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

CNR No. DLHC010381662026

+ **CS(COMM) 897/2026**

PARLE AGRO PRIVATE LIMITED

.....Plaintiff

Through: Mr. Chander M. Lall, Senior Advocate with Ms. Aastha Kakkar, Mr. Ankit Arvind, Ms. Saumya Bajpai and Ms. Annanya Mehan, Advocates.

versus

VARUN BEVERAGES LIMITED & ANR.

.....Defendants

Through:

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **18.08.2026**

I.A. 22361/2026 (Exemption)

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

I.A.22359/2026 (for pre-institution mediation)

3. This application is filed on behalf of the Plaintiff under Section 12-A of the Commercial Courts Act, 2015 read with Section 151 CPC 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.22360/2026 (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.22362/2026 (u/Sections 149 r/w Section 151 CPC)

9. This application is filed on behalf of the Plaintiff seeking extension of time by two weeks to file requisite court fee.

10. For the reasons stated in the application, the same is allowed granting two days to the Plaintiff to file the requisite court fee.

11. Application stands disposed of.

CS(COMM) 897/2026

12. Let plaint be registered as a suit.

13. Issue summons.

14. Upon filing of process fee, issue summons to the Defendants through all permissible modes, returnable before the learned Joint Registrar on 24.09.2026.

15. Summons shall state that the written statements shall be filed by Defendants within 30 days from the receipt of summons along with affidavits of admission/denial of the documents filed by the Plaintiff.

16. It will be open to the Plaintiff to file replications within 30 days from the date of receipt of written statements along with affidavits of admission/denial of documents filed by the Defendants.

17. 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.

18. Learned Joint Registrar will carry out admission/denial of documents and marking of exhibits.

I.A. 22358/2026 (u/O XXXIX Rules 1 and 2 r/w Section 151 CPC)

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

20. Issue notice to the Defendants through all permissible modes, returnable before Court on 17.12.2026.

21. Case of the Plaintiff as set out in the plaint is that Plaintiff was incorporated in 1985 and is one of the largest Indian beverage companies and known for creating innovative products and iconic brands. Plaintiff manufactures, markets and exports products such as fruit juices, yogurt-based beverages, fruit-based beverages, carbonated sweetened beverages, packaged drinking water, milk products etc. under various trademarks, brands and trade names viz., SMOODH, FROOTI, APPY FIZZ, APPY, BFIZZ, FRIO, DHISHOOM, BAILLEY, BAILLEY SODA, BOMBAY 99, etc.

22. It is stated that for decades, Plaintiff has been manufacturing, marketing, selling and exporting the aforesaid products and has a strong presence in over 50 countries and in fact, Plaintiff is the first global Indian Food & Beverage company. The goodwill and popularity of the Plaintiff owing to its marks and brands is demonstrated by the total sales turnover of approximately Rs.35,950.62 crores for the period 2001-2002 till 2025-2026, details of which are as follows:-



Financial Year	Sales (In Crores)
2025-2026	3253.76
2024-2025	3474.13
2023-2024	3305.19
2022-2023	3693.14
2021-2022	3227.37
2020-2021	2369.72
2019-2020	2662.33
2018-2019	2218.50
2017-2018	1823.68
2016-2017	1597.74
2015-2016	1357.22
2014-2015	1235.22
2013-2014	965.94
2012-2013	933.59
2011-2012	783.92
2010-2011	683.13
2009-2010	562.43
2008-2009	505.95
2007-2008	438.84
2006-2007	356.58
2005-2006	241.90
2004-2005	169.11
2003-2004	63.87
2002-2003	13.11
2001-2002	14.25
TOTAL:	35950.62

23. It is stated that Plaintiff has an employee base of over 5500 employees spread across more than 50 destinations worldwide with network of 84 state-of-the-art manufacturing facilities and Plaintiff retails its products across 2 million outlets through a network of 7500+ Channel Partners and also boasts of international presence in 50 countries. Plaintiff has invested heavily in promotion and marketing of its products under its trademarks and brand name through advertisements, unique taglines and celebrity



endorsements and has spent approximately Rs.2,429.26 crores between the financial year 2001-2002 till 2025-2026, as detailed below:-

Financial Year	Promotional & Advertisement Expenditures (In Crores)
2025-2026	129.21
2024-2025	200.26
2023-2024	239.94
2022-2023	196.68
2021-2022	166.57
2020-2021	60.86

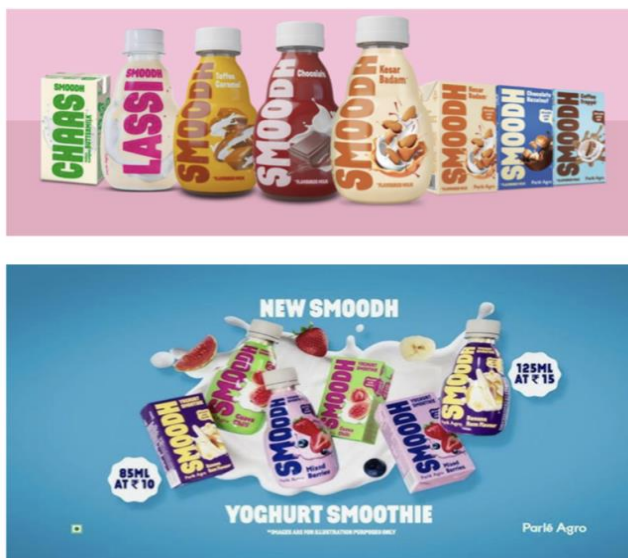
2019-2020	147.23
2018-2019	218.73
2017-2018	166.17
2016-2017	147.07
2015-2016	96.13
2014-2015	78.04
2013-2014	81.07
2012-2013	98.01
2011-2012	65.15
2010-2011	67.07
2009-2010	74.03
2008-2009	46.67
2007-2008	53.54
2006-2007	41.07
2005-2006	20.18
2004-2005	12.60
2003-2004	7.88
2002-2003	8.47
2001-2002	6.63
TOTAL:	2429.26



24. It is stated that Plaintiff adopted the trademark SMOODH in 2020 and launched its innovative and iconic product i.e., dairy-based flavoured drinks under the said mark in 2021. Plaintiff's products being Chocolate Milk and Toffee Caramel were one of India's first dairy-based flavoured drinks with a great taste and photographs of the said products are as follows:-



25. It is stated that due to popularity of its products under the trademark SMOODH, somewhere around the year 2022, Plaintiff launched several other dairy-based flavoured drinks under the trademark SMOODH, photographs of which are as follows:-



26. It is stated in order to obtain statutory protection for the trademark SMOODH and its formative marks, Plaintiff obtained registrations in



Classes 29, 32 and 35 and details of registrations are as under, while few applications are pending:-

Sr. No.	Trademark	Reg. No.	Date of Registration	Class	Status
1.	SMOODH	4594814	01/08/2020	29	Registered
2.	SMOODH CREMERIE	4594815	01/08/2020	29	Registered
3.	SMOODH DAIRY	4594816	01/08/2020	29	Registered
4.	SMOODH COW	4594817	01/08/2020	29	Registered
5.	SMOODH FARMS	4594818	01/08/2020	29	Registered
6.	SMOODH COW DAIRY	4594819	01/08/2020	29	Registered
7.	SMOODH COW	4594820	01/08/2020	29	Registered
8.	SMOODH COW CREMERIE	4594821	01/08/2020	29	Registered
9.	SMOODH COW DAIRY FARMS	4594822	01/08/2020	29	Registered
10.	SMOODH	4618793	20/08/2020	32	Registered
11.	SMOODH CREMERIE	4618794	20/08/2020	32	Registered
12.	SMOODH DAIRY	4618795	20/08/2020	32	Registered
13.	SMOODH COW	4618797	20/08/2020	32	Registered
14.	SMOODH FARMS	4618796	20/08/2020	32	Registered
15.	SMOODH COW DAIRY	4618798	20/08/2020	32	Registered
16.	SMOODH COW FARMS	4618799	20/08/2020	32	Registered
17.	SMOODH COW CREMERIE	4618800	20/08/2020	32	Registered
18.	SMOODH COW DAIRY FARMS	4618801	20/08/2020	32	Registered



19.	SMOODH	4618803	20/08/2020	35	Registered
20.	THE SMOODH CREMERIE	4618804	20/08/2020	35	Registered
21.	THE SMOODH DAIRY	4618805	20/08/2020	35	Registered
22.	THE SMOODH FARMS	4618806	20/08/2020	35	Registered
23.	THE SMOODH COW	4618807	20/08/2020	35	Registered
24.	THE SMOODH COW DAIRY	4618808	20/08/2020	35	Registered
25.	THE SMOODH COW FARMS	4618809	20/08/2020	35	Registered
26.	THE SMOODH COW CREMERIE	4618810	20/08/2020	35	Registered
27.	THE SMOODH COW DAIRY FARMS	4618811	20/08/2020	35	Registered
28.	SMOODH DOODH	5088036	13/08/2021	32	Registered
29.	SMOODH DOODH	5088037	13/08/2021	29	Registered
30.	OH SO SMOODH	5088038	13/08/2021	32	Registered
31.	OH SO SMOODH	5088039	13/08/2021	29	Registered

27. It is stated that Plaintiff has garnered extensive and enviable goodwill and reputation in the market due to the continuous, extensive and long-standing use of trademark SMOODH and since 2021, Plaintiff has launched several products under the said mark on a pan-India basis. The goodwill and reputation earned by the Plaintiff is reflected from the sales turnover from sale of products under the trademark SMOODH and the distinctiveness of the mark is such that members of public associate the mark with the Plaintiff alone. Details of the sales turnover under the SMOODH marks are as follows:-



Financial Year	Sales turnover (In Crores)
2021-22	215.41
2022-23	267.07
2023-24	267.81
2024-25	370.91
2025-26	527.00
Total Sales:	1648.2

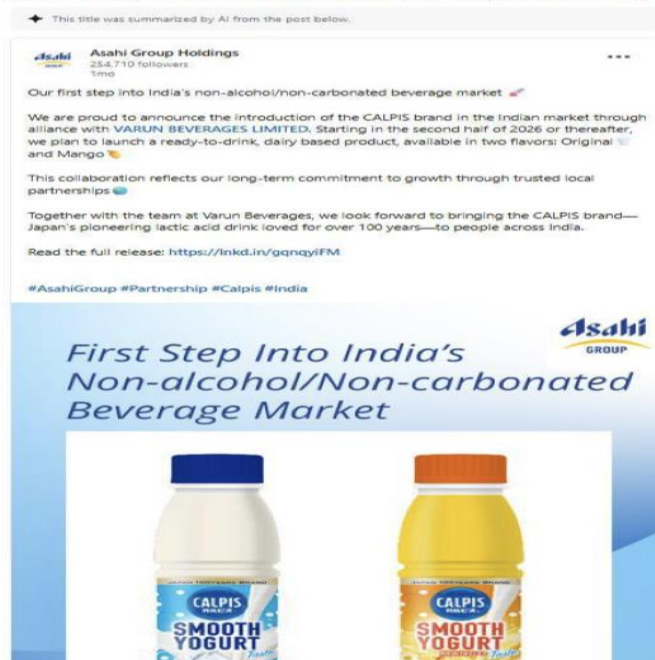
28. It is further stated that Plaintiff's products under the mark SMOODH have been widely advertised in well known and renowned magazines, journals and newspapers as also through online and electronic coverage. Many celebrities such as Mr. Varun Dhawan and Mr. Dulquer Salmaan have endorsed Plaintiff's brand through various campaigns. The expenditure incurred on promotion and advertisement of products under the SMOODH marks are as follows:-

Financial Year	Promotional & Advertisement Expenditures (In Crores)
2021-22	41.95
2022-23	56.64
2023-24	40.93
2024-25	38.00
2025-26	23.70
TOTAL:	201.22

29. It is stated that on 24.07.2026, Plaintiff came across an article relating to intended launch of a ready-to-drink, dairy-based yogurt by the Defendants under the trademarks SMOOTH/  /  in India. Screenshot evidencing the intended launch is as follows:-



Asahi Group Enters Indian Market with Calpis Partnership



30. It is stated that the Defendants have dishonestly and *mala fide*ly adopted the impugned mark SMOOTH, which is phonetically, visually and structurally deceptively similar/nearly identical to Plaintiff's trademark SMOODH and is used for identical goods. Plaintiff conducted a search and learnt that Defendants have announced their launch on 18.06.2026 *albeit* so far, there is no product in the Indian market. Comparative of the rival marks is as follows:-

Plaintiff's trade mark	Defendants' trade mark
SMOODH	SMOOTH

31. Learned Senior Counsel for the Plaintiff submits that Plaintiff is the registered proprietor of the trademark SMOODH and its formatives and is entitled to their exclusive use as also to restrain third parties from infringing the marks. The impugned mark SMOOTH is nearly identical/deceptively similar to Plaintiff's mark SMOODH and the rival goods i.e., dairy-based



yoghurt drink are identical. The trade channels and consumer base being common, there is every likelihood of confusion amongst members of public leading to infringement of Plaintiff's mark under Section 29(1) and (2) of the Trade Marks Act, 1999 ('1999 Act'). In fact, Defendants have not only adopted a nearly identical trademark by merely replacing the alphabet 'D' with 'T' but have also designed the product packaging such that the font size of their own brand name CALPIS is small so as to give more prominence to the trademark SMOOTH.



32. It is further argued that Plaintiff has earned immense goodwill and reputation in the SMOODH trademarks in India due to continuous and extensive use as also promotion of the products under the said marks since 2021, which is evident from the sales turnover in these years as also promotional expenses and brand endorsements by celebrity. Defendants are well aware of Plaintiff's SMOODH trademarks and its reputation and yet they have adopted a deceptively similar trademark with a view to misrepresent to the public that their goods have an association with the Plaintiff. The intent is to encash on the immense goodwill and reputation of the Plaintiff and this is causing irreparable harm and injury to the Plaintiff and amounts to passing off.



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

34. Plaintiff is the registered proprietor of the SMOODH marks in India and by virtue of Section 28 of 1999 Act, it has statutory right to use the marks exclusively and also restrain third parties from using them, unauthorizedly. Defendants have adopted the mark SMOOTH, which is *prima facie* nearly identical/deceptively similar to Plaintiff's SMOODH marks and as can be seen, Defendants have carefully and cautiously substituted the letter 'D' to 'T', which is nothing but smart copying. The trade channels and consumer base will therefore be common and there is every likelihood of confusion in the minds of public. The intent to come as close as possible to the Plaintiff is fortified by the fact that Defendants have designed the product packaging in a manner that their own brand name CALPIS is in a smaller font compared to the mark SMOOTH, so as to give prominence to the latter and misrepresent to the public that their product has an association and/or some commercial nexus with the Plaintiff. The sales turnover from sale of products under the SMOODH marks, expenses incurred on promotion and marketing, social media presence, brand endorsements, wide publicity through popular magazines and newspapers and electronic coverage etc. reflect the immense goodwill and reputation earned by the Plaintiff in the SMOODH marks in a short span of time and by adopting a near identical mark for identical product, Defendants intend to encash on Plaintiff's goodwill and reputation and pass off their goods as



those of the Plaintiff and this will cause irreparable harm to the Plaintiff and also result in dilution of the SMOODH marks. *Prima facie*, use of the impugned marks will amount to infringement of Plaintiff's registered SMOODH marks under Section 29 (1) and (2) of 1999 Act.

35. Accordingly, till the next date of hearing, Defendants, their proprietors, partners or directors, as the case may be, their principal officers, servants, distributors, dealers and agents, and all others acting for and on behalf of the Defendants are restrained from using the impugned marks

SMOOTH/  and/or any other trademark, which is identical or deceptively similar to Plaintiff's registered SMOODH trademark and/or its formative marks and/or from using the impugned product packaging wherein the impugned marks are prominently displayed in a larger font as compared to their own brand name, in any manner that amounts to infringement of Plaintiff's registered trademarks and/or passing off.

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

JYOTI SINGH, J

AUGUST 18, 2026/YA