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

# **CNR No. DLHC010390932026**

+ **CS(COMM) 912/2026**

**M/S SAYY PARTNERSHIP FIRM**

.....Plaintiff

Through: Mr. Sudhir Nandrajog, Senior Advocate with Mr. Rahul Khandelwal, Mr. Abhijit Chakravarty, Mr. Sandeep Bansiwal, Mr. Rohit Sharma and Ms. Ankita Singh, Advocates.

versus

**BHUYA ANKITKUMAR JAYSUKHBHAI**

.....Defendant

Through:

**CORAM:**

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

**ORDER**

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**21.08.2026**

**I.A. 22738/2026 (Exemption)**

1. Allowed, subject to all just exceptions.
2. Applications stand disposed of.

**I.A. 22736/20206 (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. 22737/2026 (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.

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.22739/2026 (u/Rule 22 of Delhi High Court IPD Rules, 2021 r/w Section 151 CPC)**

9. This application is filed on behalf of the Plaintiff seeking exemption from effecting advance service on the Defendant.

10. For the reasons stated in the application, the same is allowed, exempting Plaintiff from effecting advance service on the Defendant.

11. Application stands disposed of.

**CS(COMM) 912/2026**

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 25.09.2026.

14. Summons shall state that the written statement shall be filed by the Defendant within 30 days from the 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 the date of receipt of 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 will carry out admission/denial of documents and marking of exhibits.

**I.A. 22735/2026 (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 CPC for grant of *ex parte* ad interim injunction.

19. Issue notice to the Defendant through all permissible modes, returnable before Court on 14.01.2027.

20. Case of the Plaintiff as set out in the plaint is that Plaintiff is a partnership firm and a proprietor and adopter of trademark **SAYY** (device) used in relation to soaps, perfumery, essential oils, cosmetics, hair lotions and dentifrices in Class 03. Plaintiff has filed Trademark Application No. 7018175 dated 21.05.2025 before the Trade Marks Registry for registration of the said mark, which was accepted and published in Trade Marks Journal No. 2248-0 dated 16.02.2026 as follows:-

| Sr. No. | Application No.        | Class | Date of Application               | Proprietor Name          | Status  |
|---------|------------------------|-------|-----------------------------------|--------------------------|---------|
| 1.      | 7018175<br><b>SAYY</b> | 3     | 21/05/2025<br>Proposed to be used | SAYY<br>Partnership Firm | Opposed |

21. It is stated that Plaintiff has continuously, openly and uninterruptedly use the trademark SAYY in the course of trade since 21.05.2025, which is duly evidenced by invoices, promotional and advertisement material as also launched and continued promotion of the mark on social media and Plaintiff's website. Plaintiff has built immense goodwill and reputation in



the mark **SAYY** in the course of trade in the cosmetics and hair/skin-care segment, including through its range of products such as “SAYY Moroccan De-Tan Brightening Face Pack” and hair oil/hair serum products, which are sold through Plaintiff’s own website as also third party e-commerce platforms including Amazon and Flipkart and promoted through its Instagram page, which has followers in excess of 14,000+. The goodwill is reflected from sales turnover in two years as follows:-

| Sr. No. | Financial Year | Total Turnover                |
|---------|----------------|-------------------------------|
| 1       | 2025-26        | Rs. 6,72,00,000/- (Inc. GST)  |
| 2       | 2026-27 (Q-1)  | Rs. 17,76,00,000/- (Inc. GST) |

22. It is further stated that Plaintiff is the registered owner of the domain name [www.sayy.in](http://www.sayy.in) since 2025 and has received several awards and honours, a non-exhaustive list of which is given in paragraph 11 of the plaint and includes the Pratham Award in 2026 by Flipkart. Plaintiff has invested substantial money on advertisements, publicity and marketing for building its brand and promoting the goods under the mark **SAYY** and details of expenditures incurred in less than two years are as follows:-

| S. No. | Financial Year | Advertisement Expenses |
|--------|----------------|------------------------|
| 1.     | 2025-26        | 672.00 lacs            |
| 2.     | 2026-27        | Q-1=1776.00 lacs       |
|        | TOTAL          | 2444.00 lacs           |

23. It is stated that the trademark **SAYY** is a distinctive artistic representation of Plaintiff’s brand name SAYY and the device mark is an acronym of “SAY YES” and is a coined word. The device mark resembles



the firm name and creates an instant association with the Plaintiff alone. Owing to substantial promotion campaigns, public now associates the mark with the Plaintiff in respect of the goods in question and any later user will violate the common law rights of the Plaintiff in the said mark.

24. It is stated that Defendant is a sole proprietor carrying on business under the name and style SCALP SAYY in respect of manufacture and sale of hair care/cosmetic products, including a ‘Scalp Revival Hair Serum’, which the Defendant markets and sells pan-India through Amazon.in, Nykaa and other third party e-commerce platforms. Defendant filed Trademark Application No. 7727037 dated 14.05.2026 on “proposed to be used” basis before the Trade Marks Registry, Jaipur for registration of the word mark SCALP SAYY in Class 03 in respect of goods being “*Bleaching Preparations and Substances for Laundry Use; Cleaning; Polishing; Abrasive Preparations; Soaps; Perfumery, Essential Oils, Cosmetics, Hair Lotions and Beauty Products*” and the application is at the stage of “Formalities Check Pass”.

25. It is further stated that Defendant has commenced commercial exploitation of the impugned mark and its product “SCALP SAYY – Scalp Revival Hair Serum” (50 ml) is listed on Amazon.in for sale since 21.07.2026, describing the Defendant as the manufacturer, packer and seller of the product, besides listings on Nykaa and other platforms and Defendant is expanding its business day-by-day.

26. Learned Senior Counsel for the Plaintiff submits that Plaintiff is the prior adopter and prior user of the mark **SAYY** in relation to soaps, perfumery, essential oils, cosmetics, hair lotions and dentifrices falling in Class 03 and its trademark application was filed on 21.05.2025 and has been



accepted and published. In a short span of time, Plaintiff has earned immense goodwill and reputation, which is evident from the sales turnover as also expenditure incurred on promotion and marketing of the products under the **SAYY** mark. The products of the Plaintiff are listed on its own website as also e-commerce platforms including Amazon and Flipkart and are widely publicised. Despite knowledge of the prior adoption and use of the mark **SAYY**, Defendant has dishonestly adopted a deceptively similar mark SCALP SAYY, which wholly subsumes Plaintiff's mark SAYY. The prefix 'SCALP' being merely descriptive/indicative of the nature of the goods i.e., hair/scalp care products, is insufficient to distinguish the rival marks. It is settled that a junior user must keep itself away from the senior user, however, in the present case, Defendant has chosen to do exactly the opposite and has attempted to come as close as possible to Plaintiff's mark. Since the rival marks are deceptively similar and the products are similar/identical, there is every likelihood of confusion amongst members of the public, considering that the trade channels and consumers base are common. In fact, since the goods are soaps, cosmetics and hair care products and are bought by persons from all sections of the society and the sales are online through the same platforms such as Amazon, Nykaa etc., chances of confusion are much higher. Plaintiff has in fact received a complaint on 06.08.2026 from one of its consumer regarding sale of similar products by the Defendant.

27. It is further argued that Defendant has not only dishonestly adopted the impugned mark but has also copied the trade dress and packaging to come close to the Plaintiff and represent to the public that its goods have an



association with the Plaintiff so as to encash on its goodwill and reputation and this is causing irreparable harm and injury to the Plaintiff. Being a prior user, Plaintiff has superior rights as compared to the Defendant, who has come into the market with a deceptively similar mark and packaging, conscious of Plaintiff's presence and reputation. Defendant is passing off its goods as those of the Plaintiff, which is causing financial loss as also loss to the reputation and goodwill of the Plaintiff and violating its common law rights. The products being skin care and hair care products can be detrimental to the consumers, in case they are of inferior quality and this would lead to dilution of Plaintiff's brand and tarnishment of its image. Learned Senior Counsel draws the attention of the Court to the rival products to bring home the point of similarity in the rival marks as also the overall getup, colour and layout of the product packaging, which is causing confusion in the market.

28. Having heard learned Senior Counsel for the 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 the Plaintiff and it is likely to suffer irreparable harm if the injunction is not granted.

29. Plaintiff is the prior user and adopter of the mark **SAYY** albeit the same is unregistered. Application for registration was filed, which has been accepted and the mark has been published. From the averments in the plaint as also the documents filed therewith, it emerges that Defendant filed an application for registration of the impugned mark SCALP SAYY on "proposed to be used" basis on 14.05.2026, which is also pending and is in respect of the same Class 03. This substantiates the stand of the Plaintiff that



Defendant is a later adopter of the mark. Plaintiff has also brought forth that the rival goods in question are hair care and cosmetic products and more particularly, the 'Scalp Revival Hair Serum' of the Defendant and needless to state that they are identical and in the same class. Competing parties are selling their goods online on various e-commerce platforms and Plaintiff also sells on its own website. From the screenshots of the products placed on record, Plaintiff has *prima facie* demonstrated that the colour scheme and the overall getup and layout of the product packaging of the rival products are deceptively similar and for ready reference, the comparative table showing the rival products is as follows:-





30. It is settled that infringement, which involves a mark-to-mark comparison, is predicated on registration of the proprietor's mark, however, passing off is a common law right and can be enforced even in the absence of registration. *Prima facie*, there is deceptive similarity in the rival marks and in fact, Defendant's mark SCALP SAYY subsumes Plaintiff's mark SAYY (word) in entirety. Defendant has chosen to adopt the impugned mark despite Plaintiff being in the market and on the same sellers' platforms, prior to the Defendant and for the same products, for reasons best known to the Defendant. Being a prior user and adopter of the mark **SAYY**, Plaintiff has superior rights over the Defendant to restrain the Defendant from misrepresenting to the public that its goods have an association with the Plaintiff. Learned Senior Counsel is *prima facie* right in contending that Defendant has attempted to sail close to the Plaintiff and encash on the formidable goodwill and reputation built by the Plaintiff in a short span of time, evident from the sales turnover, social media presence, promotional expenses etc. This is causing irreparable injury and harm to Plaintiff's reputation and its business.

31. Accordingly, till the next date of hearing, Defendant and all others acting on his behalf are restrained from manufacturing, marketing, selling, offering for sale, advertising or otherwise dealing in goods under the impugned mark SCALP SAYY and/or any other mark identical or deceptively similar to Plaintiff's trademark **SAYY**, amounting to passing off.

32. Defendant is directed to take down and remove all references of the impugned mark SCALP SAYY and/or any other mark identical or



deceptively similar to **SAYY** from all online platforms and offline mediums including but not limited to its listings on Amazon, Nykaa and other third party e-commerce platforms as also social media handles, within a period of two weeks from the date of receipt of copy of this order.

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

**JYOTI SINGH, J**

**AUGUST 21, 2026**  
**S.Sharma**