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

+ **CS(COMM) 904/2023 & I.A. No. 25597/2023**

TM 25 HOLDING BV

.....Plaintiff

Through: Mr. Pravin Anand with Mr. Saif Khan, Mr. Shobhit Agarwal and Mr. Prajwal Kushwaha, Advocates.
(M): 7791065506

versus

AKHTAR ALI & ORS.

.....Defendants

Through: Mr. Nitin Mehta with Mr. Arpit Rawat, Advocates for defendant no. 1.

**CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA**

% **ORDER**
19.02.2025

MINI PUSHKARNA, J (ORAL)

1. The present suit has been filed seeking permanent injunction against the defendants from dealing in any manner, in any goods bearing plaintiff's registered 'G-STAR' trademarks, and/ or any similar trade mark amounting to infringement of registered trademarks of the plaintiff.
2. It is noted that all the defendants in the present suit, i.e., defendant nos. 1 to 6, have been proceeded *ex parte*. No written statement has come to be filed on behalf of any of the defendants, despite lapse of statutory period.
3. The facts, as canvassed in the plaint, are as follows:



3.1 The plaintiff, TM 25 Holding BV, is a company incorporated under the laws of Netherlands and is a part of the G-Star Group of Companies (“G-Star RAW”). Founded in the year 1989, the plaintiff is engaged in the business of fashion, design and marketing of jeans, tops and other clothing including luxury accessories.

3.2 The business was initially established under the brand GAPSTAR, which was rebranded as G-STAR in 1994. Since 1996, the plaintiff has continuously and uninterruptedly used its G-Star marks on its products. From 2002, the G-STAR name and logo became integral to its collections and international advertising campaigns. Variations of these trademarks include G-Star, G-Star RAW, RAW, G-RAW, and RAW Denim 3301. The said marks both in word form and logo form are reproduced as under:



3.3 These coined marks have no ordinary meaning and are exclusively associated with the plaintiff’s products. The word ‘STAR’ is an essential feature of the mark, particularly when used as ‘G-STAR’. The logo, labels, and distinctive typeface were developed in-house, making them unique and proprietary to the plaintiff.

3.4 The plaintiff is the registered proprietor of the G-STAR marks under the Trade Marks Act, 1999, and holds statutory rights in the following trademarks:



Trademark	No.	Classes	Status
G-STAR	640597	25	Registered
	654628	03	Registered
	654629	18	Registered
	654630	25	Registered
G-Star	1603526	9, 41	Registered
	1708619	18, 25 & 35	Registered
G-STAR RAW	2292047	03, 09, 14, 18, 25 & 35	Registered
	2292048	18, 25 & 35	Registered
	2292045	18 & 25	Registered

3.5 In addition, the plaintiff also holds statutory rights in multiple international jurisdictions, including, the European Union, United States, United Kingdom, Canada, China, Japan, and several others. These registrations underscore the brand's global recognition and extensive reach.

3.6 Beyond serving as a source identifier, the plaintiff's logo marks are original artistic works under the Copyright Act, 1957, having been uniquely designed and developed in-house. Created exclusively for the plaintiff in a distinctive script and typeface, these marks are proprietary. As the lawful owner, the plaintiff holds exclusive rights over their reproduction, communication, and replication, with the stylistic arrangement, colour schemes, and layout further reinforcing its ownership.

3.7 During a market survey conducted between September-November 2023, the plaintiff discovered the defendants' infringing activities. The defendants, comprising of defendant no. 1, identified as the manufacturer of



counterfeit garments bearing the plaintiff's registered trademarks, and defendants no. 2 to 5, who are wholesalers engaged in the distribution of these counterfeit goods. These defendants were found not only dealing in infringing products, but also supplying them to various shops and outlets, facilitating unauthorized sales to the public.

3.8 By engaging in such activities, the defendants actively encourage and aid third parties in dealing with goods that infringe the plaintiff's registered trademarks, causing significant commercial and reputational harm to the plaintiff. Hence, the present suit came to be filed.

4. This Court notes that *vide* order dated 19th December, 2023, an *ex parte ad interim* order was passed restraining the defendants from dealing in any goods bearing the plaintiff's registered trademark, including, the GSTAR, 'G-STAR', 'GSTAR RAW' (word/logo) or any other similar mark.

5. Further, three Local Commissioners were also appointed on the said date to visit the premises of defendant nos.1 to 5. The local commissions were executed on 23rd December, 2023, whereafter, the learned Local Commissioners filed their reports.

6. The relevant extracts of the Local Commissioner Report dated 28th December, 2023, with respect to the premises of defendant no.1 located at, *D-16, Islampur Road, Jaitpur Extension, Part-I, Badarpur, New Delhi-110044*, is reproduced as under:

“xxx xxx xxx

6) That thereafter, Mr. Akhtar Ali i.e. defendant no. 1 who introduced himself as the owner M/s Ruby Enterprises, was made aware of the said order and the purpose of our visit to his premise. On understanding the contents of the order, he said he has no objection in us inspecting his premise. Accordingly, we started searching for the impugned products of G-Star and G-Star Raw and the helper from the office of counsel for plaintiff started video recording the entire



premises of defendant no. 1. During the search we found some finished cargo pants pertaining to G-Star and number of labels pertaining to the said brand. The photographs of all the products with the tags/label of GStar and G-Star Raw which were found on the premise of defendant no. 1 were captured by the said helper from the office of counsel for plaintiff. The pen drive containing photographs taken at the premise of defendant no. 1 as well as video recording of entire proceedings is being filed in original along with my report as ANNEXURE LC-6. The said inspection was carried out in the presence of defendant no. 1 in the said premise. The copy of photographs taken at the premise of defendant no. 1 is annexed herewith as ANNEXURE LC-7 (COLLY.).

xxx xxx xxx

8) That thereafter, I prepared the inventory (ANNEXURE LC-4) of all the products found on the premises of defendant no. 1 belonging to the plaintiff company, as identified by the counsel for the plaintiff company. The said list of inventory was signed by all, namely, Mr. Rahul Vats, counsel for the plaintiff, Mr. Akhtar Ali, owner of defendant no. 1 company, and myself. Accordingly, the said products were sealed by me in Bags 1 to 3, containing cargo pants (90 pieces) in Bag 1, cargo pants (66 pieces) in Bag 2, Card board Tags/Labels (846 pieces), and Cloth Labels/Tags (1155 pieces) in Bag 3. The said list of inventory is filed in original along with my report as ANNEXURE LC-4.

xxx xxx xxx

11) That as per the directions given in Para no. 33 (i) of the order dated 19.12.2023 of this Hon'ble Court to seize any equipment in the premise intended to manufacture the infringing goods. During the inspection we found 37 sewing machines which were being used to manufacture the impugned goods as mentioned in the inventory at the premise of defendant no. 1. The said sewing machines could not be seized as it was not practically possible to seize them therefore, I symbolically seized those machines and specifically directed the defendant no. 1 not to use them without the permission of this Hon'ble court.

12) That the goods mentioned in the inventory were sealed with the brown tape bearing my signatures on them. I have sealed the above mentioned materials in three different bags. Bag 1 contains 90 pieces of cargo pants, Bag 2 contains 66 pieces of cargo pants and Bag 3 contains all types of labels in total 2001 pieces.

xxx xxx xxx”

(Emphasis Supplied)

7. The relevant extracts of the Local Commissioner Report dated 28th



December, 2023, with respect to the premises of defendant no. 2 located at, *M/s Shivam Fashion, G/F-9/501, Plot No. 345, Subhash Road, Gandhi Nagar*, is reproduced as under:

“xxx xxx xxx

6. The premises were duly inspected and searched and the undersigned found that the owner was in possession of the Jeans Pants with word/logo ‘G-STAR’ and the word/logo ‘G-STAR RAW’. The undersigned was helped by the counsel of Plaintiff in identifying the infringing goods and the staff helped the undersigned in seizing the goods and storing in gunny bags. **That, it is pertinent to mention that the undersigned was able to find 102 pcs of infringing goods with word/logo ‘G-STAR’ and word/logo ‘G-STAR RAW’ which were found at the said premises,** however there was no other equipment of material used for manufacture of the impugned mark etc. was found. That the undersigned duly prepared the Inventory of the goods seized sealed the same in gunny bags and the same was acknowledged by the owner of the shop. That the handwritten Inventory Report is attached herewith as **Annexure 2**.

xxx xxx xxx”

8. Local Commission was also executed at the premises of defendant no. 4. The relevant extract from the report of the Local Commissioner dated 28th December, 2023, with respect to the premises of defendant no. 4, i.e., *M/s Guru Kirpa Creations, Shop No. 9/467, Subhash Road, Tikona Park, Gandhi Nagar, Delhi-110031*, is reproduced as under:

“xxx xxx xxx

7. The premises were duly inspected and searched and the undersigned found that the owner was in possession of the Jeans Pants with word/logo ‘G-STAR’ or the word/logo ‘G-STAR RAW’. The undersigned was helped by the counsel of Plaintiff in identifying the infringing goods and the staff helped the undersigned in seizing the goods and storing in gunny bags. **That, it is pertinent to mention that the undersigned was able to find 29 pcs of infringing goods with word/logo ‘G-STAR’ and word/logo ‘G-STAR RAW’ which were found at the said premises,** however there was no other equipment of material used for manufacture of the impugned mark etc. was found. That the undersigned duly prepared the Inventory of the goods seized sealed the same in gunny bags and the same was acknowledged by the



*Manager of the shop. That the handwritten Inventory Report is attached herewith as **Annexure 2**.*

xxx xxx xxx”

(Emphasis Supplied)

9. The relevant extracts of the Local Commissioner Report dated 05th January, 2024 with respect to the premises of defendant nos. 3 and 5 located at, *M/s JMK Shirts at 9/7015 Ashok Gali, Gandhi Nagar Delhi*, and, *Leibro Jeans at 9/7002 Prem Gali, Ashok Gali, Gandhi Nagar, Delhi* respectively, is reproduced as under:

“xxx xxx xxx

*2. That the undersigned reached the Police Station Gandhi Nagar, Delhi on 23.12.2023 at 10.45am and after taking the police personnel i.e. HC Shri Farman Ali along with the counsel of the plaintiff namely Mr. Shobhit Aggarwal, visited the shop of the Defendant No. 3 i.e. M/s. JMK Shirts at 9/7015 Ashok Gali, Gandhi Nagar Delhi, at around 12 noon. The undersigned met Mr. Gaurav Chauhan, proprietor of the shop. **On searching the premises, the undersigned found 14 (fourteen) shirts bearing mark "RAW"**. The infringed products were sealed in a plastic packet and handed over to Mr. Gaurav Chauhan, proprietor of the shop on superdari vide superdarinama. The undersigned did not find any goods or material bearing mark G-STAR or G-STAR RAW or any equipment or other items in the premises intended for the manufacture of the infringing logo or marks or for goods on which the infringing marks are to be affixed. The undersigned also checked the bill books of the said shop and found no such traces of trade/deal with respect to the goods bearing the impugned marks in any manner. The undersigned asked Mr. Gaurav Chauhan to provide financial records, documents, purchase order, stock statement etc. but he informed that there are no such things maintained in the shop. During the search, the undersigned did not find anything except the bill book. Photographs of the infringed goods, sealed packet, bill book and aadhar card of Mr. Gaurav are duly taken. The undersigned also prepared attendance sheet and taken the signatures of the parties present during the commission proceedings. Execution proceedings were concluded at about 1p.m.*

3. That thereafter, the undersigned along with the counsel for the plaintiff namely Mr. Karan Bhutani and HC Baldev, visited the shop of the Defendant No. 5, i.e. Leibro Jeans at 9/7002 Prem Gali, Ashok Gali, Gandhi Nagar Delhi. The undersigned met Mr. Shabab Alam,



who introduced himself as owner of the said shop. **The undersigned inspected the premises but did not find any infringed goods in the said shop.** The undersigned also inspected the bill book of the shop but there are no such traces of the trade/deal in respect of the infringed goods found. The undersigned asked Mr. Shabab Alam to provide financial records, documents, purchase order, stock statement etc. but he informed that there are no such things maintained in the shop. Photograph of the shop and the products being sold were duly taken. All the parties present during the commission, signed the spot proceeding report. The counsel for the plaintiff complied with the provisions of Order 39 Rule 3 of the CPC. The execution proceedings were concluded at about 1.30p.m.

xxx xxx xxx”

(Emphasis Supplied)

10. The relevant extract of the Local Commissioner Report dated 28th January, 2024 with respect to the premises of defendant no. 6 located at, M/s Vanshika Traders, IX/7296, Corner Mahavir Gali, Main Gandhi Road, Gandhi Nagar, Delhi 110031, is reproduced as under:

“xxx xxx xxx

6. The premises were duly inspected and searched and the undersigned found that the owner was in possession of the Jeans Pants with word/logo 'G-STAR' and the word/logo 'G-STAR RAW'. The undersigned was helped by the counsel of Plaintiff in identifying the infringing goods and the staff helped the undersigned in seizing the goods and storing in gunny bags. **That, it is pertinent to mention that the undersigned was able to find 154 pcs of infringing goods with word/logo 'G-STAR' and word/logo 'G-STAR RAW' which were found at the said premises,** however there was no other equipment of material used for manufacture of the impugned mark etc. was found. That the undersigned duly prepared the Inventory of the goods seized sealed the same in gunny bags and the same was acknowledged by the owner of the shop. That the handwritten Inventory Report is attached herewith as **Annexure 2.**

xxx xxx xxx”

(Emphasis Supplied)

11. This Court notes that *vide* order dated 06th August, 2024, defendant nos. 1 to 5 were proceeded *ex parte* for failing to file their written statement despite multiple service of notice. Further, M/s Vanshika Traders was



impleaded as defendant no.6 on the same day, replacing the earlier John Doe defendant.

12. However, the newly impleaded defendant no.6 failed to appear and failed file its written statement within the statutory period. Thus, *vide* order dated 31st January, 2025, the defendant no.6 was also proceeded *ex parte*.

13. It is to be noted that statement of learned counsel appearing on behalf of defendant no. 2 has been recorded in the order dated 06th August, 2024, that defendant no. 2 has stopped the use of the words/logo ‘G-STAR’ and ‘G-STAR RAW’. The relevant portion of the said order is reproduced as under:

“xxx xxx xxx

3. Mr. Ajay Kumar Goyal, defendant no. 2, who appears in person, submits that he has stopped the use of the words/logo ‘G-STAR’ and ‘G-STAR RAW’. He submits that he had recently started the work, and was not aware about the registration in favour of the plaintiff.

xxx xxx xxx”

14. As noted above, all the defendants herein have been proceeded *ex parte* and have not been appearing as well. It is noted that defendant no. 2 had appeared in the matter that too only on three occasions, however, after 06th August, 2024, the said defendant stopped appearing. Appearance has been made on behalf of defendant no. 1 today. Thus, in the absence of any written statement on behalf of the defendants, this Court shall now proceed under Order VIII Rule 10 of CPC. In the absence of any written statement filed by the defendants, there is no credible defence raised by the defendants. Further, the reports of the Local Commissioners clearly bring forth the infringing activities of the defendants.

15. Accordingly, considering the facts and circumstances of the present case and the undertaking given on behalf of defendant no.2, the plaintiff is



entitled to decree of permanent injunction in its favour and against the defendants.

16. With respect to costs and damages, this Court observes that the defendants' adoption of the impugned marks cannot be deemed *bona fide* or honest. The defendants willfully infringed upon the plaintiff's trademarks and cannot claim ignorance of their prior existence or the established reputation associated with the plaintiff's registered trademark. The defendants have no plausible justification for adopting the plaintiff's trademarks, other than to ride upon the plaintiff's established reputation and goodwill.

17. This Court takes note of the recoveries which were made by the learned Local Commissioners from defendant nos. 1 to 6, which are as follows:

Sr. No.	Name of the Defendant	Goods seized during Local Commission on 23.12.2023	
1.	Defendant no. 1 – RUBY ENTERPRISES	G-Star branded Cargo Pants	156 pcs.
		G-Star branded Cardboard Tags	846 pcs.
		G-Star branded Cloth Tags	1155 pcs.
		TOTAL	2157 pcs.
2.	Defendant no. 2 – SHIVAM FASHION	G-Star branded Jeans	102 pcs.
		TOTAL	102 pcs.
3.	Defendant no. 3 – JMK SHIRTS	Shirts with the mark RAW	14 pcs.
		TOTAL	14 pcs.
4.	Defendant no. 4 – GURU KRIPA CREATIONS	G-Star branded Jeans	29 pcs.
		TOTAL	29 pcs.
5.	Defendant no. 5 – LEIBRO JEANS	None	None
6.	Defendant no. 6 – Vanshika Traders	G-Star branded Jeans	154 pcs.
		TOTAL	154 pcs.



18. Thus, taking into account the large quantity of infringing goods recovered by the learned Local Commissioners, and the submissions made before this Court, the plaintiff is entitled to cost and damages. Accordingly, the cost and damages payable by the defendants, shall be as follows:

S. No.	Defendant	Amount
1.	Defendant no. 1	₹4,00,000/-
2.	Defendant no. 2	₹1,00,000/-
3.	Defendant no. 3	₹10,000/-
4.	Defendant no. 4	₹10,000/-
5.	Defendant no. 5	Nil
6.	Defendant no. 6	₹2,00,000/-

19. In view thereof, the decree is passed in favour of the plaintiff and against the defendants in terms of para 66 (i), (ii), (iii) and (iv) of the plaint.

20. It is further directed that the infringing tags of the goods and other materials that were taken on *Superdari* by the learned Local Commissioners and returned to the respective defendants, shall be destroyed in the presence of the plaintiff or its representative.

21. It is clarified that in case, the products of the defendants can be used after destroying the infringing mark/label, the same can be used by the defendants after the destruction of the infringing label on the said products.

22. With respect to the products, where it is not possible to destroy the infringing logo/device, the same shall be handed over to the plaintiff/plaintiff's representative, who shall use the same for welfare purposes by donating the same to some NGO.



23. With the aforesaid directions, the present suit along with pending application stands disposed of.

FEBRUARY 19, 2025

MINI PUSHKARNA, J

Corrected & Released on: 13th March, 2025