



2026:DHC:9359



\$~O-8

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
CNR No. DLHC010055282026
+ **C.O. (COMM.IPD-TM) 48/2026 & I.A. 4244/2026**

Date of Decision: 05.10.2026**IN THE MATTER OF:****ITC LIMITED,**

A COMPANY WITHIN THE MEANING OF THE COMPANIES
ACT, 2013,
HAVING ITS REGISTERED OFFICE AT
VIRGINIA HOUSE,
37, JAWAHARLAL NEHRU ROAD,
KOLKATA – 700071, WEST BENGAL, INDIA

ALSO AT:

THAPAR HOUSE, 2ND FLOOR,
NO. 124, JANPATH ROAD,
CONNAUGHT PLACE, NEW DELHI – 110001

. PETITIONER NO. 1**ITC HOTELS LIMITED**

A COMPANY WITHIN THE MEANING OF THE COMPANIES
ACT, 2013,
HAVING ITS REGISTERED OFFICE AT
VIRGINIA HOUSE, 37, JAWAHARLAL NEHRU ROAD,
RUSSEL STREET, KOLKATA, WEST BENGAL, INDIA, 700071

BUKHARA RESTAURANT AT:

ITC MAURYA HOTEL,
SARDAR PATEL MARG, AKHAURA BLOCK,
DIPLOMATIC ENCLAVE, CHANAKYAPURI,

Signature Not Verified

Signed By:PRIYA
Signing Date:16.10.2026
17:07:45

C.O. (COMM.IPD-TM) 48/2026

Signature Not Verified

Signed
By:PURUSHAINDRA
KUMAR KAUR

Page 1 of 6



2026:DHC:9359



NEW DELHI – 110021

...PETITIONER NO. 2

*ATTORNEYS' ADDRESS FOR SERVICE FOR PETITIONERS:***S MAJUMDAR & CO.**D-14, GF, BLOCK D, PART III,
LAJPAT NAGAR, NEW DELHI, 110024Through: Mr. Afzal B. Khan with Ms. Suhpita
Majumdar & Mr. Debjyoti Sarkar,
Advocates.

versus

MR. UMESH ARORAB-1301, PARK VIEW CITY-II,
SONA ROAD, GURGAON-122002,
HARYANA

...RESPONDENT NO.1

*Trade Mark Agent's Address for service***BALAJI IP PRACTICE**B-83, 3RD FLOOR,
DENA BANK BUILDING, I.P. EXTENSION,
NEAR MAYUR PUBLIC SCHOOL, DELHI-110092**THE REGISTRAR OF TRADE MARKS**TRADE MARKS REGISTRY
BOUDHIK SAMPADA BHAWAN,
PLOT NO. 32, SECTOR 14, DWARKA,
NEW DELHI-110078

...RESPONDENT NO. 2

Through: Ms. Nidhi Raman, CGSC with Ms.
Nikita Singh, Advocate for R2.**CORAM:****HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV**

Signature Not Verified

Signed By: PRIYA
Signing Date: 16.10.2026
17:07:45

C.O. (COMM.IPD-TM) 48/2026

Signature Not Verified

Signed
By: PURUSHAINDRA
KUMAR KAURAV

Page 2 of 6



JUDGEMENT

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

The petitioners are aggrieved by the Trademark Registration No.4064296 in Class 43 and seek for its removal/cancellation under Sections 47 and 57 of the Trade Marks Act, 1999. The impugned trademark is “THE BREW BUKHARA” (device). The same is claimed to be nearly identical and/or deceptively similar to the prior registered trademark “BUKHARA” of the petitioners.

2. The respondent no.1 applied for the impugned registration on 22.01.2019, on a “proposed to be used” basis, in respect of services for providing Sweets, Grill Foods, Foods and Drink, Temporary Accommodation, Hotel, Restaurants, Motel, Inn, Room Services, Catering Services, Coffee and Tea Home, and Bar Services. The application was granted registration on 21.07.2019, and the registration is valid up to 22.01.2029.

3. The registration is challenged on the ground that the impugned trademark is phonetically, structurally, visually and conceptually nearly identical and/or deceptively similar to the prior registered trademark “BUKHARA” of the petitioners. It is further contended that it has been registered in respect of identical services, which are likely to be offered by respondent no.1 through identical trade channels to an identical and/or similar class of customers.

4. The petitioner no.1 is the prior adopter, prior user and registered proprietor of the trademark “BUKHARA”. The first application for the trademark “BUKHARA” was filed by the petitioner no.1 on 23.04.1985, and

Signature Not Verified

Signed By:PRITYA
Signing Date:16.10.2026
17:07:45

C.O. (COMM.IPD-TM) 48/2026

Signature Not Verified

Signed
By:PURUSHAINDRA
KUMAR KAURAV

Page 3 of 6



2026:DHC:9359



the said trademark has been in continuous and extensive use for the past four and a half decades. It is claimed that this Court, in ***ITC Limited v. Central Park Estates Private Limited & Anr.***,¹ vide judgment dated 14.11.2022, has declared “BUKHARA” to be a well-known trademark. It has also been included in the list of well-known trademarks notified in Trade Marks Journal No. 2177 dated 07.10.2024, at Sl. No. 50.

5. This Court, on 16.02.2026, issued notice to the respondents. The matter was thereafter called out for consideration on various dates, and efforts were made to serve the respondents. Respondent no.1 is the registered proprietor of the impugned trademark. The Joint Registrar (Judicial), vide order dated 28.04.2026, noted that respondent no.1 had been served through courier on 25.03.2026 and through e-mail on 18.04.2026. Thereafter, on 07.05.2026, this Court granted a final opportunity to effect service upon respondent no.1 by all permissible modes, including e-mail. Respondent no.2 is the Registrar of Trade Marks, which has not filed any reply.

6. It was also brought to the notice of the Court that the Trademark Attorney/agent of respondent no.1 was also served by e-mail. In response thereto, the Attorney, i.e., Balaji IP Practice (IPR Attorney & Law Firm) responded vide e-mail dated 26.02.2026 and took the position that respondent no.1 has never commercially exploited the impugned brand, namely “THE BREW BUKHARA”, for any substantial or commercial gain.

7. It was also stated that the limited and temporary use occurred during the COVID-19 period itself had resulted in financial loss to respondent no.1.

¹ 2022:DHC:5190

Signature Not Verified

Signed By:PRIYA
Signing Date:16.10.2026
17:07:45

C.O. (COMM.IPD-TM) 48/2026

Signature Not Verified

Signed
By:PURUSHAINDR
KUMAR KAUR
Page 4 of 6



2026:DHC:9359



Consequently, such use was discontinued immediately thereafter and has not been resumed since. It was further stated that respondent no.1 does not intend to adopt, use, apply for or otherwise deal with the said mark in future, and is willing to formally withdraw and permanently relinquish any usage of the same. The said e-mail has already been extracted by this Court in its order dated 07.05.2026.

8. This Court has consistently held that where the registered proprietor, despite service, does not file a reply, the averments in the rectification petition remain unrebutted and are deemed to be admitted. In **Wilhelmsen Ships Service AS v. Vishal Anand Trading as SBA & Anr.**,² the respondent has not filed any reply and was proceeded against *ex parte*. Relying on **DORCO Co. Ltd. v. Durga Enterprises & Anr.**,³ and **Kiranakart Technologies Private Limited v. Mohammad Arshad and Anr.**,⁴ this Court held that the unrebutted plea of non-user stood admitted, and removed the mark under Section 47(1)(b) of the Trade Marks Act, 1999 (“the Act”).

9. In **Russell Corp Australia Pty. Ltd. v. Ashok Mahajan & Anr.**,⁵ the investigator’s affidavit recorded that the registered proprietor himself had stated that the mark had been discontinued. The proprietor did not appear despite service, and Court notice was issued even to his trade mark agent. In the absence of any denial, and no special circumstances having been shown, this Court directed removal of the mark for non-use.

10. Similarly, in **Shri Rajesh Chugh v. Mehruddin Ansari & Anr.**,⁶ which concerned a mark registered in Class 43 and used for a restaurant, the

² C.O. (COMM.IPD-TM) 258/2024; Dated: 22.01.2026

³ 2023 SCC OnLine Del 1484

⁴ 2025 SCC OnLine Del 1401

⁵ 2023 SCC OnLine Del 4796

Signature Not Verified

Signed By:PRIYA
Signing Date:16.10.2026
17:07:45

C.O. (COMM.IPD-TM) 48/2026

Signature Not Verified

Signed
By:PURUSHAINDR
KUMAR KAUR
Page 5 of 6



2026:DHC:9359



registered proprietor stated through counsel that he did not intend to use the impugned mark. Noting this admission that the mark had been abandoned and was no longer in use, this Court directed its removal from the Register.

11. Further, in *Boon Rawd Brewery Co. Ltd. v. Yunnan Xiangkeng Trading Co. Ltd. & Anr.*,⁷ a device mark registered on a “proposed to be used” basis, which copied the petitioner’s prior mark, was cancelled under Section 57 of the Act. This Court observed that the respondent’s failure to contest the petition further indicated that the mark had been registered in bad faith. The ratio of the aforesaid decisions squarely applies to the facts of the present case.

12. In view of the position taken by respondent no.1, the Court directs cancellation of Trademark Registration No. 4064296 in Class 43 standing in the name of respondent no.1.

13. The petition stands allowed in the aforesaid terms.

14. Let the Trademark Registry do the needful within a period of six weeks from the date of receipt of a copy of this judgment.

15. The pending application also stands disposed of

PURUSHAINdra KUMAR KAURAV, J

OCTOBER 5, 2026

tr/sa

⁶ C.O. (COMM.IPD-TM) 28/2024; Dated: 05.08.2024

⁷ C.O. (COMM.IPD-TM) 25/2025, Dated: 01.05.2025

Signature Not Verified

Signed By:PRIYA
Signing Date:16.10.2026
17:07:45

C.O. (COMM.IPD-TM) 48/2026

Signature Not Verified

Signed
By:PURUSHAINdra
KUMAR KAURAV
Page 6 of 6