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

+ CS(COMM) 502/2017, I.A. 8962/2023, I.A. 13438/2023 & I.A. 23398/2023

LOUIS VUITTON MALLETTIER Plaintiff

Through: Mr. Dhruv Anand, Ms. Sampurnaa
Sanyal and Mr. Dhananjay Khanna,
Advocates
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versus

RAJ BELTS & ORS..... Defendants

Through: None


CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

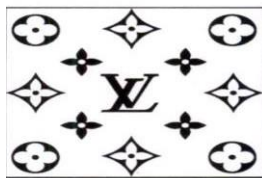
% **ORDER**
10.03.2025

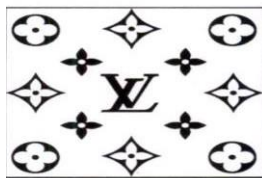
MINI PUSHKARNA, J (ORAL)

I.A. 8962/2023 (Application under Order VIII Rules 1 and 10 read with Section 151 of Code of Civil Procedure, 1908 for pronouncement of judgment).

1. The instant application has been filed under Order VIII Rules 1 and 10 read with Section 151 of Code of Civil Procedure, 1908 ("CPC"), for pronouncement of judgment.
2. The present suit has been filed by the plaintiff seeking permanent injunction restraining infringement of plaintiff's registered trademarks, i.e.,

“LOUIS VUITTON” (wordmark), the “LV” logo i.e., , “the Toile



monogram pattern”, i.e., , “the Damier pattern”, “the LV Flower patterns” and other subsisting trademarks registered in Classes 3, 14, 18 and 25, passing off, unfair competition, rendition of accounts of profits, delivery up, etc.

3. This Court notes that initially the present application had been filed against defendant nos. 7 to 10. However, learned counsel appearing for the plaintiff submits that the matter already stands settled with defendant nos. 9 and 10. Thus, the present application is being pressed only against defendant nos. 7 and 8.

4. Thus, this Court has proceeded to hear the present application with respect to defendant nos. 7 and 8.

5. The case of the plaintiff, as canvassed in the plaint, is as follows:

5.1. Founded in 1854, the plaintiff, i.e., Louis Vuitton Malletier, is a well-known French luxury fashion and leather goods company owning the brand Louis Vuitton. In 1987, Louis Vuitton merged with Moët Hennessy SA, to form the LVMH Group.

5.2. Since its inception in 1854, Louis Vuitton had become a global brand and has greatly expanded its international retail network. In its 160 years of history, the plaintiff’s goods have been highly sought after and have established a formidable international reputation for

exclusivity and speciality. Due to these reasons, plaintiff has been recording huge sales of its products all over the world.

5.3. The name “LOUIS VUITTON” is derived from the name of its founder, Mr. Louis Vuitton. The plaintiff is the originator of the mark “LOUIS VUITTON” which is neither a common surname nor has a dictionary meaning, and therefore, can be characterised as an invented word.

5.4. Further, apart from the use of the name “LOUIS VUITTON” as a trademark, plaintiff has also been using its initials i.e. “LV”

represented in intertwined manner since 1986, i.e., .

5.5. The plaintiff, along with the common law rights, has also acquired statutory rights over several of its trademarks in India, namely, the “LOUIS VUITTON” (wordmark), the “LV” logo, “the Toile monogram pattern”, “the Damier pattern” and “the LV Flower patterns” registered in Classes 3, 14, 18 and 25 under registration nos. 441451, 448228, 448229B, 441452B, 228230B, 448231, etc.

5.6. Further, plaintiff’s trademarks also have a tremendous goodwill and reputation in India due to its reputation build upon providing high quality, designer products. In order to protect its trademarks from misuse by the third parties, plaintiff has acquired various orders from this Court, wherein, the Courts have recognised the well-known status of the plaintiff’s marks.

5.7. Defendant nos. 7 and 8 are shops/stalls located in Gaffar Market, Karol Bagh, where infringing products bearing the plaintiff’s registered trademarks were found during the local commissions

conducted by the Court appointed Local Commissioners, between the period of 01st August, 2017 to 30th September, 2017.

- 5.8. There is no plausible reason for the adoption and use of the plaintiff's registered trademarks i.e., "LOUIS VUITTON" (wordmark), the "LV" logo, "the Toile monogram pattern", "the Damier pattern" and "the LV Flower patterns" and therefore, such activities of the defendants, amount to infringement of the plaintiff's statutory rights over the said trademarks.
- 5.9. The said action of the defendants is only to ride on the tremendous goodwill of the plaintiff and capitalizing on the strength of the international reputation enjoyed by the plaintiff.
- 5.10. Furthermore, the activities undertaken by the defendants are likely to cause confusion among the consumers regarding the source of the products and thereby, resulting in loss of business, sale, image, reputation and clientele of the plaintiff.
6. I have heard learned counsel for plaintiff and have perused the evidence and documents, placed on record.
7. It is noted that by order dated 01st August, 2017, this Court in I.A. 8687/2017, had passed an *ex-parte ad interim* injunction in favour of the plaintiff and against the defendants restraining them from manufacturing, selling and/or offering for sale, advertising, directly or indirectly dealing in wallets, handbags, purses, belts and other goods etc., bearing the trademarks of the plaintiff or any deceptively variant thereof, amounting to infringement of plaintiff's trademarks, copyright and passing off.
8. Further, *vide* order dated 08th August, 2024, this Court noted that defendant nos. 1, 4, 5, 6, 9, 10 and 14, had arrived upon a settlement before

the Delhi High Court Mediation and Conciliation Centre *vide* Settlement Agreement dated 25th April, 2024, and ordered that decree be drawn in favour of the plaintiff and against the said defendants.

9. This Court notes that the defendant nos. 7 and 8, despite being duly served, have neither entered any appearance nor filed their written statement. Consequently, the right of defendant no. 7 to file a written statement was closed *vide* order dated 16th August, 2022, and the right of defendant no. 8 was closed *vide* order dated 10th July, 2018.

10. Consequently, it is clear that no defence has been raised on behalf of defendant nos. 7 and 8.

11. Attention of this Court has been drawn to the order dated 15th February, 2023, wherein, this Court had expressly proceeded against defendant nos. 7 and 8 *ex-parte*. The relevant portion of the said order dated 15th February, 2023, passed by this Court, is extracted herein below:

“xxx xxx xxx

2. As per the order dated 22nd November, 2022 of the Joint Registrar, rights of the defendants no.7, 8, 9 and 10 to file written statements has already been closed. Further, counsels appearing on behalf of the defendants no. 11 and 13 have been discharged and the Court Notice issued to the said defendants has returned unserved.

3. Accordingly, the defendants no.7, 8, 9, 10, 11 and 13 are proceeded against ex parte.

xxx xxx xxx”

(Emphasis Supplied)

12. Thus, the submissions of the plaintiff regarding the infringing activities carried out by defendant nos. 7 and 8, stand established and the claims of the plaintiff remain unrebutted.

13. Accordingly, this Court proceeds against the defendant nos. 7 and 8, under Order VIII Rule 10 of the CPC.

14. At this stage, it is pertinent to note that this Court *vide* order dated 01st August, 2017, had also appointed four Local Commissioners, in furtherance of which, the said Local Commissioners had identified and seized large number of infringing goods from the premises of the defendants. In view of the quantity of infringing goods seized by the Local Commissioners, this Court, *vide* order dated 05th December, 2017, had confirmed the said interim order till the disposal of the suit.

15. Further, the quantity of infringing goods identified and sealed by the fourth Local Commissioner, as recorded in its Report dated 05th December, 2017, from the premises of defendant nos. 7 and 8, is evident from the following chart:

S.No.	Shop Name/ No.	Person Concerned/ Defendant No.	Number of Counterfeit Louis Vuitton Products seized
1	Shop No. 39B, Gaffar Market, Karol Bagh, New Delhi	Mr. Rajiv, son of Mr. Pritam Singh, R/o 540, Jatons Wale Mohalla, Badli Gaon, New Delhi (Mobile No. 9654600949) - Defendant no. 7	14
2	Shop No. 39C, Gaffar Market, Karol Bagh, New Delhi	Mr. Rachit Madan, S/o Mr. Krishan Ji Madan, R/o 21/5, West Patel Nagar, New Delhi. - Defendant no. 8	16

16. Perusal of the aforesaid, manifests that during the execution of the Local Commission, 14 infringing products, including, ladies' purse,

handbags, sunglasses etc., were discovered from the premises of defendant no. 7, i.e., Shop no. 39B. Similarly, 16 infringing products, including, belts, ladies' wallets trolley bags, etc. bearing similar mark to the plaintiff's trademark, i.e., "LOUIS VUITTON" (wordmark), the "LV" logo, "the Toile monogram pattern", "the Damier pattern" and "the LV Flower patterns", were discovered from the premises of defendant no. 8, i.e., Shop no. 39C.

17. After perusal of the aforesaid facts and documents on record, it is clear that defendant nos. 7 and 8 are in the business of unauthorised selling of the counterfeit products under multiple registered trademarks of the plaintiff, i.e., "LOUIS VUITTON" (word mark), the "LV" logo, "the Toile monogram pattern", "the Damier pattern" and "the LV Flower patterns".

18. Additionally, in the absence of any written statement or appearance, no defence has been put forth by the defendant nos. 7 and 8. The presence of the goods bearing the mark of the plaintiff has not been explained by the defendant nos. 7 and 8.

19. This Court in the case of *Sandisk LLC and Another Versus Laxmi Mobiles and Others*, 2023 SCC OnLine Del 432, has held that where no written statement has been filed by the defendants, the Court is empowered to pass a judgement by placing reliance on the Report of the Local Commissioner, as evidence. Thus, it has been held as follows:

"xxx xxx xxx"

17. Since there is no written statement on behalf of Defendants, despite service of summons, this Court is empowered to pass a judgment in terms of Order VIII Rule 10 of Civil Procedure Code, 1908. The report of the Local Commissioner can be read in evidence in terms of Order XXVI Rule 10(2) of CPC. [See: ML Brother LLP v. Maheshkumar Bhuralal Tanna]. Therefore, in light of the Reports of Local Commissioners, and evidence collected by them, as well as non-filing of written statements, this Court is of the opinion

that no ex parte evidence is required to be led. This view is supported by decisions of this Court in *Disney Enterprises Inc. v. Balraj Muttneja*, and *Cross Fit LLC v. RTB Gym and Fitness Centre*. As regards claim of damages, this Court is convinced that this is not a case of innocent adoption, and Defendants' conduct invites the award of damages. Taking a reasonable assessment of the volume of seizure made, nature of counterfeiting indulged into by Defendants, in the opinion of the Court, Plaintiffs are entitled to nominal damages, purpose of which has been laid out in the judgment of this Court in *Indian Performing Right Society v. Debashis Patnaik*.

xxx xxx xxx”

(Emphasis Supplied)

20. It is also pertinent to note that, through extensive use and global recognition, the plaintiff has acquired the status of well-known mark worldwide. The well-known status of the plaintiff's marks has also been recognized and affirmed by this Court on multiple occasions, the relevant excerpts of which, are reproduced, herein below:

I. This Court, in *Louis Vuitton Malletier Versus Abdul Salim and Others, 2009 SCC OnLine Del 1312*, vide judgement dated 06th May, 2009, had observed that:

“xxx xxx xxx

6. The marks of the plaintiff are undoubtedly well known, transcending borders and known/recognized by all who are connoisseur of such goods. The defendants No. 1 & 2 are proved to be illegally importing counterfeit goods of the plaintiff and infringing the registered trademarks/logo/monogram of the plaintiff. The defendants are not entitled to do so and the plaintiff is entitled to a decree for permanent injunction in terms of para 28 (a) & (b) of the plaint. Though the plaintiff had as aforesaid claimed interim order of delivery against the defendant No. 3 but vide ex parte order dated 17th January, 2006 only the defendants No. 1 & 2 were restrained from importing the counterfeit goods or from infringing the registered trademarks/logo/monogram of the plaintiff and from passing off their goods as that of the plaintiff. If the goods seized by the defendant No. 3 and found to be counterfeit goods of the plaintiff are still in existence, the defendant No. 3 is also directed to deliver the same to the plaintiff who shall be entitled to destroy the same. The actions of

the defendants No. 1 & 2 are also found to have caused damage to the plaintiff. The defendants by remaining ex parte cannot avoid liability in damages. However the plaintiff having not proved the length of time for which the defendants No. 1 & 2 have been carrying on the said business of selling counterfeit goods of the plaintiff and the volume of the said trade of the defendants No. 1 & 2, nominal damages in the sum of Rs. 2 lacs are awarded to the plaintiff. A decree for damages in the said amount is passed in favour of the plaintiff and against the defendants No. 1 & 2 jointly and severally. Decree sheet be drawn up.

xxx xxx xx”

(Emphasis Supplied)

- II. Further, in ***Louis Vuitton Malletier Versus Arif Khatri and Another, CS(OS) No. 270/2014***, this Court while granting permanent injunction, vide order dated 31st March, 2014, had stated as under:

“xxx xxx xxx

7. Having regard to the averments made in the plaint, I am satisfied that the plaintiff has been able to establish its case for grant of permanent injunction and declaration that the plaintiff’s trademark „LOUIS VUITTON”, LV logo and Toile Monogram is a well known trademark. The sale figures the trans-border reputation of the plaintiff and also taking into consideration that the brand of the plaintiff was established as far as in the year 1854 and thereafter, the brand has been successful all over the world, it leaves no room for doubt that the brand of the plaintiff (LOUIS VUITTON) can be declared as a well-known brand in terms of Section 11(6) of the Trademarks Act, 1999.

xxx xxx xxx”

(Emphasis Supplied)

- III. Moreover, in ***Louis Vuitton Malletier Versus Manoj Khurana and Ors., 2015 SCC OnLine Del 11683***, this Court had observed that:

“xxx xxx xxx

17. The trademarks exclusively associated with the plaintiff, including the “LV” logo, the Toile Monogram and the Damier pattern are well-known throughout the world. The Damier pattern is in fact registered under No. 861145 in class 25 as evidenced from Annexure – A of the plaint and the trademark registration certificate dated 5th August, 2015.

18. In view of the above averments made in the plaint and material placed on record, it is clear that even in India LV logo, the Toile

Monogram and the Damier pattern are well-known mark under Section 11(6) of the Trademarks Act, 1999.

xxx xxx xxx”

(Emphasis Supplied)

21. Thus, in light of the well-established status of the plaintiff's trademark as well-known marks, coupled with their adoption, extensive advertising, sales and continuous and uninterrupted use, the said trademarks have acquired distinctiveness and serve as a source for the plaintiff's products. Therefore, any unauthorized use of the plaintiff's marks, or any other mark, similar to the plaintiff's mark, by any entity, is likely to cause confusion as to source of origin of the goods.

22. Apart from the aforesaid, the *malafide* intent of defendant nos. 7 and 8, is evident from their infringing activity of selling counterfeit products bearing the plaintiff's trademark with the sole objective of capitalizing on the immense goodwill and brand image enjoyed by the plaintiff.

23. Considering the submissions made before this Court and the Report of the Local Commissioner dated 05th December, 2017, this Court finds that defendant nos. 7 and 8 have infringed plaintiff's trademarks by selling counterfeit products and, therefore, the plaintiff is entitled to decree in its favour. Further, considering the submissions made before this Court, the plaintiff is also entitled to costs.

24. In view of the aforesaid, it is directed as follows:

- I. The suit is decreed in favour of the plaintiff and against defendant nos. 7 and 8 in terms of paragraph 60 (i) to (iii) of the amended plaint.
- II. Defendant no. 7 shall pay cost of ₹ 20,000/- to the plaintiff and defendant no. 8 shall pay cost of ₹ 22,000/- to the plaintiff.

25. Let decree sheet be drawn up.

I.A. 13438/2023

26. During the course of hearing, it transpired that defendant no. 2 has already expired, as recorded on 01st February, 2018.

27. Learned counsel appearing for the plaintiff submits that inadvertently steps were not taken to bring on record the Legal Representatives of defendant no. 2. He submits that the plaintiff wishes to continue the case against the Legal Representatives of defendant no. 2, as substantive goods were discovered during the execution of the Local Commission.

28. List for hearing of I.A. 13438/2023, on 15th May, 2025.

MINI PUSHKARNA, J

MARCH 10, 2025/kr

Corrected & Released on:
26th March, 2025

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