IN THE COURT OF MS. NEELAM SINGH
DISTRICT JUDGE (COMMERCIAL)-05, SOUTH EAST
SAKET COURTS, NEW DELHI

CS (COMM)-290/2019

Mr. Pavan Jambagi
65-Pocket B,
Sukhdev Vihar,
New Delhi-110025 **….. Plaintiff**

Versus

1. Lemonpepper Hospitality Pvt. Ltd.,
No. 30 (Old No. 1), 2nd Floor,
Church Street Civil Station,
Bangalore, Karnataka
560001

2. Dattatray Narkar Vinay
Director
B-1/3, Jems House, D'suza Wadi,
Road No. 3, Shivaji Nagar, Thane,
Maharashtra 400604

3. Shikha Kumari Dasharathram
Director
B-201, Wilson Vintage 24
1st Cross, 8th Main Wilson Garde,
Behind Adugodi, Bengaluru,
Karnataka 560030

4. Mariswamy Leelashankar
Director
No. 497, 11th Cross, 8th Main,
J P Nagar 2nd Phase
Bangalore, Karnataka-560078

5. Gopichand Rangaiah Maradi
Director

No. 1132, 8th b Main, 1st Phase,
1st Stage, Btm Layout,
Bangalore, Karnataka-560029

6. Sunil Kumar Koli
Director
#227, 12th Main, 6th Cross,
5th Sector, HSR Layout,
Bangalore, Karnataka-560102 **…..Defendants**

Date of Institution: 24.04.2019
Arguments concluded on : 29.10.2025
Date of Order: 29.10.2025

O R D E R

1. It is the case of the Plaintiff that the Plaintiff is engaged in the business of operating restaurants and providing allied food and beverage services under the name Carnatic Café since 01.01.2012. The Plaintiff asserted that, over the years, it has established itself as a well-known provider of South Indian cuisine and has developed a distinct identity based on its culinary offerings, ambience, and service standards. Mr. Pavan Jambagi, who is duly authorised, has instituted, signed, and verified the present suit on behalf of the Plaintiff company.

2. The Plaintiff stated that Carnatic Café was conceived as a unique blend of traditional South Indian flavours prepared using handpicked ingredients, coupled with an emphasis on refined and courteous service. According to the Plaintiff, its menu, presentation style, and customer experience have been developed and perfected over years, resulting in a distinctive brand image

recognised by customers in Delhi and the National Capital Region. The Plaintiff claims that its restaurants have earned considerable goodwill, and that Carnatic Café has become associated with consistent quality, authentic cuisine, and a distinctive dining culture.

3. The Plaintiff further submitted that it is the proprietor of several registered trademarks consisting of or containing the expression Carnatic Café, including word and device marks in Class 43 for restaurant, catering, café, snack-bar, and self-service restaurant services, as well as trademark registrations for food-related goods. Copies of the registrations have been placed on record. The Plaintiff claims that these marks have been used continuously and extensively and have acquired a high degree of distinctiveness. The Plaintiff asserted that the combination of its statutory rights arising from registration and its common-law rights arising from prior and extensive use makes Carnatic Café a strong and well-known trademark in the hospitality sector.

4. It is the case of the plaintiff that it operates successful restaurants in Delhi with a substantial customer base across the NCR region. The Plaintiff also submitted that, like other successful restaurant chains, it is in the process of expanding to other major metropolitan cities including Mumbai, Chennai, and Bengaluru. According to the Plaintiff, the brand enjoys substantial sales turnover, increasing popularity, and considerable promotional investment, all of which contribute to the recognition

and goodwill associated with the mark Carnatic Café.

5. It is submitted that in December 2018 it became aware that the Defendants, who are engaged in the restaurant business in Bengaluru, had started operating a restaurant under the name CARNATIC. Defendant No.1 is a private limited company, and Defendants No. 2 to 4 are its Directors. As per information obtained from the Ministry of Corporate Affairs, the Plaintiff asserted that all the Directors are involved in the day-to-day functioning of Defendant No.1 and are responsible for the alleged infringements. The impugned mark CARNATIC, according to the Plaintiff, is deceptively similar to the Plaintiff's registered mark Carnatic Café and is used for identical services.

6. It is submitted that the Defendants adoption of the mark CARNATIC is dishonest, deliberate, and without any authority, licence, or permission. The Plaintiff contended that the Defendants, being in the same industry, were fully aware of the Plaintiff's prior rights and reputation and nevertheless proceeded to adopt the impugned mark with the intention of exploiting the goodwill associated with the Plaintiff's brand. It is submitted that the Defendants mark, packaging, restaurant signage, menu style, and online promotional material closely resemble those of the Plaintiff and are likely to mislead the public into believing that the Defendants restaurant is associated with, endorsed by, or franchised by the Plaintiff.

7. It is the case of the plaintiff that the Defendants not only operate a physical restaurant under the impugned mark but also promote and offer their services through online platforms including Zomato, Facebook, JustDial, Dineout, and the domain www.carnaticrestaurant.com. It is stated that several online reviews pertaining to the Defendants restaurant are of substandard quality and that such reviews adversely affect the Plaintiff's reputation, as consumers are likely to associate them with the Plaintiff's brand due to the similarity in names. The Plaintiff highlights the significance of online reputation in the restaurant industry and asserted that even a single misleading review can affect business, particularly when consumers increasingly rely on digital platforms to assess restaurants.

8. According to the Plaintiff, the Defendants use of the impugned mark amounts to infringement of the Plaintiff's registered trademarks under Section 29 of the Trade Marks Act, 1999, as the mark CARNATIC is identical or deceptively similar to the Plaintiff's marks and is used for identical services. The Plaintiff further alleges that the Defendants conduct constitutes passing off, as the Defendants are misrepresenting their services as those of the Plaintiff and deriving wrongful commercial advantage from such misrepresentation. It is contended that the Defendants use also amounts to unfair competition, as it dilutes the distinctiveness of the Plaintiff's mark and unlawfully capitalizes on the Plaintiff's established goodwill.

9. It is submitted that the Defendants actions have caused and continue to cause an irreparable harm, loss, and injury to its business, reputation, and goodwill, and that such injury cannot be adequately compensated in monetary terms.

10. The present suit has been filed on 24.04.2019 before the Court of Ld. ADJ and on the same day, Ld. ADJ has granted ex-parte ad-interim injunction to the plaintiff restraining the Defendants, its associates, agents, directors, officers, employees, distributors, franchisee, representatives, assignees from manufacturing, selling, marketing, advertising and/ or offering its services and/ or in any other manner using or allowing or permitting third party to manufacture, market, advertise or use "CARNATIC" or any identical or deceptively similar trademark/ logo or in any other manner. Summons of the suit were ordered to be issued upon the Defendants. Written Statement has been filed on behalf of the Defendants on 05.03.2020 alongwith an application for condonation of delay in filing Written Statement. However, Ld. Predecessor of this Court has dismissed the application for condonation of delay and defence of the Defendants was struck off vide order dated 05.03.2020. Thereafter, plaintiff has filed an application u/o VIII Rule 10 CPC seeking pronouncement of judgment.

Arguments heard. Record perused carefully.

11. The application under Order VIII Rule 10 CPC is to be considered in the backdrop of the long procedural history already on record. The Court has, from time to time, passed orders in the matter, including the initial ex-parte ad-interim injunction dated 24.04.2019, the dismissal of the Defendants application for condonation of delay and striking off of their defence on 05.03.2020 and subsequently, the recording of the statement of learned counsel for the Defendants along with filing of affidavit Ex. C-1 on 03.11.2022. The present stage of proceedings is, therefore, not one in which any fresh adjudication of contested questions is required, but rather one in which the Court must determine whether, in view of the pleadings, documents, admissions and procedural conduct of the Defendants, the Plaintiff is entitled to judgment under Order VIII Rule 10 CPC.

12. The suit was instituted on 24.04.2019 and an ex-parte ad-interim injunction restraining the Defendants from using the mark "CARNATIC" was granted on the same day. The order of injunction has remained in operation ever since. It is also a matter of record that on 03.11.2022 Ld. Counsel for the Defendants appeared and made a categorical statement, with instructions, that the order dated 24.04.2019 had been complied with. Along with this statement, an affidavit sworn by Shri Sunil Kumar, the Authorised Representative and Managing Director of Defendant No.1, was filed and taken on record as Ex. C-1. In the said affidavit, the Defendants expressly stated that they had complied with the injunction order and undertook not to use the name

"CARNATIC" in future. These materials, already forming part of the Court record, clearly show that even at that stage the Defendants did not dispute the Plaintiff's rights and, in fact, acknowledged the Plaintiff's entitlement to restraint against the impugned mark.

13. It is equally on record that despite being afforded opportunity in accordance with the Code of Civil Procedure, the Defendants failed to file their Written Statement within the statutory period. Their belated Written Statement, accompanied by an application seeking condonation of delay, was considered and rejected by the Ld. Predecessor Court vide order dated 05.03.2020, resulting in the striking off of the defence. That order had attained finality and the result is that the Defendants stand with no Written Statement on record, and the factual assertions in the plaint, supported by documentary evidence, remain uncontroverted, save for the Defendants own admission in Ex. C-1 reinforcing the Plaintiff's case.

14. Order VIII Rule 10 CPC empowers the Court to pronounce judgment when a party fails to file a Written Statement. The provision is remedial and intended to prevent delay in situations where a Defendant, despite service and opportunity, chooses not to contest. The Court is not required to pass an automatic or mechanical decree; rather, it must satisfy itself that the Plaintiff has disclosed a legally sustainable claim supported by material on record. In the present case, the Court is already seized of

voluminous documentary evidence filed by the Plaintiff, including registration certificates of the trademark “Carnatic Café”, proof of long and continuous use, sales and promotional figures, restaurant photographs, menu cards, online listings and comparative documents demonstrating use by the Defendants of the identical mark “CARNATIC” for identical services.

15. The record also establishes that the Defendants had been operating under the impugned mark across physical outlets and digital platforms including Zomato, Facebook, JustDial, Dineout and the domain www.carnaticrestaurant.com. In the absence of any Written Statement, and in light of the Defendants own sworn statement acknowledging their compliance and their undertaking not to use the name in future, the Plaintiff’s case of infringement under Section 29 of the Trade Marks Act, 1999 as well as passing off stands unrebutted. The Defendants admission, instead of weakening the Plaintiff’s claim, in fact reinforces the Plaintiff’s stand that the Defendants use of the impugned mark was neither justified nor defensible.

16. Thus, this Court is satisfied that the Plaintiff has successfully established its statutory rights as registered proprietor, its prior and continuous use, the goodwill associated with the mark, and the Defendants unauthorised use of the identical mark “CARNATIC”. The defence having been struck off and the factual foundation remaining unchallenged, this Court finds that the Plaintiff has made out a clear case for

pronouncement of judgment under Order VIII Rule 10 CPC. The Defendants admission of compliance and undertaking in Ex. C-1 is taken note of but does not obviate the necessity of a final decree that formally crystallises the Plaintiff's rights and secures protection against any future infringement or deviation from the undertaking.

Conclusion

17. In view of the foregoing discussion, the material placed on record, the absence of any Written Statement, the striking off of the defence of the Defendants, the categorical admission contained in the statement dated 03.11.2022 and affidavit Ex. C-1, and the satisfaction of the Court under Order VIII Rule 10 CPC, this Court is of the considered view that the plaintiff has successfully established infringement of its registered trademark "CARNATIC CAFÉ", as well as the acts of passing off and unfair trade practice carried out by the Defendants. The application under Order XXXIX Rule 1 and 2 CPC filed on behalf of plaintiff is hereby allowed and ex-parte ad interim injunction dated 24.04.2019 is hereby made absolute. Resultantly, the suit is hereby decreed in favour of the plaintiff and against the Defendants in the following terms:

(i) The Defendants, their directors, officers, employees, agents, franchisees, distributors, representatives, assignees and any other persons acting for or on their behalf are permanently restrained from manufacturing, selling, offering for sale, marketing,

advertising or rendering any restaurant-related or allied services under the mark “CARNATIC”, or any other mark, logo, device or domain name identical with or deceptively similar to the plaintiff’s registered trademark **“CARNATIC CAFÉ”**, so as to constitute infringement or passing off.

(ii) The Defendants are further restrained from using the domain name www.carnaticrestaurant.com or any other domain name incorporating the mark “CARNATIC” or any mark deceptively similar to the plaintiff’s registered mark. The Defendants shall take all necessary steps for transfer of the said domain name to the plaintiff within four weeks from today.

(iii) In view of the Defendants admitted prior use of the impugned mark, the loss to the goodwill and reputation of the plaintiff, and the necessity of granting compensatory and deterrent damages in matters of this nature, the plaintiff is held entitled to Rs. 50,000/- (Rupees Fifty Thousand only) as damages.
(iv) Rs. 10000/- is awarded as costs is also awarded in favour of the plaintiff and against the Defendants which includes court fee, legal fee and other expenses incurred by plaintiff in the present suit.

18. Decree sheet be prepared accordingly. File be consigned to the Record Room after due compliance.

Announced & dictated in the open Court on this 29th day of October, 2025

NEELAM SINGH
Digitally signed by NEELAM SINGH
Date: 2025.11.01 16:11:33 +0530

(NEELAM SINGH)
District Judge
(Commercial Court-05)
South-East, Saket Courts, ND