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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 874/2022 & I.A. 21457/2022, I.A. 21458/2022, I.A. 21459/2022, I.A. 21462/2022

LOUIS VUITTON MALLETIER Plaintiff
Through: Mr. Anirudha Valsangkar, Ms.
Rishika Aggarwal and Mr. Abhilash Gupta,
Advs.

versus

WWW.HAUTE24.COM & ORS. Defendants
Through: None

CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR

% **ORDER**
16.12.2022

I.A. 21458/2022, I.A. 21459/2022

1. Exemption allowed subject to all just exceptions.

CS(COMM) 874/2022 & I.A. 21457/2022

2. The plaintiff Louis Vuitton Malletier claims to be the owner of a high end luxury brand under which luxury and designer goods are manufactured and sold by it. The plaintiff asserts that the plaintiff maintains a website <https://louisvuitton.com>, which displays the line of products of the plaintiff which are available for sale. In order to advertise these products, world renowned photographers and high end fashion models are hired on contract by the plaintiff. The photographs used for advertisement on the website, therefore, qualify as “artistic works” within the meaning of Section 2(c) of the Copyrights Act, 1957. Inasmuch as

these photographs have been taken at the instance of the plaintiff and by persons commissioned by the plaintiff to do so, and are used by the plaintiff to advertise its products, the plaintiff claims to be the owner of the copyright in all such photographs.

3. There are only three stores authorised to sell the plaintiff's product in India, out of which there is only one store in Delhi. The plaintiff's products are sold online on the websites www.louisvuitton.com and www.24s.com.

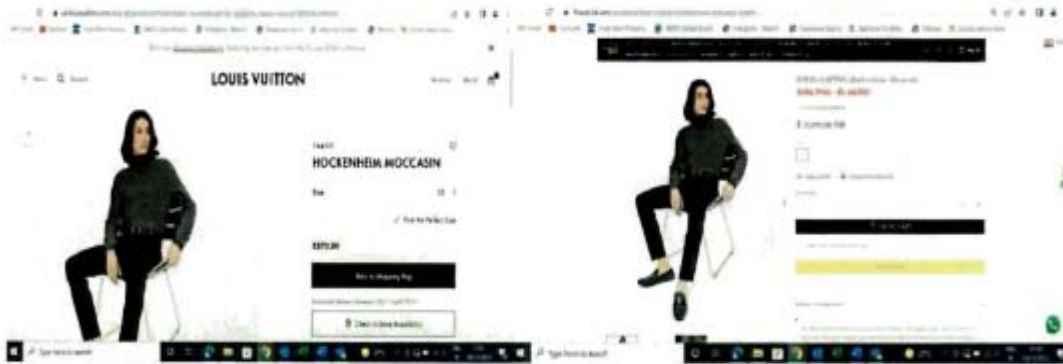
4. Various other assertions are contained in the plaint, intended to emphasise the standing of the plaintiff worldwide as a luxury brand.

5. The provocation for filing the present suit is stated to be the discovery by the plaintiff of the fact, sometime in January 2022 and again in November 2022, of copyrighted photographs of the plaintiff being misused by Defendants 1 and 2 to sell their products, on the website www.haute24.com. A comparative tabular depiction of the plaintiff's and defendants' photographs, which indicate *prima facie* that the Defendants 1 and 2 have made use of the copyrighted material of the plaintiff, is provided in para 20 of the plaint, thus:

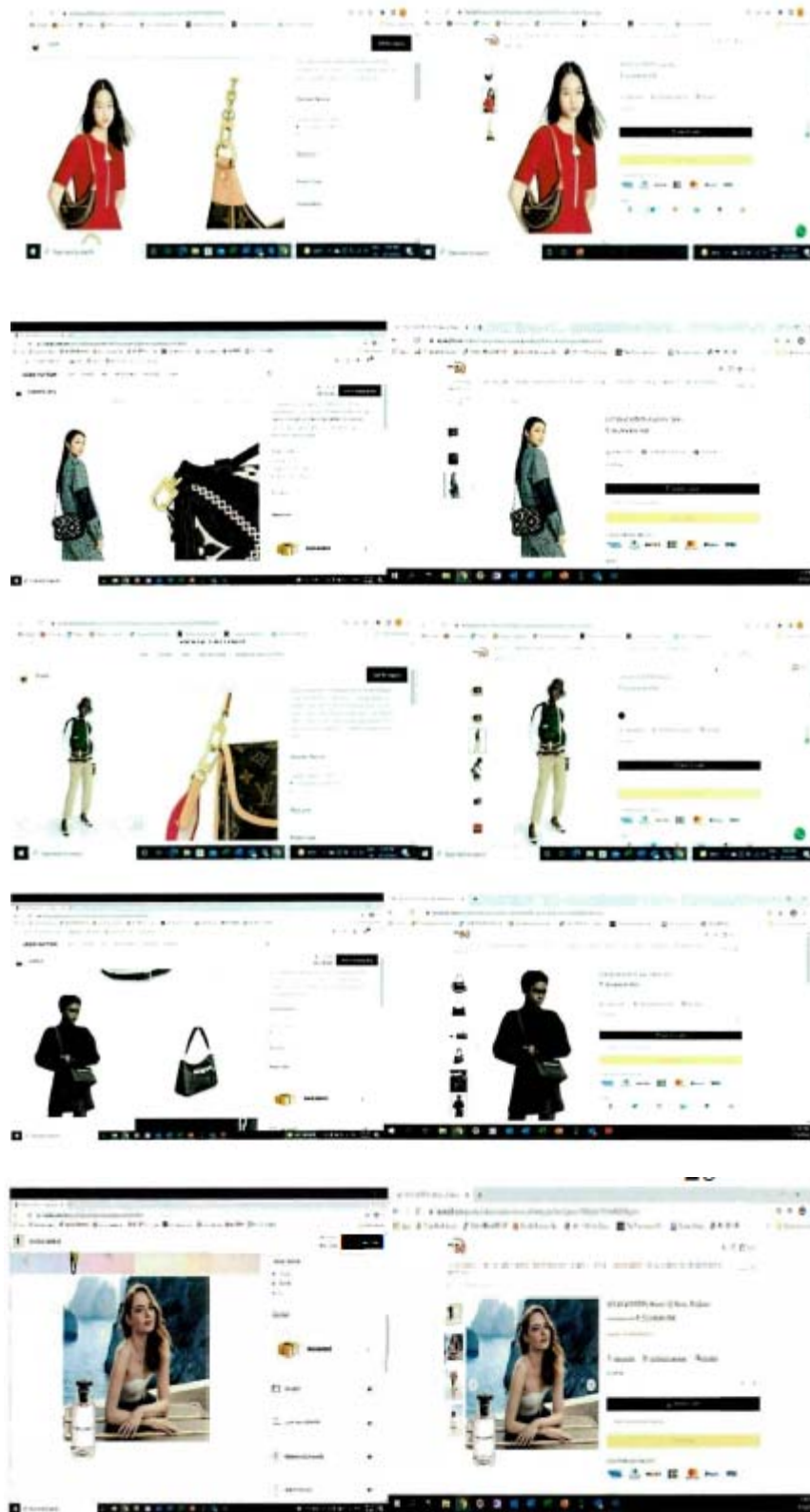
PLAINTIFF'S PHOTOGRAPH	DEFENDANT NOS.1 AND 2'S
	INFRINGING PHOTOGRAPHS

Photographs discovered in November, 2022





Photographs discovered in January, 2022



6. The plaint, therefore, alleges that Defendants 1 and 2 have copied the plaintiff's photographs and have, therefore, infringed its copyright without its permission. It is further asserted that Defendants 1 and 2 do not have any commercial relationship with the plaintiff or any authorisation from the plaintiff to use or publish the aforesaid photographs. The alleged unlicensed use of the plaintiff's photographs, therefore, asserts the plaint, amounts to infringement of the copyright of the plaintiff in the said photographs.

7. In that view of the matter, the plaint seeks a degree of permanent injunction against the Defendants 1 and 2 and their agents, servants, etc. from reproducing, copying or publishing, via the website www.haute24.com or through any other medium, the allegedly infringing photographs or any other work which would infringe the plaintiff's copyright. Additionally, mandatory injunction to the concerned authorities, to block the website of the Defendants which contains the infringing photographs is also sought, apart from damages and costs.

8. I.A. 21457/2022 seeks interlocutory reliefs. The prayer clause in the application reads as under:

“8. The Plaintiff accordingly prays that, pending the hearing and final disposal of this suit, this Hon'ble Court may be pleased to grant an order of interim injunction:

a) Restraining Defendant Nos. 1 and 2, and all those acting on their behalf, from reproducing, using or otherwise copying, issuing to public, publishing *via* the website resolving at www.haute24.com or any other medium, infringing photographs as annexed in Documents A and B or any other copyrightable work belonging to the Plaintiff amounting to copyright infringement;

b) Directing Defendant No. 3 and all those acting on their behalf, to disclose the name and contact details of the registrant of www.haute24.com and block access to www.haute.com till the Infringing Photographs are removed from the Impugned website.

c) For ad-interim relief in terms of prayers (a) to (b) above.

d) Any further or other orders in favor of the Plaintiff and against the Defendants this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.”

9. The plaintiff has made out a clear *prima facie* case of copyright infringement. As such, it would be entitled to *ex parte ad interim* relief so that such infringement does not continue.

10. Accordingly, let the plaint be registered as a suit. Issue summons in the suit. Written statement, accompanied by affidavit of admission and denial of the documents filed by the plaintiff, be filed within four weeks, with advance copy to learned Counsel for the plaintiff who may file replication thereto, written statement, accompanied by affidavit of admission and denial of the documents filed by the defendants, be filed within four weeks thereof.

11. List before the learned Joint Registrar (Judicial) for completion of the pleadings including admission and denial of documents and marking of exhibits on 6th February 2023.

I.A. 21457/2022 (under Order XXXIX Rules 1 & 2 for *ex parte ad interim injunction*)

- 12.** Issue notice returnable before the Court on 9th March 2023.
- 13.** Reply in the application be filed within a period of four weeks with advance copy to learned Counsel for the plaintiff/applicant, who may file rejoinder thereto, if any, within a period of four weeks thereof.
- 14.** Till the next date of hearing, Defendants 1 and 2 and all their agents, servants, etc. are enjoined from copying, issuing to the public or publishing, on their website www.haute24.com or through any other medium, the allegedly infringing photographs enlisted in Documents A and B filed with the plaint, which shall constitute annexures to this order. Defendant 3, which is the domain name registrar of the domain name www.haute24.com is directed immediately and forthwith block access to the said website and also to provide the BIS details of the registrant of the said website so that he could be impleaded in these proceedings, in its reply affidavit.

I.A. 21458/2022 (*u/s. 151 seeking exemption from serving advance suit papers on defendant*)

- 15.** For the reasons stated in the application, the requirement of advance service of notice on the defendants is dispensed with. The application is allowed accordingly.

I.A. 21459/2022 (*u/s. 151 seeking exemption from filing clear copies*)

- 16.** Subject to the plaintiff filing legible copies of any dim or illegible documents on which it may seek to place reliance within four weeks

from today, exemption is granted for the present. The application is disposed of.

I.A. 21462/2022 (*under Order XI Rule 1(4) seeking leave to rely on additional documents*)

17. This is an application seeking permission to the plaintiff to file additional documents within 30 days.

18. The plaintiff is permitted to do so in accordance with the protocol envisaged in Order XI Rule 1(4) of the Code of Civil Procedure, 1908 (CPC) as amended by the Commercial Courts Act. This application stands allowed accordingly.

C. HARI SHANKAR, J.

DECEMBER 16, 2022/AR