

BY EMAIL & DoT website

Government of India
Ministry of Communications
Department of Telecommunications
Sanchar Bhawan, 20, Ashoka Road, New Delhi - 110 001
(Data Services Cell)

No. 813-07/LM-19/2024-DS-II

Dated: 27.05.2024

To,

All Internet Service Licensee

04.06.24

Subject: CS (COMM) No. 406/ 2024 Indian Hotels Company Limited Vs Sagar Wadhvani & Ors. Before Hon'ble Delhi High Court.

Kindly find the enclosed Hon'ble Delhi High Court order dated 16.05.2024 on the subject matter.

2. Please refer to the **para 23** of the said court order in respect of blocking of **websites** enumerated in the said para.

3. In view of the above, all the Internet Service licensees are hereby instructed to take immediate necessary action for blocking of the said website, as above, for compliance of the said court order.



Dir (DS-II)

Email: dirds2-dot@nic.in

Encl:A/A

Copy to:

- (i) Sh. V.Chinnasamy, Scientist E (chinnasamy.v@meity.gov.in), Electronics Niketan, Ministry of Electronics and Information Technology (MeitY) New Delhi for kind information and with request to take action as per **Annexure**.
- (ii) Shiv Mehrotra (shiv@fiduslawchambers.com) Plaintiff Advocate for kind information.
 - a) Take action as per Annexure.
- (iii) IT wing of DoT for uploading on DoT websites please.



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 406/2024**

THE INDIAN HOTELS COMPANY LIMITED Plaintiff

Through: Ms. Shwetasree Majumder, Mr. Prithvi Singh, Mr. Rohan Krishna Seth and Mr. Shiv Mehrotra, Advocates.

versus

SAGAR WADHWANI AND ORS. Defendants

Through: Mr. Piyush Beriwal, Mr. Kamal Deep and Mr. Nikhil Chaubey, Advocates for D-5 & 6.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
16.05.2024

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I.A. 11288/2024 (u/Section 12A of Commercial Courts Act, 2015 r/w Section 151 of CPC, 1908)

1. As the present suit contemplates urgent interim relief, in light of the judgment of Supreme Court in *Yamini Manohar v. T.K.D. Krithi*,¹ exemption from attempting pre-institution mediation is granted.
2. Disposed of.

I.A. 11289/2024 (seeking leave to file additional documents)

3. This is an application seeking leave to file additional documents under

¹ 2023 SCC OnLine SC 1382.



the Commercial Courts Act, 2015.

4. Applicant, if it wishes to file additional documents at a later stage, shall do so strictly as per the provisions of the said Act.

5. Accordingly, the application stands disposed of.

I.A. 11290/2024 (seeking exemption from serving Defendant No. 2)

6. For the grounds and reasons stated in the application, exemption is granted. Subject to all just exceptions.

7. The application is disposed of.

I.A. 11291/2024 (seeking exemptions from filing originals, clear copies and documents with proper margins)

8. Exemption is granted, subject to all just exceptions.

9. The Plaintiff shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.

10. Accordingly, the application stands disposed of.

I.A. 11292/2024 (seeking extension from filing court fees)

11. For the grounds and reasons stated therein, the application is allowed. Plaintiff is granted one week's time to file court fees.

12. The application is disposed of.

CS(COMM) 406/2024

13. Let the plaint be registered as a suit.

14. Issue summons. Summons are accepted by Mr. Piyush Beriwal, counsel for Defendant Nos. 5 & 6. He confirms the receipt of paperbook and waives his right of formal service of summons. Written statement(s) shall be filed on behalf of the said Defendants within 30 days from today. Upon



filing of process fee, issue summons to the remaining Defendants, by all permissible modes. Summons shall state that the written statement(s) shall be filed by the Defendants within 30 days from the date of receipt of summons. Along with the written statement(s), the Defendants shall also file an affidavit of admission/denial of the documents of the Plaintiff, without which the written statement(s) shall not be taken on record.



15. Liberty is given to the Plaintiff to file a replication(s) within 15 days of the receipt of the written statement(s). Along with the replication(s), 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.

16. List before the Joint Registrar for marking of exhibits on 21st August, 2024. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

17. List before Court for framing of issues thereafter.

I.A. 11287/2024 (u/Order XXXIX Rules 1 & 2 r/w Section 151 of CPC, 1908)

18. Ms. Shwetasree Majumder, counsel for Plaintiff, sets up the Plaintiff's case as follows:

18.1. The Plaintiff has filed the present suit seeking *inter-alia* permanent injunction restraining Defendants No.1-3 from using the tradename/trademark "GINGER TREE/", "Ginger Tree Goveia Suites," "Ginger Tree Boutique Hotel" and "" and/or any other



mark identical or deceptively similar to the Plaintiff's registered mark "GINGER" amounting to trademark infringement and passing off of the Plaintiff's mark.

18.2. The Plaintiff - Indian Hotels Company Limited, is part of the 'TATA group of Companies'. Plaintiff is engaged in the hospitality industry, managing a large portfolio of hotels, resorts, jungle safaris, palaces etc. under various brands, one of which is named "GINGER".

18.3. The Plaintiff is the registered proprietor of the GINGER trademarks details thereof are provided below²:

| S. No. | Trademark | Registration No. | Date of application/ registration | Class |
|--------|-----------|------------------|---|-------|
| 1. | | 1407317 | 19 th December 2005 | 43 |
| 2. | GINGER | 3727471 | 15 th January 2018 (user claim: 19 th December 2005) | 43 |
| 3. | | 3849551 | 1 st June 2018 | 43 |
| 4. | GINGER | 3858433 | 13 th June 2018 | 43 |
| 5. | | 3849552 | 1 st June 2018 | 43 |

The said marks are registered in respect of goods and services under class 43 (hotels, motels, inns; hotel, motel, restaurant, cafeteria, lounge, tea-room, concierge, lodging and bar services, hotel reservation services; hotel resort; computer services, namely providing on-line information in the field of hotel and restaurant services; provision of temporary accommodation; provision of facilities for meetings, conferences and exhibitions; consultancy services relating to hotels and restaurants; assistance in relation to trademark and brand administration in connection with hotel and restaurant activities.)

² Collectively referred to as Plaintiff's marks



Furthermore, the said marks have been exclusively and extensively used by the Plaintiff, and as such, the trademarks have acquired a distinctive character and are associated solely with the Plaintiff. Thus, the Plaintiff claims statutory as well as common law rights in its trademarks.

18.4. Plaintiff also owns a registered domain “gingerhotels.com” and operates a dedicated website “www.gingerhotels.com”, which extensively display the Plaintiff’s brand, trademarks and copyrights - in order to promote its hotels and services. The website facilitates online reservations of hotel rooms, dining and meeting/conference halls in the Plaintiff’s hotels, from any corner of the world. Plaintiff also operates various social media accounts for promoting its business.

18.5. Apart from the above, the Plaintiff’s hotels are authentically listed on several accommodation and travel booking websites such as “www.makemytrip.com”, “www.easemytrip.com”, “www.tripadvisor.in”, “www.goibibo.com”, “www.trivago.in”, “www.bookings.com”, “www.agoda.com”, etc.

18.6. Owing to the long and continuous use of the Plaintiff’s trademarks, as well as promotional and advertisement activities, Plaintiff has acquired goodwill and reputation in its brands and trademarks. This is reflected from its financial records, as per which, for the FY 2022-23, Plaintiff’s revenue amounted to more than INR 300 crores. Plaintiff has also received various awards as delineated in Paragraph No. 24 of plaint.

18.7. As on date the Plaintiff has set-up 62 GINGER HOTELS in 39 cities in India and 25 hotels are in the pipeline.

18.8. The Plaintiff’s grievance arose in April 2024, when it came across the property under the name of ‘Ginger Tree Boutique Resort’ in Anjuna, Goa



providing hospitality services under the mark ‘GINGER TREE’/



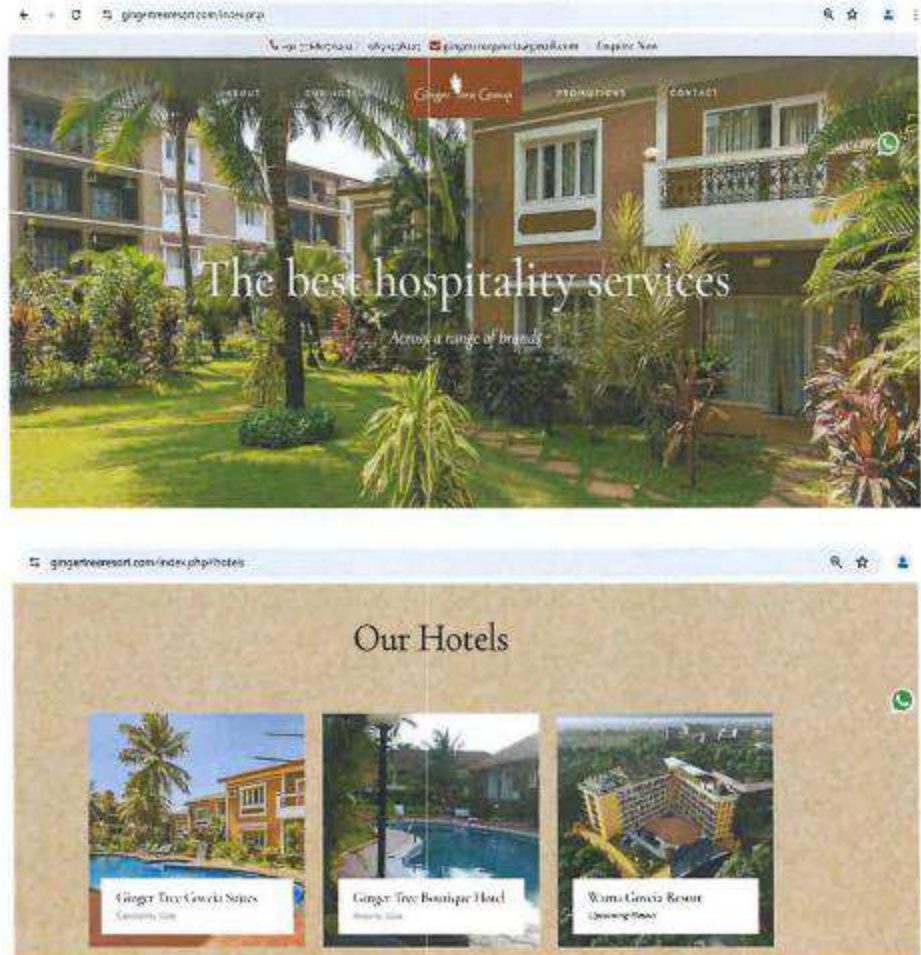
‘Ginger Tree’, which incorporates the Plaintiff’s trademark “GINGER” entirely. The photographs of the said property are as follows:



18.9. Upon conducting further search, the Plaintiff also discovered a website- www.gingertreeresort.com and noticed that the Defendant No.1-3 were operating two properties under the name ‘Ginger Tree Boutique



Resort’ in Anjuna (Goa) and ‘Ginger Tree Goveia Suites’ in Candolim (Goa). The screenshot of the Defendant No.1-3’ websites, is as follows:



18.10. Although the Defendant No.2 applied for the registration of the mark



‘Ginger Tree’, under application no. 4132242 in Class 43, however, the same has been refused.

18.11. Thus, Defendant Nos 1 to 3 are providing hospitality services from



their two properties under the names ‘Ginger Tree Boutique Resort’ in Anjuna (Goa) and ‘Ginger Tree Goveia Suites’ in Candolim (Goa), and in connection with these services, are using the marks “GINGER TREE/



”, “Ginger Tree Goveia Suites”, “Ginger Tree Boutique Hotel”, and



”,³

18.12. Upon further investigation into the Defendant No.1-3’s activities, the Plaintiff also found out that they have a social media presence on Facebook (under the page ‘Ginger Tree Boutique Resort, Anjuna’) and Instagram (under the name '@gingertreeboutique'). Defendant Nos.1-3’s Facebook and Instagram pages contain extensive use of the infringing marks as evident from the documents placed on record.

19. The Court has considered the above-noted submissions. Defendant



No.1-3’s marks ‘GINGER TREE’/ ‘



’, ‘Ginger Tree Goveia

Suites’, ‘Ginger Tree Boutique Hotel’, and wholly incorporate the Plaintiff’s registered mark “GINGER”. On a *prima-facie* view, the court finds that the infringing marks are phonetically, visually and structurally, deceptively similar to the Plaintiff’s mark “GINGER” thereby amounting trademark infringement. Furthermore, the use of the infringing marks in respect of the same class of services as that of the Plaintiff- i.e., the hospitality sector, has the potential of creating a false nexus, affiliation and association with the Plaintiff. Such action of Defendant Nos.1-3 has the

³ hereinafter, collectively referred to as the “infringing marks”.



potential of harming the Plaintiffs' reputation and goodwill by creating confusion in the minds of purchasing public regarding the source of the Defendant No1-3's services.

20. Considering the above, the Court finds that the Plaintiff has made out a *prima facie* case in his favour and in case no *ex-parte* ad-interim injunction is granted Plaintiff will suffer an irreparable loss; balance of convenience also lies in favour of the Plaintiff and against the Defendant Nos.1-3.

21. Accordingly, till the next date of hearing, Defendant Nos.1-3 or anybody acting on their behalf, are restrained from using marks "GINGER

TREE"/ , "Ginger Tree Goveia Suites", "Ginger Tree Boutique Hotel", and  or any other deceptively similar mark, either as a trademark, trade name, domain name, as part of their email addresses or in any other manner which amounts to trademark infringement and/ or passing off of the Plaintiff's marks.

22. Defendant No. 4 [Domain Name Registrar] is directed to block/ suspend access to the domain name gingertreeresort.com. They shall, within four weeks from today, file in a sealed cover, the complete KYC documents including payment details concerning the registrant of the aforesaid domain name. A copy of the said documents shall also be provided to counsel for Plaintiffs, which shall be strictly used by them for the purpose of investigation and identification of the perpetrators.

23. Defendants No. 5 and 6 [Ministry of Electronics and Information Technology and Department of Telecommunications, Ministry of



Communications and Information Technology, respectively] are directed to issue necessary directions to the telecom service providers and internet service providers to the block access to website <https://www.gingertreeresort.com/>.

24. Defendant No. 7 (Meta Platforms Inc.) is directed to block/remove the Facebook Page – “Ginger Tree Boutique Resort, Anjuna” and the Instagram Page – “gingertreeboutique” of the Defendants.

25. Issue notice. Mr. Piyush Beriwal, counsel for Defendant Nos. 5 & 6, accepts notice.

26. Issue notice to the remaining Defendants, by all permissible modes, upon filing of process fee, returnable on the next date of hearing.

27. Reply, if any, be filed within a period of four weeks from today. Rejoinder thereto, if any, be filed within a period of two weeks thereafter.

28. List before the Court on 22nd October, 2024.

SANJEEV NARULA, J

MAY 16, 2024

as

Fwd: Compliance - [Delhi High Court] CS (COMM) No. 406/ 2024: Indian Hotels Company Limited Vs Sagar Wadhvani & Ors.

From : Abhinesh Meena <abhinesh.meena@gov.in>

Wed, May 22, 2024 11:23 AM

Subject : Fwd: Compliance - [Delhi High Court] CS (COMM) No. 406/ 2024: Indian Hotels Company Limited Vs Sagar Wadhvani & Ors.

6 attachments

To : ABHISHEK PANDEY <abhishek.pandey95@nic.in>

Dear
please make the Draft

With Regards,

Abhinesh Meena
JTO-2(DS-II), Data Services Cell,
Sanchar Bhawan, DOT HQ,
New Delhi-110001
Ph. 23036760

==== Forwarded message =====

From: Shiv@fiduslawchambers.com <shiv@fiduslawchambers.com>

To: "Dr. Neeraj Mittal" <secy-dot@nic.in>, "Ram Kailash Meena" <dirids2-dot@nic.in>, <uidhc@gmail.com>, "Abhinesh Meena" <abhinesh.meena@gov.in>, "Designated Officer" <cyberlaw@meity.gov.in>, <gccyberlaws@meity.gov.in>, "Prafulla Kumar" <pkumar@meity.gov.in>

Cc: <prithvi@fiduslawchambers.com>, <rohan@fiduslawchambers.com>

Date: Mon, 20 May 2024 18:57:55 +0530

Subject: Compliance - [Delhi High Court] CS (COMM) No. 406/ 2024: Indian Hotels Company Limited Vs Sagar Wadhvani & Ors.

==== Forwarded message =====

Dear sirs,

We write on behalf of the Plaintiff in the captioned matter.

As you are already aware from our email of 15th May 2024 (below), the Plaintiff has instituted a suit for permanent injunction, restraining infringement of its GINGER trademarks, passing off, damages, rendition of accounts, etc. The suit was listed before Justice Sanjeev Narula of the Hon'ble High Court of Delhi on 16th May 2024, when the Hon'ble Court was pleased to pass an *ex-parte* ad-interim injunction order. The relevant extract of the above-mentioned order is reproduced below –

"20. Considering the above, the Court finds that the Plaintiff has made out a prima facie case in his favour and in case no ex-parte ad-interim injunction is granted Plaintiff will suffer an irreparable loss; balance of convenience also lies in favour of the Plaintiff and against the Defendant Nos.1-3.

23 Defendants No. 5 and 6 [Ministry of Electronics and Information Technology and Department of Telecommunications, Ministry of Communications and Information Technology, respectively] are directed to issue necessary directions to the telecom service providers and internet service providers to the block access to website <https://www.gingertreeresort.com/>."

You are therefore required to issue notifications to all telecom service providers and internet service providers to block access to <https://www.gingertreeresort.com/> at the earliest.

In compliance with the provision of Order XXXIX Rule 3 of the Code of Civil Procedure, 1908, the injunction order dated **16th May, 2024** is **attached** and the complete set of suit paper-book (containing Plaintiff, all Applications, Documents, etc.) are uploaded on and can be accessed from the Google Drive Link: https://drive.google.com/drive/folders/1KFYLJ4uvuD3VGGBerlGYtKD_vjAKrJWC?usp=sharing. **Please note that the link has open access and is not password protected.**

Sincerely,

Shiv
Advocate for the Plaintiff
Shiv Mehrotra

F-12, Ground Floor, Sector 8 NOIDA 201301 || **w** +91 120.4847550 || **f** +91 120.4847551 || **m** +91 9650260265
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India Business Law Journal - Indian IP Firm Survey | Ranked Firm
World Trademark Review (WTR) 1000 | Ranked Firm
Vahura – Best Law Firms to Work 2018

From: Shiv Mehrotra

Sent: Wednesday, May 15, 2024 10:17 AM

To: gingertreegoveia@gmail.com; gingertreeanjuna@gmail.com; Prakash_goa@rediffmail.com; PublicDomainRegistry.com <grievance-officer@publicdomainregistry.com>; PublicDomainRegistry.com <abuse@publicdomainregistry.com>; secy-dot@nic.in; dirids2-dot@nic.in; uoidhc <uoidhc@gmail.com>; Abhinesh Meena <abhinesh.meena@gov.in>; cyberlaw@meity.gov.in; pkumar@meity.gov.in; fbgoindia@support.facebook.com; ip@fb.com

Cc: Prithvi Singh <prithvi@fiduslawchambers.com>; Rohan Krishna Seth <rohan@fiduslawchambers.com>

Subject: ADVANCE SERVICE -Indian Hotels Company Limited Vs Sagar Wadhvani & Ors (DELHI HIGH COURT)

Dear sir/ma'am,

We write on behalf of the Plaintiff in the captioned matter.

Please note that the Plaintiff is filing the captioned lawsuit before the Hon'ble High Court of Delhi and the same is likely to be listed on 16th May, 2024 or any day thereafter. The suit paper-book along with the accompanying applications and documents can be accessed from the Google Drive Link https://drive.google.com/drive/folders/1KFYLJ4uvuD3VGGBerlGYtKD_vjAKrJWC?usp=sharing **The link is not password protected and has open access.**

Sincerely,

Shiv Mehrotra
Advocate for the Plaintiff

Shiv Mehrotra

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Vahura – Best Law Firms to Work 2018

 **Cs(comm) 406_2024 (16-05-2024).pdf**
2 MB

IN THE HIGH COURT OF DELHI AT NEW DELHI
(Ordinary Original Commercial Jurisdiction)
CS (COMM) No. _____ of 2024
Code No. 50000, 50000.04

IN THE MATTER OF:

The Indian Hotels Company Limited ...Plaintiff

VERSUS

Sagar Wadhvani & Ors. ...Defendants

MEMO OF PARTIES

IN THE MATTER OF:

The Indian Hotels Company Limited
Registered Office at:
Mandlik House, Mandlik Road,
Mumbai- 400 001
Through its constituted attorney
Mr. Naveen Batra, Corporate Director-Legal

Also at,

Taj Palace Hotel,
Sardar Patel Marg,
Diplomatic Enclave,
New Delhi-110 021
Email: litigation@fiduslawchambers.com
Plaintiff ...

Versus

1. Sagar Wadhvani
Proprietor of Goveia Holiday Homes and
Managing Partner at Ginger Tree Resorts
Opp. Café Coffee Day,
Next to Aradi Substation,
Candolim, Goa - 403515
Email: gingertreegoveia@gmail.com
Mob. No.: +91 7768070202

... Defendant No. 1

2. Inder Wadhwani
Trading as Ginger Tree Beach Resort
Candolim Road,
Opp. Cafe Coffee Day,
Aradi Bardez,
Goa- 403515
Email – N/A
Contact Number – N/A
- Defendant No. 2

3. Goveia Holiday Homes Pvt. Ltd.
House 772, Alto Torda,
Near SBI Colony, Porvorim,
Goa - 403521

Also at,

Opp. Café Coffee Day,
Next to Aradi Substation,
Candolim, Goa - 403515

Also at,

Ginger Tree Boutique Hotel,
H. No. 1704/3D, Anjuna-Baga-Vagator road,
Behind new police station,
Anjuna, Goa – 403509

Email: gingertreegoveia@gmail.com
gingertreeanjuna@gmail.com
Prakash_goa@rediffmail.com

Mob. Nos.: +91 7768070202; +91 9820163558

.... Defendant No. 3

4. PDR Ltd. d/b/a PublicDomainRegistry.com
Unit 401, 4th Floor, IT Building 3,
Nesco IT Park, Nesco Complex,
Western Express Highway,
Goregaon (East), Mumbai-400063, Maharashtra
Email: grievance-officer@publicdomainregistry.com
abuse@publicdomainregistry.com

... Defendant No. 4

5. Department of Telecommunications
Through its Secretary,

Ministry of Communications and IT,
20, Sanchar Bhawan, Ashoka Road,
New Delhi-110001

E-mail: secy-dot@nic.in;
dirds2-dot@nic.in;
uoidhc@gmail.com;
abhinesh.meena@gov.in

... Defendant No. 5

6. Ministry of Electronics and Information Technology
Through the Director General (DIT) Cyber Laws
Electronics Niketan, 6-CGO Complex,
Lodhi Road, New Delhi-110003
E-mail: cyberlaw@meity.gov.in;
gccyberlaws@meity.gov.in;
pkumar@meity.gov.in;
uoidhc@gmail.com

... Defendant No. 6

7. Meta Platforms Inc.
Address for Service in India:
Unit 28 and 29
The Executive Centre,
Level 18, DLF Cyber City,
Building No. 5, Tower A, Phase III
Gurgaon-122002
Through its Grievance Officer for India
E-mail: fbgoindia@support.facebook.com;
ip@fb.com

... Defendant No. 7

Filed by-



Prithvi Singh | Rohan Krishna Seth | Shiv Mehrotra
[D/2066/2011], [D/2172/2017], [D/10561/2022]

Fidus Law Chambers
Advocates for the Plaintiff
F – 12, Sector – 8,
Noida – 201301

Place: New Delhi
Date: 14 May, 2024

Mob. No.: 9911167179

litigation@fiduslawchambers.com