

Bar of pre-institution mediation under Section 12-A of the Commercial Courts Act, 2015 does not operate in cases seeking urgent interim injunctive relief in a trademark infringement and passing off action

The **Delhi High Court** in the case of **Daimler India Commercial Vehicles vs Getmohit Cab Pvt Ltd [CS(COMM) 379/2026]** dated **April 10, 2026**, has held that where, in a commercial trademark suit, the plaintiff pleads and places material to show statutory rights in a registered trademark, goodwill and reputation in the mark, and prima facie demonstrates that the defendants are using an identical or deceptively similar mark/logo/trade dress in relation to identical or allied services in a manner likely to cause confusion, dilution, and passing off, the Court may grant ex parte ad interim injunction upon being satisfied that a prima facie case exists, the balance of convenience lies in favour of the plaintiff, and irreparable harm is likely to ensue if protection is denied.

The Court also pointed out that exemption from pre-institution mediation under Section 12-A of the Commercial Courts Act, 2015 is liable to be granted where urgent relief is prayed for. In a case seeking urgent interim injunctive relief in a trademark infringement and passing off action, the bar of pre-institution mediation does not operate.

The High Court first recorded that the suit involved a prayer for urgent relief and, on that basis, granted exemption from pre-institution mediation under Section 12-A of the Commercial Courts Act, 2015. In doing so, the Bench expressly referred to the judgment of the Supreme Court in *Yamini Manohar v. T.K.D. Keerthi* [(2024) 5 SCC 815], as also the Division Bench judgment of the Delhi High Court in *Chandra Kishore Chaurasia v. RA Perfumery Works Private Ltd.* [2022 SCC OnLine Del 3529].

On the plaintiff's substantive case, the Court noted the plaintiff's historical lineage, the global footprint of Daimler, the establishment and Indian operations of the plaintiff, the adoption and use of the BHARATBENZ brand, the asserted relationship between BHARATBENZ and the BENZ mark, the status of BENZ as a well-known trademark, and the plaintiff's registrations, commercial presence, sales and advertising expenditure. By recording these pleadings in detail, the Court indicated that the plaintiff had placed material to establish the pedigree of the mark, its subsistence on the register, its goodwill, reputation, and distinctiveness, all of which were relevant for assessing both infringement and passing off.

The Court also noticed the plaintiff's specific allegation that the impugned buses bore the mark BHARATBENZ and the plaintiff's logo on the front grille, even though the steering wheel bore the logos/emblems of another manufacturer, Leyland, and that the impugned vehicle, shown in a video on X, did not follow safety norms such as having an emergency exit and lacked air suspension and other amenities. The Court further noted the investigation that connected the impugned activity to Defendant No. 1's websites, namely 'www.getbookbus.com' and 'www.getbookcab.com', where an image of a bus bearing the three-star logo associated with Mercedes-Benz appeared and "Bharat Benz" was mentioned as a bus type on the booking page, and that Defendants No. 1 and 2 were advertising bus booking services under the BHARATBENZ mark on online travel platforms. These facts were

material because they demonstrated not only use of the impugned mark in the course of trade, but use in relation to bus booking and passenger transport services in a manner capable of misleading consumers.

Consequently, the Court restrained the Defendants No. 1 to 3, including John Doe, their proprietors, partners, directors, officers, servants, agents, representatives, distributors, franchisees, affiliates, stockists, transporters and all others acting for and on their behalf, till the next date of hearing, from using, manufacturing, marketing, offering for sale, supplying, deploying, displaying, advertising in any form, or in any other manner dealing with buses or any other allied and cognate services using the mark "BHARATBENZ", or any other mark, name, logo, label, device, insignia, design or trade dress deceptively similar to the plaintiff's registered mark "BHARATBENZ", including the device mark, back-end or front-end configuration, amounting to infringement of trademarks and/or passing off.