Notice.
5. Let a reply be filed by the Respondent within a period of three weeks from today. Rejoinder thereto, if any, be filed before the next date of hearing.
6. List before the Roster Bench on 22.07.2026.

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**CM APPL. 39048/2026**

7. This is an Application filed under Order XLI Rule 5 read with Section 151 of the Code of Civil Procedure, 1908, seeking stay of the Impugned Order.

8. Learned Counsel appearing for the Appellant advanced the following submissions:

8.1 The Appellant is the proprietor of the Marks ‘SHAKTI BHOG’ and ‘



’ (“Appellant’s Marks”). The Appellant filed the Suit

seeking a permanent injunction against the use of the Marks ‘10X



SHAKTI’ and ‘

’ (“Impugned Marks”), passing off, unfair competition etc.

8.2 The Appellant is engaged in the business of manufacturing, grinding and/or processing edible grains and has been using the Appellant’s Marks for sale of its products, including Atta, Besan, Suji, Maida and other similar variants of grain flours, as a permitted user of Mr. Kewal Krishan Kumar, the erstwhile proprietor of the Appellant. The said proprietor has obtained Trade Mark registrations in respect of the Appellant’s Marks

8.3 In November 2024, the Appellant became aware that the Respondent was manufacturing and selling Wheat Flour/Atta under the Impugned Marks, and that it had been dealing in food articles under the said marks for approximately two to three years.

8.4 Upon searching the records of the Registrar of Trade Marks, the Appellant found that the Respondent’s application for registration of



the mark '10X SHAKTI', filed in 2022 with a claimed user date of 01.07.2021, had been refused by order dated 09.03.2024, citing the prior registration of the Appellant's Marks.

- 8.5 Aggrieved by the Respondent's use of the Impugned Marks for Wheat Flour/Atta, the Appellant filed the Suit. By order dated 18.01.2025, the learned Trial Court granted an *ex-parte ad-interim* injunction restraining such use. However, by the Impugned Order, the learned Trial Court dismissed the Appellant's Application under Order XXXIX Rules 1 and 2 of the CPC and allowed the Respondent's application under Order XXXIX Rule 4 of the CPC.
- 8.6 The mark '10X' is displayed in a smaller font and the dominant feature of the Impugned Marks is 'SHAKTI'. The learned Trial Court failed to consider the effect of refusal of the Respondent's application for registration of '10X SHAKTI', despite the Appellant's reliance thereon.
9. The learned Counsel for the Respondent made the following submissions:
- 9.1 It is a settled principle of trade mark law that rival marks must be compared as a whole and not dissected. Accordingly, the Appellant cannot rely on the mark 'SHAKTI BHOG' to claim exclusivity over the word 'SHAKTI', which is descriptive in nature.
- 9.2 Section 17 of the Trade Marks Act, 1999 confers rights in a registered trade mark only as a whole and does not confer exclusivity over common, descriptive or non-distinctive components. The rival marks must therefore be assessed on their overall impression, including appearance, structure and commercial impression.



- 9.3 The word 'SHAKTI' is descriptive and *publici juris*; no party can claim exclusive rights therein. The Appellant's Marks must therefore be considered as a whole while assessing deceptive similarity with the Impugned Marks.
- 9.4 There is no infirmity in the Impugned Order. The learned Trial Court rightly held that the rival marks are not phonetically similar, and that the prefix '10X' sufficiently distinguishes the Impugned Marks. It therefore correctly found no likelihood of confusion and dismissed the Appellant's application under Order XXXIX Rules 1 and 2 of the CPC while allowing the Respondent's application under Order XXXIX Rule 4 of the CPC.
10. Having considered the submissions advanced by the learned Counsel for the Parties, as well as the pleadings and documents placed on record, this Court is of the view that the Appellant has established long and continuous use of the Appellant's Marks in relation to the manufacturing, grinding and/or processing of edible grains. The Appellant is the registered proprietor and prior user of the Appellant's Marks, with its earliest claim of user dating back to the year 1975. The Respondent, on the other hand, is manufacturing and selling Wheat Flour/Atta under the Impugned Marks. The Respondent's application for registration of the mark '10X SHAKTI', claiming use since 2021, has also been refused by the learned Registrar of Trade Marks on the basis of the prior registration of the Appellant's Marks.
11. The Appellant's Marks and the Impugned Marks are, *prima facie*, deceptively similar. An ordinary consumer of average intelligence and imperfect recollection is likely to be confused between the competing marks. The marks are phonetically and structurally similar, and the dominant feature of the Appellant's Marks appears to have been adopted in the Impugned



Marks. The use of the prefix '10X' with 'SHAKTI' does not, at this stage, sufficiently dispel the likelihood of confusion, particularly as the parties deal in identical goods.

12. The present case satisfies the test of triple identity, as the competing marks are deceptively similar, the goods are identical, and the trade channels and consumer base are common. The Appellant, being the prior adopter, prior user and registered proprietor of the Appellant's Marks, is entitled to protection. Further, the Respondent has failed to justify the use of 'SHAKTI' for Wheat Flour/Atta, particularly when its other products are sold under different marks. The adoption of the Impugned Marks, therefore, appears, *prima facie*, to be dishonest.

13. For the foregoing reasons, the operation of the Impugned Order dated 06.06.2026 is hereby stayed, and the interim relief granted in the Suit is revived till the next date of hearing.

14. Let the Reply to the present Application be filed within a period of three weeks from today. Rejoinder thereto, if any, be filed before the next date of hearing.

15. List before the Roster Bench on 22.07.2026.

**TEJAS KARIA, J  
(VACATION JUDGE)**

**MADHU JAIN, J  
(VACATION JUDGE)**

**JUNE 19, 2026/'AK'**