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

+ **CS(COMM) 392/2025**

ALKEM LABORATORIES LIMITED..... Plaintiff

Through: Mr. Amit Sibal, Senior Advocate with
Ms. Tusha Malhotra, Ms. Tanvi
Bhatnagar, Ms. Smriti Nain,
Ms. Saksham Dhingra and
Mr. Darpan Sachdeva, Advocates

versus

DR. MARIYA PARVEZ & ORS. Defendants

Through: Mr. S. M. Khursheed, Advocate
for D-1

**CORAM:
HON'BLE MR. JUSTICE AMIT BANSAL**

ORDER

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28.04.2025

I.A. 10682/2025 (exemption from filing documents)

1. Allowed, subject to the plaintiff filing clearer/translated copies of documents at this stage.
2. Plaintiff is exempted from filing original documents at this stage
3. The application stands disposed of.

I.A. 10679/2025 (O-XI R-1(4) of the Commercial Courts Act)

4. The present application has been filed on behalf of the plaintiff seeking leave to file additional documents under the Commercial Courts Act, 2015.
5. The plaintiff is permitted to file additional documents in accordance

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with the provisions of the Commercial Courts Act, 2015 and the Delhi High Court (Original Side) Rules, 2018.

6. Accordingly, the application is disposed of.

I.A. 10683/2025 (u/s 149 of the CPC)

7. Ms. Tusha Malhotra, counsel appearing on behalf of the plaintiff, submits that the requisite court fees shall be paid within one week.

8. The statement of counsel is taken on record.

9. The application is disposed of.

I.A. 16080/2025 (u/s 12A of Commercial Courts Act, 2015)

10. As the present suit contemplates urgent interim relief, in light of the judgment of the Supreme Court in *Yamini Manohar v. T.K.D. Krithi*, 2023 SCC Online SC 1382, exemption from the requirement of pre-institution mediation is granted.

11. The application stands disposed of.

I.A. 10681/2025 (seeking permission to file certain video recording in a compact disc/pen drive)

12. This application is filed by the plaintiff seeking permission to file certain video recording in a compact disc/pen drive.

13. For the reasons stated in the application, the plaintiff is permitted to file impugned video recordings in compact disc/pen drive.

14. The application stands disposed of.

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15. Let the plaint be registered as a suit.

16. Issue summons.

17. Summons are accepted by the counsel for defendant no.1, who appears on advance service and waives issuance of formal summons in the

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suit.

18. None appears on behalf of defendant no.2, despite advance service.

19. Summons be issued to the defendant no. 2 through all permissible modes.

20. Written statement(s) shall be filed by the defendants within thirty days from the date of the receipt of summons. Along with the written statement(s), the defendants shall also file affidavit of admission/denial of the documents of the plaintiffs, without which the written statement(s) shall not be taken on record.

21. Liberty is given to the plaintiffs to file replications, if any, within thirty days from the receipt of the written statement(s). Along with the replications filed by the plaintiffs, affidavit of admission/denial of the documents of the defendants be filed by the plaintiffs.

22. The parties shall file all original documents in support of their respective claims along with their respective pleadings. In case parties are placing reliance on a document, which is not in their power and possession, its details and source shall be mentioned in the list of reliance, which shall also be filed with the pleadings.

23. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

24. List before the Joint Registrar on 24th July, 2025, for completion of service and pleadings.

25. List before the Court on 16th September, 2025.

I.A. 10678/2025 (u/O-XXXIX Rule 1 & 2 of Code of Civil Procedure, 1908)

26. The present suit has been filed seeking relief of permanent injunction

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restraining the defendants from disparaging and defaming the plaintiff's products, infringing the trade marks of the plaintiff, along with other ancillary reliefs.

CASE SETUP IN THE PLAINT

27. The plaintiff is an Indian company engaged in the business of research and development, manufacturing, marketing, distribution and selling of pharmaceutical products in India and the international markets.

28. The plaintiff has a portfolio and footprint in over 40 countries, has 19 manufacturing units, and over 800 brands, covering all major therapeutic segments. The plaintiff deals with a wide range of products and is stated to have substantial market share in Gastro-intestinal, Anti-osteoporosis, Nutraceutical and Pain management segments and leads the Indian market in the Anti-infective segments.

29. The grievance in the present suit is related to the products of the plaintiff sold under the 'PAN-D' marks. The said product is sold in tablet form for the treatment of gastroesophageal reflux disease (GERD), dyspepsia, and gastritis. The plaintiff's product, 'PAN-D' tablets, is a formulation comprising two generic active pharmaceutical ingredients, namely Pantoprazole and Domperidone.

30. The plaintiff obtained the registration of its 'PAN-D' marks, details of which are given in paragraph 21 of the plaint.

31. It is stated that since 2003, the plaintiff has been using the 'PAN-D' marks, and due to its continuous use, the sales of the product bearing 'PAN-D' marks run into crores. The details of the revenue generated by the products bearing the 'PAN-D' marks are given in paragraphs 24 and 25 of the plaint.

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32. It is averred that due to the long and continuous use of 'PAN-D', the plaintiff has amassed substantial goodwill and reputation in the market, and the same can be evidenced by multiple awards and accolades conferred upon the plaintiff. The details of the awards/recognition received by the plaintiff are given in paragraph 29 of the plaint.

33. The defendants have uploaded videos on their Instagram accounts, making purportedly defamatory/ disparaging videos against the plaintiff's PAN-D' products.

34. The defendant no.1 is an Ayurvedic Doctor and uploaded the impugned videos on 1st March 2025 and 15th March 2025 (hereinafter referred to as 'impugned video no.1' and 'impugned video no.2' respectively).

35. On 10th March, 2025, the plaintiff learnt about the video posted on 1st March 2025, and on 12th March 2025, issued a cease and desist notice to the defendant no.1, directing the defendant no.1 to immediately delete, disable or take down the impugned video no.1 from her Social Media Accounts.

36. Despite receiving the cease and desist notice, the defendant no.1 failed to respond to the same. However, the plaintiff discovered that the impugned video no.1 was removed by the defendant no.1 from her Instagram account, leading the plaintiff to believe the issue had been resolved.

37. Nevertheless, after a few days, it came to the plaintiff's attention that defendant no.1 had re-uploaded the same video with a slight modification. Instead of using the plaintiff's product name 'PAN-D', the defendant no.1 used the term 'ANTACIDS'. The video was uploaded on 15th March, 2025.

Upon further examination, it was found that the impugned video no.2 still

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contained a reference to the plaintiff's 'PAN-D' products.

38. Since the defendant no.1 failed to remove the impugned video no.2, from her Instagram account, the plaintiff, in an attempt to resolve the matter amicably, sent the defendant no.1 a reminder letter dated 28th March 2025.

39. Thereafter, a reply dated 3rd April 2025 was issued by the defendant no.1, taking the defence that no disparagement has been done by the defendant no.1 and the statements made by the defendant no.1 were in good faith.

40. Subsequently, the plaintiff learnt that the impugned video no.1 which was taken down by the defendant no.1, was again uploaded by the defendant no.1 from its Instagram Account.

41. In April 2025, the plaintiff learnt about another video available on Instagram, which was defaming and disparaging the plaintiff and its 'PAN-D' products. The said video was uploaded by defendant no.2 on her Instagram Account. In the aforesaid impugned video, the following assertions have been made:-

i. Taking PAN-D for acidity relief might seem harmless but long-term use can lead to nutritional deficiencies like Vitamin B12, magnesium and calcium.

ii. PAN-D reduces stomach acid, which is essential for absorbing key nutrients. Over time, this can impact bone health, immunity and energy levels.

42. Defendant no.2 has also used the plaintiff's mark 'PAN-D' in hashtags such as '#PanD', so that the impugned video has a wider reach.

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43. As per the LinkedIn profile of defendant no.2, the defendant no.2 is a dietician, certified diabetes educator and certified personalised therapeutic nutrition care specialist.

44. Mr. Amit Sibal, Senior Counsel for the plaintiff, submits that the grievance of the plaintiff is with the use of the mark 'PAN-D' of the plaintiff and targeting the plaintiff in the impugned videos. It is submitted that the defendants in the impugned videos have deliberately named the plaintiff's 'PAN-D' products, as the plaintiff is a market leader in its category. There are several other companies that are selling similar products using the same salt, but a specific reference has been made to the product of the plaintiff.

45. Mr. Sibal further submits that the product bearing the 'PAN-D' mark is a Schedule H prescription drug under the Drugs and Cosmetics Act, 1945, and the said drug can only be purchased on a doctor's prescription.

46. I have perused the impugned videos and their storyboards. Clearly, the defendants have singled out the plaintiff's 'PAN-D' products and are deliberately targeting the plaintiff. In my *prima-facie* view, the defendants lack the necessary qualifications to make such disparaging statements in respect of the plaintiff's 'PAN-D' product.

47. Based on the above, a *prima facie* case is made out on behalf of the plaintiff. Balance of convenience is in favour of the plaintiff and against the defendants. Irreparable injury would be caused to the plaintiff if the impugned videos continue to exist on social media, as the goodwill and reputation that vests in the 'PAN-D' marks will be tarnished *via* the impugned videos. Moreover, the impugned videos mislead the members of the public into believing that the 'PAN-D' products are harmful, have side effects and should not be consumed.

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48. None appear on behalf of defendant no.2 despite advance service.
49. Issue notice
50. Notice is accepted by the counsel for the defendant no.1.
51. Notice be issued to the defendant no.2 *via* all permissible modes, including e-mail.
52. Reply(ies) be filed within four (4) weeks.
53. Rejoinder(s) thereto, if any, be filed within two (2) weeks thereafter.
54. During the course of hearing submissions, counsel for defendant no.1, who appears on advance service, was asked to take instructions from his client whether the defendant no.1 is willing to make necessary changes in the impugned video so as to remove references to the brand/mark of the plaintiff, i.e., 'PAN-D'.
55. The matter was passed over for this purpose.
56. Counsel for the defendant no.1 has returned with instructions and submits that defendant no.1 shall remove all references to the plaintiff's product, 'PAN-D', in the impugned videos. Counsel for defendant no.1 further submits that defendant no.1 shall not post any video/statement in the future that disparages the plaintiff's 'PAN-D' products.
 - 56.1. The statement is taken on record.
 - 56.2. The defendant no.1 shall be bound by the statement.
 - 56.3. An affidavit in this regard shall be filed by the defendant no.1 within two weeks from today.
57. Counsel for defendant no.1 submits that in light of the aforesaid statement made on the first date of the suit itself, the plaintiff should give up its claim for damages.
 - 57.1. Counsel for the plaintiff shall take instructions in this regard.

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58. Accordingly, defendant no.2 is directed to take down the impugned video from defendant no.2's Instagram Account accessible https://www.instagram.com/p/DHFa6_1Jjty/, or any other videos which are identical to, or similar in content, and/or any other videos or content in any format which makes reference to the products of the plaintiff bearing the 'PAN' family of marks.

59. Further, defendant no.2 is restrained from posting any other video which are identical or similar in content which disparage the plaintiff's product bearing the 'PAN' family of marks.

60. In the event the plaintiff comes across similar advertisements/statements/videos, the plaintiff is at liberty to implead such parties and seek orders against them.

61. List before the Joint Registrar on 24th July, 2025, for completion of service and pleadings.

62. List before the Court on 16th September, 2025.

AMIT BANSAL, J

APRIL 28, 2025
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