$~O-38

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

\# **CNR No. DLHC010525902026**

\+ CS(COMM) 1181/2026

WIN MEDICARE PRIVATE LIMITED .....Plaintiff

Through: Ms. Prachi Agarwal and Ms. Medha Singh, Advs.

versus

AGRAWAL DRUGS PRIVATE LIMITED .....Defendant

Through: None.

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

O R D E R

% 02.11.2026

I.A. 30203/2026 (under Order 26, R-4, 9 & 10 for appointment of LC)

1. Heard.

2. On taking steps, let notice be issued to the defendants through all permissible modes, returnable on 23.11.2026.

3. In the meantime, let the defendants to file their reply.

I.A. 30204/2026 (under Order 11 R-1 (6) for discovery & production of def's product)

On the plaintiff taking necessary steps, let notice be issued to the defendant through all permissible modes, returnable on 21.12.2026 before the Joint Registrar.

I.A. 30205/2026 (under Order 11, R-1 (4) seeking leave to file Addl. Doc.)

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 07/11/2026 at 07:25:21

1. For the reasons stated in the application, the same stands allowed.

2. The documents sought to be placed on record by way of this application be taken on record.

3. The application stands disposed of.

I.A. 30206/2026 (under Section 12A of CC Act for exemption-pre-litigation mediation)

1. By way of the present application filed under Section 12A of the Commercial Courts Act, 2015 read with Section 151 of the Code of Civil Procedure, 1908 ('CPC'), the plaintiff seeks exemption from attempting pre-litigation mediation.

2. Having regard to the facts and circumstances of the present case, and in light of the judgment of the Supreme Court in ***Yamini Manohar vs. T.K.D. Keerthi***[1] and of a Division Bench of this Court in ***Chandra Kishore Chaurasia vs. R A Perfumery Works (P) Ltd.***[2], the plaintiff is exempted from attempting pre-litigation mediation.

3. The application stands disposed of.

I.A. 30207/2026 (Exemption of time to file court fee)

1. Learned counsel appearing for the plaintiff submits that the court fee has already been paid. It is the authority letter which is to be filed by the plaintiff.

2. Let the same be done within seven days.

3. Application stands disposed of.

I.A. 30208/2026 (Exemption from advance service upon defs.)

[1](2024) 5 SCC 815
[2] 2022 SCC OnLine Del 3529

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 07/11/2026 at 07:25:21

1. Instead of granting the exemptions from advance service upon the defendants, the Court deems it appropriate to issue notice on short date.

2. Accordingly, the application stands disposed of.

I.A. 30209/2026 (Exemption from clearer & typed copies)

1. Plaintiff shall file legible/original/certified/typed and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.

2. The application for exemption is allowed, subject to the plaintiff granting inspection of the documents filed, as and when required to do so, or filing the original documents at the stage of admission/denial.

3. The application stands disposed of.

CS(COMM) 1181/2026

1. Heard.

2. The plaint be registered as a suit. Summons be issued to the defendants by all permissible modes on filing of process fee. Affidavit of service be filed within two weeks.

3. Summons shall state that the written statement(s) shall be filed by the defendants within 30 days from the date of receipt of summons. Along with the written statement(s), the defendants shall also file affidavit(s) of admission/denial of the documents of the plaintiff, without which the written statement(s) shall not be taken on record.

4. Liberty is given to the plaintiff to file replication(s) within 15 days of the receipt of the written statement(s). Along with the replication(s), if any, filed by the plaintiff, affidavit(s) of admission/denial of documents of the defendants, be filed by the plaintiff, without which the replication(s) shall

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 07/11/2026 at 07:25:21

not be taken on record. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

5. List before the Joint Registrar on 21.12.2026 for further proceedings in accordance with extant rules.

6. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

7. Thereafter, list before this Court on the date to be given by the Joint Registrar.

I.A. 30202/2026 (under Order XXXIX Rule 1 and 2 of CPC)

1. The present application has been filed under Order XXXIX Rules 1 and 2 read with Section 151 of the CPC, seeking an *ex parte ad interim* injunction restraining the defendant from manufacturing, selling, offering for sale or advertising its products in a trade dress which is stated to be a colourable imitation of the plaintiff's registered "BETADINE" label/device marks and its 'two stripe' mark. The plaintiff also seeks a direction for removal of the impugned listings from online platforms, including 1mg and PlatinumRx.

2. Learned counsel appearing for the plaintiff submits that the plaintiff was incorporated on 28.04.1981 and is engaged in the manufacture and sale of medicinal and pharmaceutical preparations, with antiseptics being its leading segment. It is submitted that the plaintiff has been using the trademark "BETADINE" for several decades and is the registered proprietor of the word mark "BETADINE" under Registration No. 203023 dated 13.06.1961 in Class 5, of various label/device marks bearing the BETADINE trade dress under Registration Nos. 548821 to 548828 dated

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 07/11/2026 at 07:25:21

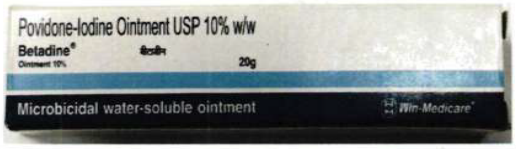
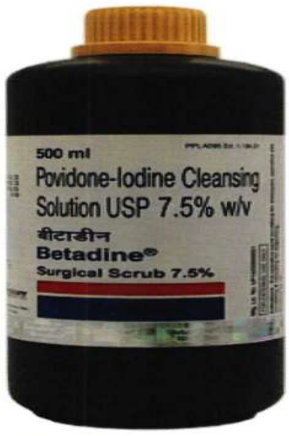
11.04.1991, and of the ‘two stripe’ device mark under Registration No. 1912791 dated 22.01.2010. It is further submitted that the plaintiff also holds copyright registrations in the artistic works contained in its “BETADINE” labels and cartons.

3. Learned counsel submits that the present application is confined to the trade dress adopted by the defendant and is founded, in particular, upon Registration Nos. 548825, 548826, 548827 and 1912791. It is stated that the plaintiff does not have any objection to the use of the word “AGRADINE” by the defendant. According to the plaintiff, the ‘two stripe’ arrangement, i.e., a coloured upper stripe (sky-blue in the case of ointments and red in the case of surgical scrubs) placed immediately above a navy-blue lower stripe, has been in continuous use on the plaintiff’s “BETADINE” products since 1990-91, serves no functional purpose, and has come to be associated exclusively with the plaintiff.

4. It is submitted that in the first week of August 2026, the plaintiff came across listings of the defendant’s Povidone-Iodine Ointment USP and Povidone-Iodine Scrub (Cleansing Solution USP), sold under the name “AGRADINE”, on online platforms such as 1mg and PlatinumRx. The plaintiff thereafter deputed an investigator, who purchased the impugned product from the defendant’s distributor, namely M/s Gupta Medical Store, Defence Enclave Market, Vikas Marg, Delhi-110092. The packaging of the product so purchased states that it is manufactured by the defendant, which has its addresses at SIDCUL, Haridwar, Uttarakhand and at Patparganj Industrial Area, Delhi.

5. For reference, the products of the parties, as depicted in the application, are reproduced hereunder:

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 07/11/2026 at 07:25:21

PLAINTIFF'S PRODUCT **BETADINE**	DEFENDANT'S PRODUCT **AGRADINE**
	
	
	

6. It is further submitted that the defendant, being a manufacturer of Povidone-Iodine preparations operating in the same segment, was fully aware of the plaintiff's products and their trade dress, and the adoption of the same colour scheme, lay-out and descriptor for an identical formulation cannot be a mere coincidence. Learned counsel contends that since both products are medicinal preparations, any confusion between them carries a greater risk for the consumers. It is also urged that the balance of

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 07/11/2026 at 07:25:21

convenience lies in favour of the plaintiff, as the defendant would remain free to sell its products under the name "AGRADINE" in a distinct get-up.

7. The Court notes that, upon coming to know of the impugned products, the plaintiff had issued a cease-and-desist notice dated 25.09.2026, calling upon the defendant, *inter alia*, to stop using the impugned trade dress and to remove the impugned listings. The defendant, by its reply dated 08.10.2026, has denied the allegations made by the plaintiff.

8. The Court further notes that, as per the plaintiff's own documents, the defendant has applied for registration of its device mark "AGRADINE" under Application No. 1583792 in Class 5, dated 25.07.2007, claiming user since 15.03.2006. The plaintiff, on the other hand, contends that such an application does not confer any right upon the defendant to adopt a trade dress which is deceptively similar to the plaintiff's registered and prior-used label marks.

9. Thus, the plaintiff's grievance rests not on the word mark but on the overall get-up, colour combination and lay-out of the defendant's packaging. Whether the impugned trade dress, when seen as a whole, is deceptively similar to the plaintiff's registered label/device marks, the period for which the defendant has been using the impugned trade dress, and the effect of the user claimed by the defendant since the year 2006, are aspects on which the defendant ought to be heard, particularly when it has already disputed the plaintiff's claim in its reply dated 08.10.2026.

10. Bearing in mind the overall facts and circumstances, the Court deems it appropriate to issue notice on this application as well.

11. On the plaintiff taking necessary steps, let notice be issued to the defendant through all permissible modes, returnable on 23.11.2026.

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 07/11/2026 at 07:25:21

12. In the meantime, let the defendant to file a reply.

PURUSHAINDRA KUMAR KAURAV, J

NOVEMBER 2, 2026/P/nk

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 07/11/2026 at 07:25:21