HC-KAR
NC: 2026:KHC:62778-DB
COMAP No. 412 of 2026
C/W COMAP No. 413 of 2026
CNR: KAHC010589172026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF OCTOBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

COMMERCIAL APPEAL NO. 412 OF 2026
C/W
COMMERCIAL APPEAL NO. 413 OF 2026

IN COMAP No. 412/2026:

BETWEEN:

FELICE E SANO LLP
LIMITED LIABILITY PARTNERSHIP
REGISTERED OFFICE AT A 967/6,
INDIRA NAGAR 1107, LUCKNOW,
UTTAR PRADESH, 226 016
REPRESENTED BY ITS PARTNER
MR. HIMANSHU RAITANI,

...APPELLANT

(BY SRI. ABHINAV, ADVOCATE AND
SRI. GOUTHAM K V, ADVOCATE)

Digitally signed by B VEENA KUMARI
Location: HIGH COURT OF KARNATAKA

AND:

CULTFIT HEALTHCARE PVT LTD
COMPANY INCORPORATED
UNDER THE COMPANIES ACT, 2013
REGISTERED OFFICE ADDRESS AT NO.17/17C,
SECTOR 3, HSR LAYOUT,
BANGALORE 560 102, KARNATAKA,
REPRESENTED BY THEIR
AUTHORIZED SIGNATORY

...RESPONDENT

(BY SRI. ARJUN RAO, ADVOCATE FOR C/R IN CP NO.17102/26)

CNR: KAHC010589172026

THIS COMAP FILED UNDER SECTION 13(1-A) OF COMMERCIAL COURT ACT,2015 PRAYING TO SET ASIDE THE IMPUGNED ORDER DATED 08.07.2026 PASSED BY THE LD.LXXXV ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, (COMMERCIAL COURT CCH-86), BENGALURU, IN I.A.NO.II IN COMMERCIAL OS NO.750/2026, IN SO FAR AS IT DISMISSES THE APPELLANTS APPLICATION UNDER ORDER XXXIX RULES 1 AND 2 R/W SEC.151 OF CPC, 1908 AND CONSEQUENTLY ALLOW I.A.NO.II FILED BY THE APPELLANT.

IN COMAP NO. 413/2026:

BETWEEN:

FELICE E SANO LLP
LILMITED LIABILITY PARTNERSHIP
REGISTERED OFFICE AT A 967/6,
INDIRA NAGAR 1107, LUCKNOW,
UTTAR PRADESH - 226 016
REPRESENTED BY ITS PARTNER
MR. HIMANSHU RAITANI.

...APPELLANT

(BY SRI. ABHINAV, ADVOCATE AND
SRI. GOUTHAM K.V, ADVOCATE)

AND:

CULTFIT HEALTHCARE PVT LTD
COMPANY INCORPORATED
UNDER THE COMPANIES ACT, 2013
REGISTERED OFFICE ADDRESS
AT NO.17/17C, SECTOR 3, HSR LAYOUT,
BANGALORE 560 102. KARNATAKA
REPRESENTED BY THEIR
AUTHORISED SIGNATORY.

...RESPONDENT

(BY SRI. ARJUN RAO, ADVOCATE FOR C/R IN CP 17103/26)

THIS COMMERCIAL APPEAL FILED UNDER SECTION 13(1A) OF THE COMMERCIAL COURTS ACT, 2015 PRAYING TO SET ASIDE THE IMPUGNED ORDER DATED 08.07.2026 PASSED BY THE LD.LXXXV ADDITIONAL CITY CIVIL AND SESSIONS JUDGE (COMMERCIAL COURT – CCH-86), BENGALURU, IN I.A.NO.III IN COMMERCIAL O.S.NO.750/2026, INSOFAR AS IT DISMISSES THE APPELLANT'S APPLICATION UNDER ORDER XXXIX RULES 1 AND 2 READ WITH SECTION 151 OF THE CODE OF CIVIL PROCEDURE, 1908 AND CONSEQUENTLY ALLOW I.A.NO.III FILED BY THE APPELLANT AND ETC.,

THESE APPEALS COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE D K SINGH
AND
HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN)

Since the parties to the litigation, the issues involved and the impugned order are same, both the appeals are taken up together and disposed of by this common judgment.

2. These appeals are filed challenging the impugned order dated 08.07.2026 passed by the LXXXV Additional City Civil and Sessions Judge (Commercial Court – CCH-86), Bengaluru (**'Commercial Court'**) in Com.O.S.No.750/2026 rejecting I.A. No. II as well as I.A. No. III.

3. For the sake of convenience, parties shall be referred to as per their status before the Trial Court.

I. Facts of the Plaintiff:

4. The plaintiff, Felice E Sano LLP, a limited liability partnership engaged in the enterprise of establishing and operating health and fitness centres, entered into a Franchise

Agreement dated 19.10.2021 with the defendant, a company running fitness centres and digital wellness platforms under the proprietary brand name "Cult.fit". The plaintiff asserts that while the agreement bears the nominal date of 19.10.2021, it was digitally executed on 12.09.2022, and thus the five-year tenure of the franchise arrangement commenced from the date of digital execution, remaining valid, subsisting, and operational until 12.09.2027.

5. Under the covenants of the said agreement, the plaintiff was granted an exclusive territorial entitlement to establish and operate three fitness centres within the city of Lucknow. Acting in furtherance of the contractual assurances and representations extended by the defendant, the plaintiff invested substantial capital running into several crores of rupees to develop and operationalize two premium fitness centres situated at Gomti Nagar and Mahanagar, Lucknow.

6. It is the case of the plaintiff that during the currency of the agreement, the defendant committed serious breaches of its negative and affirmative covenants by attempting to onboard third-party competing centres, creating

parallel fitness verticals, and actively preparing to launch a company-owned competing "Elite" fitness centre at Indira Nagar, Lucknow, thereby eviscerating the plaintiff's contractual exclusivity. Furthermore, the defendant addressed communications threatening non-renewal of the Franchise Agreement beyond 18.10.2026 and engaged in covert measures to disrupt the plaintiff's operations by tampering with digital access and threatening the de-listing of the plaintiff's centres from the central Cult.fit digital application.

7. Constrained by these actions, the plaintiff instituted a commercial suit in Com.O.S. No. 750/2026 seeking declaratory reliefs, permanent and mandatory injunctions, and liquidated damages to the tune of Rs.9,33,00,000/- (Rupees Nine Crores Thirty-Three Lakhs Only) together with interest. Along with the plaint, the plaintiff filed I.A. No. II seeking an interim injunction against the operationalisation of the Indira Nagar centre and I.A. No. III seeking an interim injunction restraining the defendant from interfering with or obstructing the peaceful and continued operation of the existing centres at Gomti Nagar and Mahanagar, Lucknow.

II. <u>Defence of defendant:</u>

8. The defendant resisted the suit and the applications for interim injunction by filing its written statement, statement of objections, and counter-claims. The defendant contended that the suit is a vexatious attempt by an errant franchisee to rewrite the express terms of a commercial contract and to compel specific performance of a contract that is determinable and expiring by efflux of time. The defendant pointed out that Clause 1.2 of the Franchise Agreement unambiguously defines the "Effective Date" as the "Execution Date", which is expressly recorded on the face of the contract as 19.10.2021.

9. The initial advance payment of Rs.3,00,000/- was remitted as early as April 2021, the tax invoice for the franchise fee was accepted without demur on 31.12.2021, and the five-year term strictly expires on 18.10.2026. The Defendant maintained that communicating its decision not to renew the contract upon the expiration of its five-year term does not constitute actionable "interference", as no franchisee possesses an inherent, perpetual, or automatic right to renewal.

10. The defendant further tried to establish that the plaintiff approached the Court with unclean hands, having suppressed material breaches of the negative covenants. Specifically, the plaintiff's designated partners surreptitiously incorporated and operated a competing gymnasium under the moniker "Fitness Culture" in Lucknow, procuring gym equipment using the Cultfit association and diverting prospective clientele. The paintiff also issued multi-year memberships extending far beyond the expiry date of the Franchise Agreement, circulated unauthorized "Public Advisories" unlawfully bearing the defendant's registered trademarks, and actively solicited Cultfit members.

11. The defendant further demonstrated that the plaintiff suffered no disruption in the daily running of its centres at Gomti Nagar and Mahanagar, as both facilities remained fully accessible, bookable, and operational on the platform. Lastly, the defendant underscored that the plaintiff had quantified its entire loss under itemized heads in the plaint at Rs.9,33,00,000/-, thereby rendering the statutory bar under Section 41(h) of the Specific Relief Act, 1963 directly

applicable, as adequate monetary compensation was admittedly available.

III. <u>Points for consideration by Commercial Court:</u>

12. On the basis of the above pleadings, the Commercial Court has framed the following points:

1. Whether the plaintiff has made out prima facie case for grant of temporary injunction as prayed ?

2. Whether the balance of convenience lie in favour of plaintiff?

3. Whether the plaintiff would suffer irreparable loss or injury if injunction is not granted?

4. What order?

IV. <u>Order on I.As.:</u>

13. Being an adjudication at the interlocutory stage under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 (**'CPC'**), the learned Commercial Court took up the applications for disposal upon the affidavits, pleadings, and documentary material produced by the parties, without recording formal oral evidence. The learned Commercial Court adjudicated the *lis* upon perusal of the plaint, the affidavits accompanying I.A. Nos. II and III, the written statement, the

statement of objections, and the contemporaneous contractual correspondence placed on record.

14. The learned Commercial Court held that, in respect of I.A. No. II, the prayer seeking to restrain the launch of the proposed centre at Indira Nagar had been rendered infructuous because the centre had already commenced commercial operations on 02.06.2026, an event neither denied nor disputed by the plaintiff during the course of arguments.

15. In respect of I.A. No. III, neither the application nor the plaint contained specific pleadings setting forth concrete acts of interference by the defendant with the day-to-day operation of the existing centres at Gomti Nagar and Mahanagar. The mere issuance of a notice by the defendant conveying its unwillingness to renew the Franchise Agreement beyond 18.10.2026 could not, in law, be construed as an unlawful interference with the running of the centres.

16. The controversy regarding the effective commencement date of the contract, whether 19.10.2021 or 12.09.2022 is a disputed question of fact necessitating trial on

merits. The plaintiff had itself quantified its total damages and financial losses at Rs.9,33,00,000/- in the plaint; hence, the alleged injury is capable of being adequately compensated in terms of monetary damages, precluding the existence of irreparable harm and negating a *prima facie* case for equitable injunctive relief. The commercial Court dismissed I.A.Nos.II and III.

17. Aggrieved by the said order, the plaintiff is before this Court challenging the same in this appeal.

V. <u>Grounds of Appeal and contentions of the parties:</u>

18. Sri. Abhinav Ramanand, learned counsel for the plaintiff submitted that**,** the learned Commercial Court committed a grave error of jurisdiction in failing to evaluate the three foundational limbs governing temporary injunctions independently and cumulatively. The dismissal of the applications by conflating the existence of a triable issue with the absence of a *prima facie* case is unsustainable in law. The Franchise Agreement was formally and digitally executed on 12.09.2022; therefore, by operation of law and the plain intent of the parties, the five-year period of exclusivity and

operational rights subsists until 12.09.2027. By declining interim protection, the commercial Court has permitted the defendant to unilaterally curtail the contractual lifespan of the agreement.

19. The plaintiff's principal grievance is that notwithstanding the territorial exclusivity allegedly conferred under Clause 2.2 of the Franchise Agreement, the defendant proceeded to onboard other fitness centres within Lucknow, introduced competing business models and ultimately established its own 'Elite' centre at Indira Nagar. It is further contended that the defendant unilaterally altered the membership pricing structure and communicated its decision not to renew the Franchise Agreement beyond the initial term. According to the plaintiff, such conduct has substantially undermined the commercial arrangement and prejudiced the investments made by it in establishing the two existing centres.

20. Per contra, Sri. Arjun Rao, learned counsel appearing for the defendant submitted that, the impugned order is an unassailable, well-reasoned discretionary order passed in strict adherence to settled legal principles laid down

by the Supreme Court in ***Dalpat Kumar v. Prahlad Singh***[1], and ***Kashi Math Samsthan v. Srimad Sudhindra Thirtha Swamy***[2]. Unless the exercise of discretion by the commercial Court is shown to be perverse, arbitrary, or contrary to statutory provisions, an appellate Court cannot substitute its own discretion. The plaintiff has wholly failed to plead any tangible, actionable act of interference in respect of the Gomti Nagar and Mahanagar centres. Both centres have continued their regular commercial operations without interruption, and the Plaintiff's apprehensions are entirely conjectural and premature.

21. They further contend that, a commercial contract that is determinable and runs for a defined period cannot be forcibly perpetuated by judicial fiat under Order XXXIX of the Code of Civil Procedure, in the teeth of Sections 14(d) and 41(e) of the Specific Relief Act, 1963. The Franchise Agreement clearly specifies 19.10.2021 as the execution and effective date, which expires by efflux of time on 18.10.2026. A party

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[1](1992) 1 SCC 719
[2](2010) 1 SCC 689

cannot claim an injunction to enforce an agreement that the franchisor has consciously resolved not to renew.

22. The defendnat further contends that the plaintiff was required to establish three centres within the stipulated period and its failure to do so attracts the consequences contemplated under the agreement. The plaintiff has explicitly calculated, computed, and claimed damages amounting to Rs.9,33,00,000/- in the suit.

23. An injury that is capable of precise monetary computation is, by definition, not irreparable. Under Section 41(h) of the Specific Relief Act, an injunction cannot be granted when an equally efficacious relief can certainly be obtained through damages. Moreover, the plaintiff's hands are unclean due to the illicit operation of a rival entity, "Fitness Culture", and the unauthorized circulation of advisories utilizing the defendant’s trademarks.

24. Heard the arguments of Sri. Abhinav Ramanand and Sri. Goutham K V, learned counsel appearing for the plaintiff and Sri. Arjun Rao, learned counsel appearing for the defendant

and upon perusal of the material on record, the primary point that arises for consideration is:

> *"Whether the learned Commercial Court committed any patent illegality, perversity or jurisdictional error in dismissing I.A. Nos. II and III and refusing the discretionary equitable relief of temporary injunction?"*

VI. <u>Reasons and conclusions:</u>

25. At the outset, it is apposite to reiterate that the scope of appellate interference with interlocutory discretionary orders is limited. As held by the Supreme Court in ***Wander Ltd. v. Antox India P. Ltd[3].,*** and reiterated in ***Dalpat Kumar*** *(supra)* and **Kashi Math Samsthan** *(supra)* and ***Gujarat Bottling Co. Ltd. v. Coca Cola Co.[4],*** an appellate Court will not substitute its discretion for that of the Court of first instance unless the exercise of discretion is manifestly arbitrary, capricious, perverse or contrary to the statutory provisions governing equitable relief.

26. In examining whether the plaintiff has established a *prima facie* case, balance of convenience and irreparable injury,

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[3] 1990 Supp SCC 727
[4](1995) 5 SCC 545

this Court has considered the contractual stipulations and the sequence of commercial transactions between the parties.

27. The plaintiff contends that although the Franchise Agreement bears the date 19.10.2021, it was digitally executed only on 12.09.2022 and, therefore, the five-year initial term under Clause 13.1 commenced on the latter date and continues until 12.09.2027.

28. However, Clause 1.2 defines the Effective Date as the Execution Date, while the preamble expressly identifies 19.10.2021 as the Execution Date. The conduct of the parties also indicates that they acted upon the agreement much earlier: the plaintiff remitted an advance franchise fee of Rs.3,00,000/- in April 2021, the defendant raised an invoice on 31.12.2021 which was accepted without demur, and the Gomti Nagar centre commenced operations on 28.02.2022.

29. Further, by its communication dated 28.03.2026, the plaintiff itself sought renewal on the footing that the initial five-year term was nearing its conclusion. It was only upon refusal of renewal that the plaintiff advanced the contention

that the term commenced from the digital execution dated 12.09.2022.

30. Whether the digital execution displaced the contractually defined Effective Date is a mixed question of fact and law requiring trial. At the interlocutory stage, having regard to the written agreement and the parties' conduct, the plaintiff cannot claim an indubitable *prima facie* entitlement to extend the contractual term beyond its stipulated expiry on 18.10.2026.

31. The record discloses that the Gomti Nagar centre commenced operations on 28.02.2022, while the Mahanagar centre commenced operations on 25.04.2023.

32. The plaintiff contends that Mahanagar was an independent facility requiring a separate franchise agreement and an autonomous five-year term commencing from 25.04.2023. Although discussions and email communications in August 2022 contemplated a separate agreement, none was executed. Instead, Mahanagar was brought within the overarching Franchise Agreement dated 19.10.2021, with its

operations integrated into the defendant's central digital network, brand ecosystem and billing platform.

33. Significantly, the plaintiff has itself sought a mandatory injunction directing the defendant to execute a separate agreement for Mahanagar with effect from 25.04.2023. An interim injunction cannot be granted to confer the final relief or enforce rights dependent upon a contested decree for mandatory injunction. Recognising an independent five-year term for Mahanagar, at this stage, would amount to pre-judging the suit and enforcing a contract that was never formally executed.

34. The plaintiff's claim to restrain the defendant from operating the competing Elite centre at Indira Nagar and other centres in Lucknow, rests on its assertion of city-wide territorial exclusivity under Clause 2.2.

35. However, Clause 2.2 is subject to Schedule V, which restricts territorial exclusivity to a micro-market of 1.5 km radius from the Gomti Nagar centre. The Indira Nagar centre is

approximately 2.84 km away and therefore falls outside the protected radius.

36. Further, Schedule II links territorial exclusivity to a phased development schedule requiring the plaintiff to establish three centres within specified timelines. While the first centre was launched on 28.02.2022, the second centre was required to be agreed upon and its franchise fee paid within one year, followed by its launch within 120 days. The third centre was similarly required to be established within the stipulated timeline following the launch of the second centre.

37. Schedule II expressly provides that failure to adhere to the schedule would automatically entitle the Franchisor to establish Cult centres, directly or through its affiliates, within the protected territory. Although the plaintiff initially proposed a site at Indira Nagar in July 2022, the proposal was abandoned following an adverse structural audit. Thereafter, the plaintiff failed to identify, propose or establish the third centre contemplated under Schedule II.

38. Having failed to comply with the mandatory expansion milestones governing territorial exclusivity, the plaintiff cannot invoke the equitable jurisdiction of this Court under Section 42 of the Specific Relief Act, 1963, to enforce a negative covenant which it had *prima facie* forfeited under the agreement.

39. Further, the Indira Nagar centre had already completed its fit-outs and commenced commercial operations on 02.06.2026. An injunction restraining its launch would therefore be infructuous. Nor can an interlocutory mandatory injunction directing closure of an operational commercial establishment be granted in the absence of exceptional circumstances and absolute clarity of entitlement, neither of which is established in the present case.

40. An injunction under Order XXXIX Rules 1 and 2 of the CPC cannot be granted unless the plaintiff establishes injury incapable of adequate monetary compensation. In the present case, the plaintiff has itself quantified and claimed liquidated damages and business losses aggregating to Rs.9,33,00,000/- under specific commercial heads.

41. Section 41(h) of the Specific Relief Act, 1963, bars an injunction where an equally efficacious remedy is available through the usual mode of proceeding. The plaintiff's own quantification of its alleged losses indicates that the injury is capable of monetary restitution. If the plaintiff ultimately establishes at trial that the agreement subsists until 12.09.2027, that Mahanagar was entitled to an independent contractual term, or that the Indira Nagar centre violated its subsisting exclusive rights, the resulting loss can be compensated by a decree for damages.

42. In view of the contractual provisions, the admitted operational timelines, the plaintiff's failure to comply with Schedule II and the availability of monetary remedies, the learned Commercial Judge was justified in holding that the plaintiff failed to establish a *prima facie* case, balance of convenience or irreparable injury.

43. The findings of the learned Commercial Judge rejecting both interlocutory applications warrant no interference. The rejection of I.A. No. II is justified since the plaintiff prima facie forfeited its claim to territorial exclusivity

by failing to comply with the mandatory development milestones under Schedule II. Further, the Indira Nagar centre had already commenced commercial operations on 02.06.2026, rendering an injunction restraining its launch infructuous.

44. Likewise, the rejection of I.A. No. III is justified as the plaintiff neither pleaded nor established any concrete acts of physical or operational interference with the day-to-day functioning of the Gomti Nagar and Mahanagar centres. An injunction cannot also be granted to compel the specific performance and continuation of a franchise agreement expiring by efflux of time on 18.10.2026, particularly when Mahanagar was never governed by an independent contractual term.

45. In any event, Section 41(h) of the Specific Relief Act, 1963, operates as a further bar, since the plaintiff has quantified its alleged losses at Rs.9,33,00,000/-, which are capable of compensation through a decree for damages upon trial. Consequently, the learned Commercial Court committed neither perversity nor jurisdictional error in holding that the

plaintiff failed to establish the three essential requirements for grant of temporary injunction. Accordingly, the following:

ORDER

(i) Commercial Appeal Nos. 412/2026 and 413/2026 are ***dismissed***.

(ii) The impugned Common Order dated 08.07.2026 passed by the LXXXV Additional City Civil & Sessions Judge (Commercial Court – CCH-86), Bengaluru in Com.O.S. No. 750/2026 rejecting I.A. No. II as well as I.A. No. III is hereby ***confirmed***.

(iii) It is made clear that the observations and findings recorded herein are confined solely to the disposal of this appeal and shall not influence or prejudice the Commercial Court in the ultimate adjudication of Com.O.S. No. 750/2026 on its merits.

(iv) All pending I.As. stand disposed of as having become infructuous.

(v) Commercial Court is directed to dispose of Com.O.S.No.750/2026 within an outer limit of six months from the date of receipt of copy of this order.

Sd/-
(D K SINGH)
JUDGE

Sd/-
(H.SHANTHI BHUSHAN)
JUDGE

BVK