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

CNR No. DLHC010353152026

+ **CS(COMM) 839/2026**

**IMPRESARIO ENTERTAINMENT AND HOSPITALITY PVT.
LTD.**Plaintiff

Through: Ms. Shikha Sachdeva and Ms.
Mugdha Palsule, Advocates.

versus

M/S. MOCHA KAFFEEDefendant

Through:

**CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH**

ORDER
05.08.2026

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I.A. 20833/2026 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

I.A. 20835/2026 (for pre-institution mediation)

3. This application is filed on behalf of the Plaintiff under Section 151 CPC read with Section 12A of the Commercial Courts Act, 2015 seeking exemption from Pre-Institution Mediation.
4. Having regard to the facts of the present case wherein urgent relief is prayed for and in light of the judgment of Supreme Court in *Yamini Manohar v. T.K.D. Keerthi*, (2024) 5 SCC 815, as also Division Bench of this Court in *Chandra Kishore Chaurasia v. RA Perfumery Works Private Ltd.*, 2022 SCC OnLine Del 3529, exemption is granted to the Plaintiff from



Pre-Institution Mediation.

5. Application is allowed and disposed of.

I.A. 20832/2026 (u/O XI Rule 1 (4) r/w Section 151 CPC)

6. This application is filed on behalf of the Plaintiff seeking to place on record additional documents within 30 days.

7. Plaintiff, if it wishes to file additional documents at a later stage, shall do so strictly in accordance with provisions of the Commercial Courts Act, 2015.

8. Application is allowed and disposed of.

I.A. 20834/2026 (u/S 151 CPC)

9. This application is filed on behalf of the Plaintiff seeking permission to file lengthy synopsis and list of dates.

10. For the reasons stated in the application, the same is allowed. List of dates and synopsis are taken on record.

11. Application stands disposed of.

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12. Let plaint be registered as a suit.

13. Issue summons to the Defendant through all permissible modes, returnable before the learned Joint Registrar on 03.09.2026.

14. Summons shall state that the written statement shall be filed by the Defendant within 30 days from the date of receipt of summons along with affidavit of admission/denial of the documents filed by the Plaintiff.

15. It will be open to the Plaintiff to file replication within 30 days from receipt of the written statement along with affidavit of admission/denial of documents filed by the Defendant.

16. If any of the parties wish to seek inspection of any documents, the



same be sought and given within the timeline prescribed in Delhi High Court (Original Side) Rules, 2018.

17. Learned Joint Registrar shall carry out admission/denial of documents and marking of exhibits.

I.A. 20831/2026 (u/O XXXIX Rules 1 and 2 r/w Section 151 CPC)

18. This application is filed on behalf of the Plaintiff under Order XXXIX Rules 1 and 2 read with Section 151 of CPC for grant of *ex parte* ad interim injunction.

19. Issue notice to the Defendant through all permissible modes, returnable before Court on 02.12.2026.

20. Case of the Plaintiff as set out in the plaint is that Plaintiff is engaged in providing restaurant services, including conducting, managing and operating restaurants and coffee shops as also providing expertise relating to provision of food and drink and is presently running various well-known restaurants and coffee shops including *inter alia* Mocha Café and Bar, Social, Smoke House Deli, Bandra Born, Banng, Slink & Bardot, The Tasting Room and Prithvi Café.

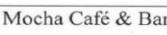
21. It is stated that Plaintiff commenced business in 2001 and adopted and opened its first café and bar under the trademark MOCHA/MOCHA COFFEES AND CONVERSATIONS in Churchgate, Mumbai. MOCHA is India's first completely indigenous and eclectic café chain, which offers a vast variety of food and beverage based on demographics, local and economic factors and is also one of the most successful franchise models across plural India owing to its adaptive and avantgarde strategy. Presently, Plaintiff is operating twenty-nine restaurants/café's under the trade mark MOCHA pan India, details of which are as follows:-



S. No.	Outlets	State
1.	Mocha Guwahati	Assam
2.	Mocha Patna	Bihar
3.	Mocha Bhilai	Chhattisgarh
4.	Mocha Raipur	
5.	Mocha Ahmedabad	Gujarat
6.	Mocha Ahmedabad CG	
7.	Mocha Gandhidham	
8.	Mocha Gandhinagar	
9.	Mocha Surat	
10.	Mocha Vadodara	
11.	Mocha Solan	Himachal Pradesh
12.	Mocha Dhanbad	Jharkhand
13.	Mocha Jamshedpur	
14.	Mocha Ranchi	Karnataka
15.	Mocha Bangalore	
16.	Mocha Bhopal	Madhya Pradesh
17.	Mocha Indore	
18.	Mocha Jabalpur	Maharashtra
19.	Mocha Nagpur Cement Road	
20.	Mocha Nagpur Wardha Road	
21.	Mocha Pune	Meghalaya
22.	Mocha Shillong	Odisha
23.	Mocha Bhubaneshwar	Punjab
24.	Mocha Jalandhar	
25.	Mocha Patiala	Rajasthan
26.	Mocha Udaipur	Uttar Pradesh
27.	Mocha Kanpur	
28.	Mocha Lucknow	West Bengal
29.	Mocha Kolkata	

22. It is stated that Plaintiff is the registered proprietor of the trade mark 'MOCHA' and its variants in classes 43, 42, 41, 35, 33, 32, 30, 25, 21, 16 and 09. Plaintiff also owns and uses variants of its registered trademarks being MOCHA ARTHOUSE, MOCHA MOJO, MOCHA COFFEES AND CONVERSATIONS and MOCHA BAKERY. Plaintiff's MOCHA restaurants/café's have become very popular amongst the general public and have received various awards for excellence in the hospitality industry and its Managing Director is the former President of the National Restaurant Association of India, an organization which represents the restaurant industry. Registrations secured by Plaintiff for the trade mark MOCHA and its formatives in Class 43 are as follows:-



S. No.	Trade Mark	Trade Mark No.	Class	Application Date
1.		1890288	43	01/12/2009
Services: Providing of Food and Drink; Other Services to be Rendered in the Restaurant				
2.		1890284	43	01/12/2009
Services: Providing of Food and Drink; Other Services to be Rendered in the Restaurant				
3.		1890287	43	01/12/2009
Services: Providing of Food and Drink; Other Services to be Rendered in the Restaurant				
4.		1890278	43	01/12/2009
S. No.	Trade Mark	Trade Mark No.	Class	Application Date
Services: Providing of Food and Drink; Other Services to be Rendered in the Restaurant				
5.		1890289	43	01/12/2009
Services: Providing of Food and Drink; Other Services to be Rendered in the Restaurant				
6.		2382253	43	21/08/2012
Services: Restaurants, Restaurant Services, Salad Bar Restaurant Services, Self Service Restaurants, Restaurant Services for the Provision of Fast Food.				
7.		2382250	43	21/08/2012
Services: Restaurants, Restaurant Services, Salad Bar Restaurant Services, Self Service Restaurants, Restaurant Services for the Provision of Fast Food				
8.		6038730	43	26/07/2023
Services: Restaurants, restaurant services, salad bar restaurant services, self service restaurants, restaurant services for the provision of fast food.				



23. It is stated that Plaintiff owns and operates an exclusive website <https://mocha.co.in/> , dedicated to its services, restaurants and/or cafés under the trademark MOCHA and additionally advertises all its restaurants on its group/corporate website <https://impresario.in/> , both of which are accessible throughout the world, including in India. Plaintiff's trademark MOCHA also enjoys extensive and widespread social media presence on platforms including Facebook, Instagram and X. Plaintiff's restaurants are listed on several third-party restaurant search engine guides including Zomato, Swiggy, Dineout and Eazydiner, dedicated specifically to online food delivery services.

24. It is stated that Plaintiff extensively advertises its trademarks including MOCHA and its variants and the overall promotional expenses incurred by Plaintiff from Financial Years 2001-2002 to 2024-2025 are as follows:-

Financial Year	Promotional Expenses (in INR)	
	All Brands	MOCHA
2001-2002	-	-
2002-2003	70,083	-
2003-2004	3,22,878	-
2004-2005	2,55,715	-
2005-2006	90,714	4,42,212
2006-2007	1,36,528	6,24,947
2007-2008	6,97,174	19,38,819
2008-2009	21,44,511	63,78,983
2009-2010	51,40,529	65,26,610
2010-2011	41,81,375	79,25,891
2011-2012	55,00,453	86,43,348
2012-2013	70,86,767	1,13,53,021
2013-2014	78,49,948	-
2014-2015	1,27,94,571	-
2015-2016	2,65,98,583	-



2016-2017	5,11,91,706	-
2017-2018	6,59,24,076	-
2018-2019	8,26,84,401	-
2019-2020	10,52,05,204	-
2020-2021	5,27,63,201	-
2021-2022	14,82,28,270	-
2022-2023	39,50,98,530	-
2023-2024	32,77,29,000	-
2024-2025	31,72,67,000	-

25. It is stated that owing to extensive use, advertising and excellence in service, revenues of Plaintiff's MOCHA restaurants/cafés have been steadily increasing over the years and by virtue of such extensive sales and sales promotion activities, Plaintiff's restaurants/cafés under the mark MOCHA have become synonymous solely with Plaintiff and none else and members of the public and trade associate the same with Plaintiff alone. Details of revenue from Financial Year 2001-2002 to 2024-2025 are as follows:-

Financial Year	Total Revenue (in INR)	
	All Brands	MOCHA
2001-2002	25,33,288	-
2002-2003	2,07,13,016	-
2003-2004	3,13,59,279	-
2004-2005	3,40,64,742	-
2005-2006	4,47,85,021	8,08,11,833
2006-2007	4,81,58,183	12,60,09,913
2007-2008	6,01,20,489	14,36,77,032
2008-2009	5,93,45,882	15,60,10,734
2009-2010	9,50,08,150	20,01,40,443
2010-2011	13,08,24,334	23,26,45,341
2011-2012	14,44,92,621	19,85,01,402
2012-2013	13,84,51,772	12,06,80,909
2013-2014	14,38,36,991	13,91,99,013
2014-2015	2,95,81,649	16,75,50,395
2015-2016	2,36,84,066	18,98,24,323
2016-2017	6,10,12,983	25,13,15,168
2017-2018	4,78,03,890	40,36,71,070
2018-2019	4,78,03,890	44,13,37,667



2019-2020	5,61,17,665	42,97,89,711
2020-2021	1,80,96,338	22,01,97,418
2021-2022	8, 72,41,206	34,97,49,940
2022-2023	5,13,14,77,140	56,15,98,846
2023-2024	5,86,77,26,000	70,12,69,087
2024-2025	6,97,09,33,000	-

26. It is stated that on account of continuous, extensive and exclusive use as also publicity, trademark MOCHA has acquired immense goodwill, reputation and fame, such that use of any identical and/or deceptively similar mark/name, comprising the word MOCHA by another party not associated/connected with Plaintiff, in respect of any goods or services, is bound to cause confusion and deception in the minds of the consuming public and members of trade and lead them to falsely believe that such third-party goods/services originate from the Plaintiff and/or have some nexus/affiliation/connection with Plaintiff, when no such connection exists in reality. Plaintiff has been vigilant in protecting its statutory and common law rights and has in the past initiated legal action against several infringers of the trademark MOCHA and its formative marks and succeeded in obtaining favourable orders from various courts, tribunals and regulatory bodies, details of which are furnished in paragraph 20 of the plaint.

27. It is stated that in the first week of August, 2024, Plaintiff came across Defendant engaged in the business of operating cafés and offering for sale drinks/beverages under the impugned trademarks MOCHA





Maharashtra. Presently, Defendant is offering for sale and delivering shakes, coffee and beverages at its two outlets under the impugned trademarks and is also advertising its cafés/outlets through its own website as also through interactive restaurant search engine guides and third-party websites including Zomato, Swiggy, Magicpin, Justdial, Yappe and Google Maps as also on social networking platforms being Instagram and LinkedIn, which further exacerbates the possibility of confusion and deception.

28. It is stated that upon conducting a search of records maintained by the Trade Marks Registry, Plaintiff discovered that Defendant had, on 11.11.2022, filed an application for registration of the impugned trademark



bearing Application No. 5678338 in Class 43, claiming use since 01.03.2022. An Examination Report dated 12.07.2023 was issued by the Trade Marks Registry against the impugned application, raising objection under Section 11(1) of the Trade Marks Act, 1999 ('1999 Act') on the basis of Plaintiff's several registrations for the mark MOCHA and its variants, to which reply was filed by the Defendant on 08.08.2023, *inter alia*



claiming that the impugned trademark is structurally, phonetically and visually different from Plaintiff's MOCHA trademarks, which was not found satisfactory and hearings were fixed before the



Registrar of Trade Marks on 23.04.2024, 16.07.2024 and 02.12.2024. It is stated that despite multiple hearings, the impugned application is pending *albeit* has not been accepted till date, details whereof are as follows:-

Trade Mark	Application No.	Application Date	User Claim	Status
	5678338	11/11/2022	01/03/2022	Objected
Class 43: Providing food and drink services, hotel, restaurant, cafeteria, cafes, lounge bar cocktail lounge services, and other hospitality services, all being services falling in class 43				

29. It is stated that, aggrieved by the adoption and use of the impugned mark, Plaintiff issued a cease-and-desist notice dated 06.08.2024 *inter alia* demanding cessation of use of Plaintiff's MOCHA trademarks as part of Defendant's trade mark/name; withdrawal of the impugned application; and takedown of the impugned trademark from all online and offline listings/platforms/channels. Due to no response by the Defendant, Plaintiff issued follow-up notices on 27.12.2024 and 04.06.2025 *albeit* receiving no reply to said notices as well. Plaintiff additionally filed takedown complaints with third-party websites and interactive restaurant search engine guides being Zomato, Swiggy and Justdial on 30.10.2025 as also with Magicpin, Restaurant Guru, Yappe, Mappls, Google Maps and Instagram on 31.10.2025, to which no responses have been received till date and the impugned trademark continues to be visible on the aforementioned platforms/guides. The impugned trademark MOCHA KAFFEE and its formatives are prominently visible at Defendant's cafés/outlets as also on Defendant's merchandise including plastic and perforated cups, employee uniforms etc., images whereof are as follows:-



<https://www.instagram.com/reel/CjxtFEuDeUn/?igsh=M2prbGoyODNIzHQ0>



<https://www.instagram.com/reel/CjkXnG7DPp5/?igsh=bWJyb3Y1ZWp4cmQ2>



<https://www.instagram.com/tv/CfYT-6NjNu9/?igsh=Y2dhYXo4ZzBxY2w2>



<https://www.instagram.com/reel/CoRNZE6pWle/?igsh=N3dka2k5cmdheTg2>



<https://lh3.googleusercontent.com/gps-cs-s/AC9h4nrS3UaIb8WpgzJsQZIfuFa1PmePkesk8CCfopEYnahfPSTfeVOzNo1y0nipM3jxNzZaEu6JniOOVIUCT15mFlqloGasVsesK8g0mdJK0XJcRoWNwuyHzWos0OSFp3fDWevJsl=s1360-w1360-h1020-rw>



30. It is stated that upon conducting a Google search of Defendant's business, the search results prominently displays Plaintiff's information and official website, on account of which there is a high likelihood of customers and members of trade and public being redirected to Defendant's cafés/outlets, while searching for Plaintiff's chain of restaurants/cafés and/or being misled into believing that there exists an association, nexus or affiliation between Plaintiff and Defendant, when that is not the case.

31. It is stated that in or around December, 2025, Plaintiff learnt that Defendant had permanently closed its Powai outlet and Plaintiff *bona fide* believing that the same was done in acknowledgement of Plaintiff's Intellectual Property Rights and that Defendant was taking steps to cease use of the impugned trade mark, refrained from initiating immediate action against the Defendant at that stage. However, Plaintiff came across Defendant's impugned listings on various third-party websites, wherein several negative reviews had been posted with respect to the sub-standard quality and hygiene of food and beverage items offered at Defendant's outlets, details of which are in paragraph 33 of the plaint. In or around January, 2026, Plaintiff conducted inquiries into the remaining two outlets of Defendant at Kharghar and Seawoods and found that despite being fully aware of Plaintiff's rights as also its objection to the use of the trademark MOCHA and its variants, continues to use the impugned trade mark and on its outlet façade/name boards under the impugned mark MOCHA CAFE in Hindi. Several members of the public have also referred to and identified Defendant's outlets as MOCHA CAFE in their online reviews, which exacerbates the likelihood of confusion and deception in the market.

32. Learned counsel for the Plaintiff submits that there is no plausible



explanation for adoption of the impugned trade mark by Defendant, which is identical and/or deceptively similar to the prior, well known and famous trade mark of Plaintiff, other than to ride upon the goodwill and reputation of Plaintiff. Defendant operates in the same industry, offers identical services under an identical trade mark and being in the same trade and market, was well aware of Plaintiff's MOCHA chain of restaurants/cafés prior to adoption of the impugned trademark, which demonstrates the dishonest and *mala fide* intent of Defendant. The impugned trade mark is identical/deceptively similar to Plaintiff's trademark and is depicted in an identical colour combination and use thereof is contrary to honest practices, takes unfair advantage of Plaintiff's reputation and is detrimental to the distinctive character of Plaintiff's trademarks, leading to confusion amongst consuming public. The impugned mark infringes the registered MOCHA marks of the Plaintiff under Section 29 of 1999 Act. Adoption of deceptively similar marks for similar products is only to mispresent to the public that Defendant is associated with or has a nexus with the Plaintiff to encash on its formidable goodwill and reputation and is causing irreparable harm and injury to the Plaintiff and amounts to passing off.

33. Having heard learned counsel for Plaintiff, I am of the view that Plaintiff has made out a *prima facie* case for grant of *ex parte* ad interim injunction against the Defendant. Balance of convenience lies in favour of Plaintiff and it is likely to suffer irreparable harm in case the interim injunction, as prayed for, is not granted.

34. Plaintiff adopted the trademark MOCHA in 2001 for restaurant and café services and has been continuously and extensively using the same, as per the averments in the plaint. Plaintiff is the registered proprietor of the



trademark MOCHA and its variants in several classes, including Class 43, which covers services of providing food and drink and is thus entitled to protection of its statutory rights. Increasing turnover as also promotional expenses, extracted above, *prima facie* indicate that Plaintiff has built a formidable reputation and goodwill in the market under the trademark MOCHA and the trade mark has become a source identifier of Plaintiff's services and is exclusively associated with Plaintiff. Use of a deceptively similar trade mark by third parties for identical services is bound to cause confusion amongst the members of the public.

35. Defendant has adopted Plaintiff's registered trademark MOCHA in its entirety and the same is the leading and prominent feature of the impugned trade mark MOCHA KAFFEE. The word 'KAFFEE' is nothing but a misspelling of the word 'CAFE' and is phonetically identical thereto, while Plaintiff itself uses the trade mark 'MOCHA CAFE AND BAR' for identical services. Other similarities are the identical colour combination of maroon/red, black and white in which the rival marks are depicted; the manner of prefixing and/or suffixing the trade mark 'MOCHA' with a descriptive expression; and the tagline 'Think Coffee, Think Mocha' used by Defendant which is deceptively similar to Plaintiff's 'MOCHA COFFEES AND CONVERSATIONS'. Defendant holds no registration in the impugned trade mark and its application stands objected to on the basis of Plaintiff's registrations. This *prima facie* shows that Defendant has attempted to come as close as possible to Plaintiff's trade mark to take advantage of the goodwill of Plaintiff. Comparative table of the rival marks is as follows:-



Plaintiff's Trade Marks	Defendant's Manner of Use
MOCHA	MOCHA KAFFEE
MOCHA CAFE AND BAR	MOCHA CAFE
	
<u>Points of Similarity:</u> i) The Defendant has infringed the registered trade mark 'MOCHA' of the Plaintiff in its entirety; ii) The word 'CAFE' has been misspelled as 'KAFFEE', which is phonetically, structurally and visually identical/ deceptively similar to the Plaintiff's trade mark; iii) The Defendant has represented the impugned trade mark is virtually identical colour combinations being brown/maroon, black and white as that used by the Plaintiff, in order to come as close as possible to the Plaintiff; iv) The manner of prefixing and/or suffixing the trade mark MOCHA with another word, in this case being 'Think Coffee, Think Mocha' is identical and/or deceptively similar to the Plaintiff's concept of prefixing/suffixing the trade mark 'MOCHA'. v) The Plaintiff's trade mark 'MOCHA' has been prominently displayed/used; vi) The services provided by the Plaintiff and Defendant are identical and target the same audience/members of trade and public; and vii) An average consumer with an imperfect recollection is likely to be deceived into thinking that the Plaintiff has opened new outlets in Mumbai, Maharashtra on account of identity between the rival trade marks and the extensive presence of the Plaintiff's 'MOCHA' outlets pan-India.	



36. With the impugned trademark being deceptively similar to the registered trade mark of Plaintiff and the rival services being identical with a common consumer base and trade channels, there is every likelihood of confusion amongst the members of public and trade that services offered by Defendant have an association with Plaintiff. The fact that members of the public have themselves referred to Defendant's outlets as 'MOCHA CAFÉ' in their online reviews, *prima facie* demonstrates that confusion is not merely likely, but is manifesting in the market. Intent of Defendant is to pass off its services as those of Plaintiff and infringe the Plaintiff's registered trademarks, which is detrimental to the reputation of Plaintiff as also to the consumers, who will be deceived into availing services of inferior quality under the impression that they belong to Plaintiff.

37. Accordingly, till the next date of hearing, Defendant and all others acting on its behalf are restrained from offering services, marketing or advertising its business and/or allowing or permitting third parties to use, market and/or advertise services under the impugned trademark MOCHA



KAFFEE/ and/or any trademark identical or deceptively similar to Plaintiff's MOCHA trademark and its variants, in any other manner whatsoever, leading to infringement of Plaintiff's registered trademarks and/or passing off.

38. Plaintiff shall comply with the provisions of Order XXXIX Rule 3 CPC within a period of two weeks from today.

JYOTI SINGH, J

AUGUST 5, 2026/YA