



\$~23

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 789/2023**
MAX HEALTHCARE INSTITUTE LIMITED Plaintiff
Through: Mr. Raunaq Kamath & Mr. Siddharth
Varsheny, Advs. (M:9999947699)
versus
MAXI CURE HOSPITALS & ANR. Defendants
Through: None.

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER
% **02.11.2023**

1. This hearing has been done through hybrid mode.

I.A. 21709/2023 (for exemption)

2. This is an application seeking exemption from filing originals/certified/cleared/typed or translated copies of documents, left side margins, electronic documents, etc. Original documents shall be produced/filed at the time of Admission/Denial, if sought, strictly as per the provisions of the Commercial Courts Act and the DHC (Original Side) Rules, 2018.

3. Exemption is allowed, subject to all just exceptions.

4. Accordingly, application is disposed of.

I.A.21710/2023 (for additional documents)

5. This is an application seeking leave to file additional documents under the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (*hereinafter*, 'Commercial Courts Act'). The Plaintiff, if it wishes to file additional documents at a later stage, shall do so strictly as per the provisions of the Commercial Courts Act and the



DHC (Original Side) Rules, 2018.

6. Application is disposed of.

I.A.21711/2023 (u/S 12A of the Commercial Courts Act)

7. This is an application filed by the Plaintiff seeking exemption from instituting pre-litigation mediation under Section 12A of the Commercial Courts Act. Considering the facts and circumstances of the case, the Court is satisfied that in terms of the judgment of the Hon'ble Supreme Court in *Yamini Manohar v. T.K.D Keerthi, SLP(C) 023488/2023*, the suit contemplates urgent interim relief. In these facts, the exemption under Section 12A is granted to the Plaintiff. Accordingly, the application is disposed of.

CS (COMM) 789/2023

8. Let the plaint be registered as a suit.

9. Issue summons to the Defendants through all modes upon filing of Process Fee.

10. The summons to the Defendants shall indicate that the written statement to the plaint shall be positively filed within 30 days from date of receipt of summons. Along with the written statement, the Defendants shall also file an affidavit of admission/denial of the documents of the Plaintiff, without which the written statement shall not be taken on record.

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



12. List before the Joint Registrar for marking of exhibits on 8th January, 2024. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

13. List before Court on 27th March, 2024.

I.A.21708/2023 (u/O XXXIX Rules 1 & 2 CPC)

14. Issue notice.

15. The present suit has been filed by the Plaintiff - Max HealthCare Institute Limited seeking permanent injunction restraining the Defendants from using the infringing marks/ names MAXI CURE HOSPITALS, MAXI CURE PHARMACY and the domain name www.maxicurehospitals.com.

16. The Plaintiff runs the Max Hospital chain. The case of the Plaintiff is that it is one of the pioneers in the healthcare industry and it opened its first medical centre in 2000 at Panchsheel Park, Delhi and thereafter, it has expanded to more than 13 hospitals/ health centers in Delhi as also other states such as Punjab, Uttarakhand, Uttar Pradesh etc.

17. Ld. Counsel for the Plaintiff submits that today, the Plaintiff has more than 17 Max Hospitals. It is submitted that the Plaintiff organizes regular health camps and health awareness programs and has treated lakhs of patients. The Plaintiff's mark 'MAX' is used in several variants such as MAX HOSPITAL, MAX HEALTHCARE, MAX PHARMACY, MAX DIAGNOSTICS, MAX CHEMIST, MAX MEDICAL, MAX LAB, MAX@HOME, MAX HOME CARE, KMAX DIGI CARE, MAX CLINIC, MAX EMERGENCY, MAX BALAJI HOSPITAL, MAX PATH LAB, PATHOLOGY, MAX MEDCENTRE, MAX HEALTHSTAFF, MAX HEALTH CIRCLE, MAX X RAY AND ULTRASOUND CENTRE, MAX



BIKE RESPONDER, MAX DEVKI DEVI HEART & VASCULAR INSTITUTE.

18. The total annual revenues of the Plaintiff are stated to be to the tune of Rs.1850 crores in 2021-22. It is the Plaintiff's case that owing to the long and the extensive use of this mark, the mark MAX in respect of healthcare has now become synonymous with the Plaintiff. The Plaintiff has also been granted registrations for the mark MAX and its variants, dating back to 2001. The details of the same are mentioned in paragraph 10 of the plaint.

19. The plaint avers that the Plaintiff has taken repeated actions against misuse of the mark 'MAX'. The list of various marks and names used for hospitals and pharmacies which have been injuncted are as under:

S.No.	Restrained Entity
1	Maxcare Hospital, Pune
2	Max Care Hospital, Warangal
3	Max Care Hospital, Trichy
4	Max Care Hospital, Ahmednagar
5	Max Care Hospital, Gwalior
6	Max Care Hospital & Hemodialysis Centre, Bijnor
7	Max Hospital, Varanasi
8	Max Global Pharmacy, Delhi
9	Max 24x7 Medicos, Delhi
10	Max Hospital, Moradabad
11	Max Associates, Kannur
12	Max Care Hospital / New Max Care Hospital, Patna



13	Max Care Hospitals, Hyderabad
14	Max Health Hospitals, Hyderabad

20. In the present case, the grievance of the Plaintiff is that the Defendants are operating a hospital/healthcare center under the name/ mark Maxi Cure Hospitals at two locations from the following addresses:

- 8-7-89/ 13, Plot No. 12 & 14, Chaitanya Nagar Colony, Karmanghat, Saroor Nagar Mandal, Rangareddy District, Telangana, 500070
- Opposite Radio Station, N.H. - 65, Hayath Nagar, Hyderabad - 501505, Telangana

21. Ld. Counsel submits that a perusal of the online comments in respect of the Defendants would show that the patient community is extremely disappointed with the services. In fact, there are several adverse reviews by patients in respect of the services of the Defendants. Some of the reviews are set out below:



Maxicure Hospitals B.N Reddy

8HC5+PPX, Nagarjuna Sagar Rd, Chaitanya Nagar, B.N Reddy Nagar, Hyderabad, Telangana

[Write a review](#)

3.5

487 reviews ⓘ



Akash Ojha

Local Guide · 15 reviews · 5 photos

★ 4 years ago

I had mild fever. They diagnosed and told me that. No malaria. No jaundice. Plain fever. They asked if I wanted "instant relief". I said no. They still prescribed an injection worth ₹800. I later checked the label on bottle which read and I quote, "paracetamol inclusion".

👍 3



rakasi abhinayreddy

4 reviews

★ a year ago

The worst experience I had with this hospital.....No proper doctors available No proper service in the hospital No one cares about u
And this hospital only focus on who to get money from poor people and personal ... [More](#)

👍 2



supraja reddy

12 reviews · 5 photos

★ 2 years ago

No proper response first they just say to pay the money and after paying they don't care about the patient at all.main point doctors take the suggestion of nurse or a compounder before they undergo any test or treatment.

👍 1

22. Ld. counsel for the Plaintiff submits that usage of the Plaintiff's mark MAX, for such services rendered by the Defendants, even with a suffix would lead to dilution and erosion of goodwill of the Plaintiff. It is possible that the patient community may presume that the Defendants' hospital is also another branch of the Plaintiff's chain of hospitals.

23. Having perused the plaint, the documents and the previous orders passed by courts protecting Plaintiff's right, *prima facie* this Court is of the view that in the field of healthcare and pharmacy, diagnostics etc. confusion has to be avoided. In the present case, in the Defendants' mark/name MAXI CURE the essential feature and the prominent feature is the mark/name



MAX, which is the registered trademark of the Plaintiff. The same would be severely impinging upon the Plaintiff's statutory and common law rights as also adversely affect the larger interest of the patient community.

24. In view thereof, Plaintiff has made out a *prima facie* case for the grant of interim injunction. The balance of convenience lies in favour of the Plaintiff and irreparable injury would be caused to the Plaintiff if the interim injunction is not granted.

25. Accordingly, considering the overall facts and circumstances of the case, the Defendants and anyone acting for or on their behalf are restrained from using the mark/name MAXI CURE or any other name, which consists of the Plaintiff's mark/name MAX for hospital or healthcare services as also any cognate/allied goods or services. However, since the Defendants are using the infringing mark/ name for a hospital, in order to ensure that there is no inconvenience to patients and others who may be obtaining the Defendant's services, it is directed that the present injunction shall come into effect only from 1st February, 2024.

26. During the *interregnum*, the Defendants shall not open any fresh health centre/ hospital or undertake any expansion under the infringing mark/ name.

27. Compliance of Order XXXIX Rule 3 CPC be completed within one week.

28. Defendants are permitted to move an application if they wish to seek any variation of this order.

29. Reply to the application be filed within four weeks from the service of the present order along with the paper book.



30. List the application before the Court on date fixed above.

NOVEMBER 02, 2023

dk/kt

PRAITHIBA M. SINGH, J.