

Part I: Instructions

1. The Vidhi Pragati: National IP Moot Court Competition 2026 invites participants to engage with the case of *Crown Jewel Lifestyle Retail Pvt Ltd v Spiritual Home Pvt Ltd* (2025) 3 SCC OnLine RMA 101 decided by Hon'ble Mr. Justice Merchant of the High Court of the Ratnam Municipal Area, India, on 25 August 2025.
2. In summary, Mr Justice Merchant has partly allowed the Plaintiff's motion, Interlocutory Application No 7865/2025, for an *ad interim* injunction against the Defendant, upholding the Plaintiff's claim of copyright infringement but turning back its claims of trademark infringement and passing off. The text of this Order can be found at Part II.
3. By special provision in the Code of Civil Procedure, 1908, and the Commercial Courts Act, 2015, first appeals from the High Court of the Ratnam Metropolitan Area in all commercial matters, including intellectual property matters, are presented before a Division Bench of the same High Court (two judges). These are given the nomenclature 'First Appeal from Order (Intellectual Property)' or 'FAO (IP)', in short. The High Court of the Ratnam Metropolitan Area sits in like status to other High Courts in India that retain both original and appellate jurisdiction over commercial matters, including intellectual property matters. Authorities and primary material(s) may be construed accordingly.
4. The Plaintiff applied for leave to appeal from Mr Justice Merchant's order in the month of September 2025. In a short order passed on 30 September 2025, the Division Bench has granted leave to the Plaintiff and fixed the appeal for hearing in the month of February 2026. As a general rule, the Division Bench hears appeals primarily on points of law. In this case, sensing an opportunity to tether some core tenets of intellectual property law in what is still, relative to the rest of India, a callow but burgeoning commercial jurisdiction, the Division Bench of the High Court of the Ratnam Metropolitan Area has directed the parties to focus their brief of submissions on the following indicative questions:

- a. What is the appropriate standard for ‘likelihood of confusion’ that ought to be applied to trademark infringement cases in the Ratnam Metropolitan Area and, more specifically, to these facts;
 - b. What is the ideal yardstick for rival products or services to be considered allied, cognate or otherwise bearing a trade connection in trademark infringement and passing off cases arising in the Ratnam Metropolitan Area and, more specifically, on these facts;
 - c. Whether Justice Merchant correctly held that the Defendant’s adoption of the ‘SZZGY’ logo amounts, *prima facie*, to copyright infringement of the Plaintiff’s artistic work ‘SYZYGY’;
 - d. Whether, in view of his findings on Questions (a), (b) and (c) above, Hon’ble Mr. Justice Merchant’s Order presents a fit case for appellate interference by the Division Bench.
5. Participants are requested to note that the questions are indicative and, though expected to address all of them, they are welcome to travel beyond them, based on the facts and assumptions disclosed in the case.
 6. Participants are requested to familiarise themselves with the Moot Court Rules, in particular Rules 5.3 (Clarifications), 7.1 (Memorial Submission), 7.2 (Memorial Format), 7.5 (Memorial Content), 7.6 (Penalties), 7.7 (Memorial Evaluation), which will guide their next steps.

Part II: Order

(2025) 3 SCC OnLine RMA 101

IN THE HIGH COURT OF RATNAM METROPOLITAN AREA

Commercial Suit (IP) No 748/2025

Interlocutory Application No 7865/2025

In the matter of:

Crown Jewel Lifestyle Retail Private Limited

...Plaintiff

Versus

Spiritual Home Private Limited

...Defendant

ORDER

25 August 2025

Hon'ble Mr Justice Merchant:

[1] For the reasons that follow, I am inclined to partly allow the Plaintiff's motion for *ad interim* relief, under Interlocutory Application No 7865/2025 in Commercial Suit (IP) No 748/2025.

[2] This is an action for infringement of trademark and copyright, passing off, and allied relief. It was first listed before me on 13 August 2025. On this date, Ms Vartika Gupta, counsel for the Plaintiff, sought an *ad interim* injunction, *ex parte* against the Defendant. I did not judge the standard for an *ex parte* order to have been met. However, I did grant Ms Gupta's secondary request for a short turnaround since she impressed upon me that the matter was of considerable urgency. On a week's notice, the Defendant filed a Statement of Defence and some materials in support thereof, to match, in form if not in substance, the Plaintiff's materials on record. Parties addressed oral arguments on 20 and 21 August 2025. This Order is the result.

[3] Principally, Ms Gupta sought an *ad interim* injunction against the Defendant. In relevant part, Prayer (a) to Interlocutory Application No 7865/2025, as filed, prays for an *ad interim* order restraining the Defendant:

"[f]rom manufacturing, selling, offering for sale, advertising, or otherwise commercially dealing in products under the trademark(s) and/or logo(s)

'SZZGY', or any other trademark(s)/logo(s)/trade name(s) that are identical or deceptively similar to the Plaintiff's registered trademarks and/or registered logo marks 'SYZYG'Y'."

[4] At the first hearing on 13 August 2025, I was concerned about the potentially inequitable effects of so broad an *ad interim* injunction, especially since it was being pressed *ex parte* at the time. Since the Plaintiff's business is limited to manufacturing and retail of products broadly falling under Class 25 of the Nice Classification, I nudged Ms Gupta to amend Prayer (a) to Interlocutory Application No 7865/2025 to reflect the precise scope of the *ad interim* relief requested by her client. An amended Prayer (a), adding the words "*specifically in relation to clothes, footwear, and other products falling under Class 25 of the Nice Classification*" at the tail end of the Prayer I have reproduced above, was duly filed. It was taken on record contemporaneously with the Defendant's Statement of Defence and accompanying materials on 20 August 2025.

[5] The Plaintiff's trademark, typically presented on its products in block letters, is 'SYZYG'Y'. Ms Gupta informed me that it is in reference to a rare celestial event where a linear alignment of the Sun, the Earth and the Moon occurs; the kind that is sometimes observed during solar or lunar eclipses. She also informed me that it is a known word in the English language. Right off the bat, I was confronted with two compounding degrees of bewilderment, in the sense that I had no idea what the word meant, nor would I have ever guessed that it was holding down a place in the English language. Having allowed it to settle in my mind for a while, I must confess that I was impressed that it was a unique trademark in two distinct ways (complementing my two degrees of bewilderment, perhaps). For one, its primary English language meaning is perfectly arbitrary when applied to the Plaintiff's lines of business. For another, this English language meaning is sufficiently obscure that, if one were to read or see it somewhere, in the process of retrieving it from memory at a later time, though it might be challenging to recant the correct spelling, there would be no mistaking it for something else. Innocent of the Defendant's case, I think this is a fair position to depart from.

[6] How exactly to pronounce the Plaintiff's trademark proved to be a matter of anxious concern. Reluctant to volunteer a pronunciation, I requested Ms Gupta to risk this embarrassment on my behalf. Ms Gupta has a well-earned reputation as a thorough and eloquent counsel but, despite leading me to understand that both her teenage children are big fans of the Plaintiff's brand, she was

constrained to pause twice and was interrupted mid-syllable by her younger colleagues once before finally venturing 'si-zuh-jee'. In a matter where I am cautious about taking too much at face value, I will gladly defer to Ms Gupta's pronunciation, and be grateful that judicial discretion permits me to spell out the text of this Order in private rather than be compelled to speak it out in open court.

[7] Encircling the spoken portion of the Plaintiff's trademark is some artwork. In fact, 'encircling' may be slightly inaccurate. Perhaps a better description is 'enhearting', for the word 'SYZYG'Y', presented in tightly-spaced block black letters, is enclosed within a red, heart-shaped border, with the tail of the V-shaped point of the bottom of the heart extending and trailing after it, like a string on a balloon. Just above the last letter of 'SYZYG'Y', protruding out like a superscript might, are three moderately-sized, bare circular frames, also in red, each smaller than the last. This latter portion, claims Ms Gupta, is a nod to the astrological meaning of 'SYZYG'Y', with the circular frames representing the Sun, the Earth and the Moon, in that order. Though composed, in isolation, of fairly uncomplicated elements, the overall package, at first glance, is not without some degree of distinctiveness.

[8] The population of Ratnam clearly agrees. Ever since its launch in November 2020 as an online-exclusive brand, the Plaintiff's growth trajectory across all three of its verticals – designer clothes, footwear, and headgear – has been nothing short of sensational. All told, the Plaintiff has pulled in ₹1,040 crore in turnover in the financial year just gone, which is remarkable going by any measure in so short a time. The epicentre of much of this commercial heft – though Ms Gupta is hard-pressed to estimate out of hand exactly how much – is right here in Ratnam. The Plaintiff's three manufacturing campuses form a critical part of the commercial backbone of the northern district of the city, employing nearly 8,000 people. There is a fair case to say that Ratnam's reported GDP *per capita* of US\$11,590 in 2025 – a fraction under four times the national average – owes thanks, in no small part, to the bold expansion of the Plaintiff's commercial operations.

[9] In November 2024, on the fourth anniversary of its establishment, the Plaintiff inaugurated a sprawling 10,000 square foot retail property in Ratnam City Centre, with seemingly every celebrity within a short flight's distance of the city in attendance, to the point where, I am given to understand, upwards of a double digit percentage of Ratnam's police force was placed on detail to manage the crowds at the inauguration. From the photographs and sundry details of this

extravaganza that the Plaintiff has, rather unhappily for me, inundated this record with [*Doc 3, Exh Aff C-T, Plaintiff's Documents*], it very much appears to have been the Ambani wedding equivalent of a store launch. The metaphors and messaging to fall from it are not delicate in the least: the Plaintiff has positioned 'SYZGY' as a touchstone of the aspirational, self-aware, capitalism-forward lifestyle that is in vogue with Ratnam's Gen Z. To wit, a recent advertising campaign by the Plaintiff [*Docs 4-5, Plaintiff's Documents*] locates a synergy between the Plaintiff's corporate name in English and Ratnam's Sanskrit origins, referring to the brand and the city side-by-side as the crown jewels of developed urban India. Despite my personal aversion towards opulence, the point underlying much of the Plaintiff's evidence is salutary and well-taken: 'SYZGY' is one of Ratnam's signature brands, and it sits front and centre in the public eye in the city.

[10] Wisely, Ms Sandhya Hari, representing the Defendant, does not challenge this general impression. She has, over the course of her submissions, been magnanimous in her praise of the Plaintiff's rapid growth, their innovative, word-of-mouth marketing strategies, and their ability to leverage their formidable internet presence. In fact, she has, with remarkable forthrightness, disclosed that the parties were, in early 2022, in conversation regarding a potential commercial settlement – a fact that was absent from Ms Gupta's pleadings. Ms Gupta has sought to excuse the oversight, saying that it was a brief, legally insignificant exchange that has nothing to do with the merits or equities of the matter now before me. Rather than get dragged into a 'they said, we said' at this preliminary stage, I will simply set out the facts of this correspondence.

[11] The Defendant traces its commercial presence back to the launch of its YouTube channel in the early months of the COVID-19 pandemic. The creation date of this channel is 11 April 2020, and it has been run by the Defendant without interruption since then. Importantly, from a prior use standpoint, the word 'SZZGY', a few cosmetic modifications removed from how the Defendant uses it today, is visible in the top right-hand corner of the six videos uploaded by the Defendant to its YouTube channel between 11 April and 31 October 2020 [*Docs 3-8, Defendant's Documents*]. Though the public response at the start of the venture was admittedly underwhelming, I note from the analytics data placed on record by the Defendant that these six videos pre-dating the Plaintiff's entry into the market have, as of August 2025, garnered over a million views each [*Doc 9, Defendant's Documents*].¹

¹ These are what were known, back in the days of the omniscience of radio play, as 'sleepers hits', though I do not doubt that Gen Z has found a trendier term to replace it.

[12] For twenty-odd months, the parties co-existed in the market.² Then, in the first week of January 2022, the Plaintiff dispatched a cease-and-desist notice objecting to the use of the word 'SZZGY' and the logos/insignia appearing in the Defendant's YouTube videos. The Defendant sent a short response back, on 20 January 2022, stating their belief that the rival logos were dissimilar and, the core of their business, in any event, lay in online content creation and not in physical goods [*Doc 19, Defendant's Documents*]. The Plaintiff did not respond to this communication. The Defendant did not either. At this time, I am not swayed in either direction by this exchange. In my opinion, on equities, what Ms Gupta's case loses in its omission to disclose this correspondence is offset by Ms Hari's client making inroads into the market for physical products having stated a different intention previously, albeit without prejudice.

[13] It is convenient to pick up the rest of Ms Hari's case from here. She narrated how the Defendant's online presence has, in the three and a half years since the correspondence I referenced above, enjoyed an explosion in popularity that has mirrored the Plaintiff's. Having commenced as a passion project between friends, the Defendant claims to have marked its cards from the very start as a relatable, trendy, Gen Z-forward enterprise that offers astrology, spirituality, and wellness services for those disillusioned by the excesses of modern life. The Defendant launched a subscription service for its online patrons in late 2022 that it claims was the quickest Ratnam-based enterprise of any persuasion to hit the milestones of 10,000 and 50,000 paid subscribers [*Docs 13-14, Defendant's Documents*]. In January 2024, the Defendant's co-founders wrote a book titled 'The Three Chakras: Spirituality for Gen Z', that has sold over 30,000 copies [*Docs 21-23, Defendant's Documents*]. The text of the book, which I have had the opportunity to glance through, is replete with references to the Defendant's services offered under the name 'SZZGY'. Around five months on from the book launch, the Defendant's website and app – which goes under the Defendant's formal corporate name Spiritual Home – commenced listing a range of physical retail products. The range, claims Ms Gupta, was only a handful of items at first, all seemingly chiming with paraphernalia one might reasonably expect to find at an astrologer's or spiritualist's home. However, in July 2025, when the Defendant added some items to their online store that would not seem

² Ms Gupta, for the record, pushes back on the characterisation of this period as co-existence. She says that, even an internet presence as savvy as the Plaintiff's did not register the Defendant's online presence, which was initially limited, at the most, to a couple of thousand YouTube followers. When the Plaintiff logged the Defendant's presence, in December 2021, Ms Gupta states that they promptly initiated the brief correspondence that is the subject of this paragraph. On the date of this correspondence, I note, the Defendant's YouTube channel had grown to 3,384 followers [*Doc 17, Defendant's Documents*].

out of place in a more materialistic household, each branded with the Defendant's trademark and logo 'SZZGY', Ms Gupta says that there came a limit to her client's restraint. The present suit was instituted soon after. As of the filing of these court papers in August 2025, the Defendant has over 900,000 YouTube followers and, I should imagine, the publicity of this case, if nothing else, will drive that number north of six figures in no time at all.

[14] Ms Gupta led me through two categories of materials that she submitted were most in aid of her case. The first was a series of screengrabs dated 03 August 2025 from the Defendant's online store, spiritualhome.co.in/shop [*Exh Aff A-F, Doc 8, Plaintiff's Documents*]. Across these screengrabs, I can see 57 products listed by type. They include mugs, posters, wall-hangings, dolls, miniatures, carpets, and yoga mats. At first, Ms Gupta claimed that two entries pertaining to leather handbags were part of this set of listings. However, as we went through the list together and it became clear that the Defendant had not put leather handbags on sale, she withdrew that statement, on instructions from her client. Throughout this exercise, Ms Hari was quick to interject to point out product listings that were greyed out to indicate that they were either unavailable or were yet to be brought to market.

[15] The second category of materials led by Ms Gupta proved to be more compelling. Much of Ms Gupta's rhetoric was directed at the claim that, soon after the Defendant went live with their range of retail products, their lines of communication online – and on social media in particular – were alight with disfavoured reviews and comments from consumers who appear to have been confused by, if not outright mistaken, the Defendant's product for the Plaintiff's [*Exh Aff B-X, Doc 7, Plaintiff's Documents*]. If I were to take this information at face value, as Ms Gupta insists I should, there is a suggestion that her client has satisfied the requirement of actual confusion to make the case of trademark infringement before me. I must say that this is an especially attractive category of supporting material; if there is, in fact, actual confusion between the rival products, there is no higher standard a judge can hold a Plaintiff to in a trademark infringement case. Online backlash is especially biting in Ratnam, where there is an active smartphone connection for nearly every single member of Ratnam's active workforce.³ That remarkable data point confirms with numbers what I can already see with my eyes: that Ratnam's high internet usage rates have left its population uniquely vulnerable to a worrying uptick in instances of brand impersonation. I have myself, in my short tenure on this

³ Sridhar *et al*, *The Rise and Rise of India's Golden Metropolis* (Glibbings Global, 2025), [74]-[75].

Bench, been confronted with a few prominent instances of brand impersonation. These instances have steeled me to the deep deceit that is often at play when well-organized groups of *mala fide* actors scavenge the internet and cynically align to attack and tear down trademark-driven businesses.

[16] Even so, I find it challenging to lump Ms Hari's client in with this class of Defendants. Ms Hari contends that the material Ms Gupta presses into service as proof of actual confusion needs to be parsed more carefully to account for its provenance and genuineness. She notes, for example, that many reviews cited by Ms Gupta are anonymous, many more say nothing of the nature or description of the offending product(s), and some are plainly just *bona fide* consumer complaints against the Plaintiff's products with the Defendant's product nowhere in the picture. In particular, she points to two reviews on the very first page of what Ms Gupta produces as Exh Aff B to Doc 7, and produces, in rebuttal, two corresponding statements on affidavit from social media influencers named as the reviewers, who claim that they have never made these comments about the Plaintiff's product, and that these reviews are scandalous forgeries [*Affidavit of Kundan Rajput, Exh Aff A, Doc 11, Defendant's Documents; Affidavit of Sonia Sanu, Exh Aff B, Doc 11, Defendant's Documents*]. If granted time to do some fact-checking of her own, Ms Hari guarantees that she will cast more doubt over the Plaintiff's case.

[17] Weighing up the probative value of these duelling materials travelling in diametrically opposite directions without the benefit of the firm proof offered by a trial is close to impossible. All I take away from these materials for the moment is that there is a correlation, for the moment a loose one, between the introduction of the Defendant's more mainstream retail products into the market and a rise in negative publicity and complaints against the Plaintiff.

[18] I will now take a step back to assess the matter as it was presented to me. The crux of the Plaintiff's case against Ms Hari's client is simply this. The trademarks 'SYZYG' and 'SZZG' are nearly identical, both visually and phonetically. Each of the Defendant's branded products bears the word 'SZZG', in block letters, with three pink hearts floating above the letter 'S', in the style of progressively diminishing superscripts. The Plaintiff argues that the similarity of the artwork – the positioning above a bookending letter, the deployment in superscript style, the adjacency of the colour red to the colour pink, the mistakability of circles for hearts and *vice versa* – are so staggering that it is impossible to view the Defendant's adoption of this name and style for its

products as anything other than *mala fide*. Once applied to products even vaguely within the Plaintiff's established lines of business, a *prima facie* case for trademark and copyright infringement is made out, says Ms Gupta.

[19] On the phonetic similarity question, I challenged Ms Hari to the same pronunciation test that Ms Gupta had only tolerably passed. Ms Hari spoke out her client's trademark as 'sizz-guy'. Supported by the weight of the trademark being spoken on the Defendant's YouTube videos thousands of times over the past five years, she claims that there is a large phonetic distance between 'SYZYG' and 'SZZG'.

[20] Ms Hari also contests what she perceives as an oversimplification of the artwork accompanying her client's trademark. The artwork, she submits, was workshopped through several iterations before being adopted in earnest in its present *avatar* sometime in late 2021. Here, she makes a curious admission. She says that her client was, in fact, inspired to adopt the word 'SZZG' from 'SYZYG' – not the Plaintiff's trademark but instead from the English language word connoting the tripartite celestial alignment. She explains the apple of her client's trademark adoption did not fall very far from the tree of its inspiration, in that the connective tissue between a celestial alignment that is the subject matter of astronomy and a slight modification of that word that is the subject matter of her client's astrology services is clear and obvious. Ms Hari also commits to this etymology to explain the artwork of the three hearts appearing above 'SZZG'. In the Defendant's telling, the three hearts represent the self, the Earth, and the universe – the eponymous three chakras that would later find pride of place in the title of their co-founders' bestselling book.

[21] At least as far as the artwork integrated into the Defendant's logo is concerned, this explanation is far from convincing. To my eyes, the Plaintiff's artwork that first appeared in its trademark in late 2020 is discernibly echoed in the three hearts adopted by the Defendant as part of its artwork in late 2021. I may be persuaded to take a different view on the phonetics, brand etymology and honesty of adoption of the words in the trademarks themselves but I can hardly be convinced to take the view that the artwork, too, is a pure coincidence. The principal difficulty, for mine, lies not so much in how a purchase is made but in how such a product might present in public after a sale is concluded. In this inquiry, I take strength from the view recently expressed by the Supreme Court that the question of the likelihood of confusion following sale is yet undecided under Indian law and is one that Indian courts must be open-minded about having to grapple with. So let us assume, for the moment, that the products at

issue are in the same broad wheelhouse of similarity even if they are not like products. If this is so, Ms Gupta argues – and reasonably so, I think – that someone walking down the street might spot ‘SZZGY’ and the Defendant’s artwork on one of the Defendant’s products from a distance and, even if possessed with merely a fragmented ability to recall the Plaintiff’s trademark and logo, might easily mistake hearts for circles, pink for red, and left for right, and conclude that the product emanates from the Plaintiff. I can also conceive of the same thing happening many times over, and causing harm to consumers, across a poorly pixelated screen while scrolling through product listings generated by open-ended website and app searches. I feel sure that no small portion of the ire raised by consumers on the Plaintiff’s social media against the Defendant’s products, to the extent that such ire is genuine, has been motivated by experiences exactly like these.

[22] I share that ire when I reflect upon the ham-fisted conduct by the Defendant in seeking to secure its own branding rights. The Defendant’s first endeavour, it appears, was to seek a copyright registration over its ‘SZZGY’ logo as an artistic work in mid-2022. When alerted to the requirement that such an application required clearance by way of a certificate from the Registrar of Trade Marks, the Defendant, despite multiple reminders, simply failed to follow through. The application was rejected as unprosecuted in March 2023.

[23] Not much else survives for me to adjudicate as far as the Plaintiff’s copyright claim in its artwork is concerned. I find that the Defendant’s artwork adopted as part of its ‘SZZGY’ logo *prima facie* infringes the Plaintiff’s artwork adopted as part of its ‘SYZYG’ logo.

[24] The Defendant’s case is further compromised by some facts that I believe Ms Gupta has underplayed, in favour of focusing energies elsewhere. I will mince no words in saying this: the Defendant’s conduct in engaging with the intellectual property system has been inconsistent, sloppy, and unbecoming of a serious commercial entity. The Defendant’s attempts to padlock their use of ‘SZZGY’ as a trademark did not commence until after the release of their co-founders’ book in early 2024. By the time these applications, filed haphazardly in multiple classes (though none in Class 25) made it through the publication window, they were promptly opposed by the Plaintiff. Those oppositions are still in prosecution. In one instance, the Defendant filed an application pertaining to services under Class 41, to which was appended the condition/limitation “intended for use principally in the Ratnam Metropolitan Area” [Doc 21, Plaintiff’s Documents]. On being quizzed about the gratuitous nature of the limitation, the trademark

attorney for the Defendant appears to have requested the Hearing Officer to withdraw the limitation as it had been filed in error [*Doc 22, Plaintiff's Documents*]. In another notable instance, the Defendant appears to have attempted to ward off a pre-opposition conflict against the Suleiman Zacharia Zonal Group of Companies (SZZ Group) in Class 16 by asserting before the Registrar of Trade Marks that the Defendant "has *adopted and coined* the word 'SZZGY' in relation to paper and paper products" [*Doc 23, Plaintiff's Documents*; emphasis by Plaintiff]. Fortunately for the Defendant, owing to common law protections, not much turns on these oversights in the present case. It goes without saying, though, that these gaffes leave behind the poorest possible impression of the Defendant's professionalism. Ms Gupta's client, by contrast, applied for trademark registrations for the word mark 'SYZYGY' and the accompanying logo in Class 25 in November 2020 and secured registrations for them in June 2021 and January 2023 respectively.

[25] Leaving the parties' conduct to one side, however, the Plaintiff's trademark infringement claim must live or die by what the target audience for the rival products is, especially here in Ratnam. This brings me to what is undoubtedly Ms Hari's most controversial argument. Without prejudice to the compliments she has sent the way of Ms Gupta's client, Ms Hari canvasses that a cornerstone of the Defendant's brand messaging has, from inception, been bluntly opposed to, if not outrightly hostile towards, big retail brands like 'SYZYGY'. Her client's library of content on YouTube has identified the extravagance and brashness implicit in the advertising and public messaging by such brands as pain points for the troubled youth of Ratnam, often using the ubiquity of the Plaintiff's name and trademark as a placeholder for the Defendant's critique of capitalist culture. According to Ms Hari, this has had a direct influence on the Defendant's own brand messaging, which looks to offer solace to the youth, who they see as disillusioned by the relentless sensory and financial assault of capitalism, through the paths of astrology, spirituality, wellness, and balance with the universe. At one point, Ms Hari asked to be pardoned for losing herself in this argument and making an uncharitable remark towards the Plaintiff. I will moderate that remark and state it here for the record because I understand it to be central to the Defendant's case for the vastly different target audiences they claim are at issue here: "No loyal customer of the Defendant would be caught dead buying something from the Plaintiff."

[26] This also doubles up as Ms Hari's defence to the question of whether the Defendant's retail products could possibly be seen as allied, cognate, or

otherwise capable of association with the Plaintiff's. This issue boils down to what, in old money, used to be called the 'trade connection' test *i.e.* if there is a genuine trade connection between the Plaintiff's products and the Defendant's products, the technicality of the products themselves being housed under separate trademark classes ought not to defeat an injunction. Over time, the Indian judiciary has fiddled with this test in cases involving disparate products on the assumption that they are part of the same commercial stream. It has also been deployed to fold in cases where the Defendant's products, though not abutting into the Plaintiff's class of products at the time of the suit, could, as part of a natural progression of the Defendant's trade in the future, be foreseen to do so. Ms Gupta has alerted me to some precedent that shows that the Delhi High Court, in particular, has been quick to head such Defendants off at the pass.

[27] Be that as it may, it is hard for me, at this stage, to draw the Defendant's products into a direct trade connection with the Plaintiff's. The range of the Defendant's products is presently limited to a few household items. There is no suggestion that a large foray into the Plaintiff's line of products (*i.e.* wearables and accessories) is imminent. The Defendant's products are retailed exclusively through the Defendant's website and app, so the chances of the products, even if considered allied or cognate in some form, entering common commercial streams is negligible. This is all besides the point that Ms Hari so powerfully presses before me – that the Defendant's consumers would consider it something akin to a social and ideological betrayal to commit any act that could ultimately line the pockets of big retail brands such as the Plaintiff's. This is also partly why she claims that Ms Gupta's alternative plea of passing off must fail. Ms Hari asserts that the element of misrepresentation, which Indian courts have long accepted as the critical piece of the passing off puzzle, is utterly absent in this case. To the contrary, says Ms Hari, it is her client's *positive representation* – that of outspoken opposition to entities such as the Plaintiff and all that they stand for – that is writ large on every item sold by the Defendant. The cumulative weight of these factors is considerable. I am inclined to agree with Ms Hari on this point.

[28] I was, however, compelled to ask Ms Hari whether she could find any dark irony in the fact that her client had landed in this soup over material products having started out their venture with the endeavour of popularising the non-material world. Ms Hari, with more grace than I might have summoned in the face of so acerbic a query, answered me by saying that the material world in Ratnam begins where the Plaintiff's price range says does – at over ₹15,000 per item. The Defendant's modest catalogue, where no individual item sells for more

than a third of the Plaintiff's starting price, says Ms Hari, is very much a spiritual world by comparison. On my question as to the irony, however, I neither expected a response, nor did I receive one.

[29] However, I am afraid that Ms Hari's characterization of the target audience for the rival products at issue here along the lines of their filiality or opposition to capitalism somewhat confuses our inquiry. In saying this, I do not dispute that there may well be vast numbers of loyalists on both sides: the Plaintiff's commercial presence, of course, speaks for itself, while the Defendant's Spiritual Home website and app store, too, has breached ₹5 crore in sales in its first full year in business, which is hardly shabby going for what is, at most, an adjunct revenue stream. To my mind, the real question is whether the average purchaser likely to encounter the parties' products might be characterized as a discerning one, and, if so, whether that level of discernment might encompass the ability to tell apart 'SZZGY' from 'SYZYGY'.

[30] Following the lead of various other High Courts and the Supreme Court, this High Court has recognised that it is often necessary to apply a sophisticated lens when assessing the likelihood of confusion and consequent harm to trademark proprietors when the products at issue are targeted at discerning consumers. In fact, during the course of this hearing, I did give serious thought to whether, given the demographics and economic profile of the Ratnam Metropolitan Area, there may be sufficient grounds for applying even a generalised presumption of discerning consumers in cases of trademark similarity arising in our metropolis. However, the sticking point here appears to me to be the exceedingly eccentric spelling and phonetic nature of the rival trademarks. This is not a situation where a language native to Ratnam, or even elsewhere in India, has been raided for an unusual word that may retain some residual local significance. Though the word technically emanates from English and thus qualifies as a language widely spoken in Ratnam,⁴ I am hesitant to apply to it the distinctiveness standards of trademark law in India that have previously been applied to other common English words that have been adapted for purpose.

[31] I must assume, then, that the 'ordinary' English language meaning informing both trademarks before me will be as unfamiliar to most unaware consumers as it was to me prior to the first hearing of this case. In the face of such unusual duress, I would imagine that most unaware consumers, no matter how discerning, would, as I have, struggle with pronouncing, and possibly

⁴ The February 2025 study by Sridhar *et al* (n 3) states that 99.5% of Ratnam's nearly 10 million population is literate and over 81% speaks English as a first or second language.

spelling, one or both trademarks. I would think that, if confronted with either trademark for the first time, they may well remember it due to its eccentric nature but would struggle to tell it apart from the other. Though, at first, this struck me as being an odd approach to take, I am convinced now that the likelihood of the Plaintiff's trademark being confused for the Defendant's and *vice versa* is purely a matter of whether a given consumer came to know of one or the other first *i.e.* if a consumer encountered the Plaintiff's products first, there is a high chance that the Defendant's products would appear confusingly similar and *vice versa*. Ms Gupta suggested to me that this 'law of averages'-style approach that I am minded to apply must, over large numbers of potential consumers, naturally arc in favour of the Plaintiff since its commercial footprint, on the comparative, is considerably bigger than that of the Defendant and is likely to appropriate larger numbers of consumers into its catchment area. However, in truth, what I am applying is more akin to a 'law of randomness', in the sense that it is impossible to tell offhand whether a member of Ratnam's population, chosen at random, would be visited by confusion on account of the Plaintiff's trademark or the Defendant's. All considered, I cannot, in good faith, establish an outright rule of preference in such a case.

[32] The only preference that can be extended is to the prior user of the trademark. However, on these facts, this, too, presents difficulties. The first uncontroverted use of any iteration of the trademark(s) in dispute by either party appears to me to have been in the half-dozen videos that went up on the Defendant's YouTube channel between April and October 2020. However, specific to Class 25 products, which forms the basis of the relief the Plaintiff seeks before me, first use rights appear to be with the Plaintiff, if traced back to their online-only store going live in November 2020. Ms Hari clapped back at this claim of the Plaintiff's by contending that none of the products currently listed on the Defendant's website or app fall under Class 25. Ms Gupta retorted that a prior use claim is not to be understood in so constricted a manner and that Ms Hari's stance on this point betrayed a lack of confidence in the merits of the Defendant's case on use. Ms Hari countered by arguing that 'use' in a trademark context is a very narrow and precise inquiry and can, indeed, be met by a first user even with minimal outposts of use, so long as those uses are commercial in nature and consistent in type. Ms Gupta went the other way. She dismissed the Defendant's prior use on YouTube as non-commercial and claimed that volume of use, which leans heavily in her client's favour, is far more significant in weight in a prior use inquiry.

[33] In the event, I must be wary of acting too hastily on a matter at this level of abstraction. There is no doubt that the list of actions that qualify as 'use' under the Trade Marks Act is both long and broad, and, given the opportunity, the parties before me will make good on their respective claims of first adoption and use. However, given that, *prima facie*, the merits of the respective user claims appear to be a close-run thing, I am inclined to allow that exercise to be conducted where I believe it ought to be – at trial. I am supported by numerous Supreme Court precedents in standing behind such a course of action, and I feel assured that this is the correct course of action in the face of fiercely competitive use claims such as the pair before me.

[34] Ms Gupta has one final dart left to throw. She offers that the entire matter will be resolved in an instant if I were to consider admitting her client's trademark to 'well-known mark' status under Section 11 of the Trade Marks Act. Since well-known marks are entitled to protection across classes of products and services, she suggests that the quibbling over the classification of products and potential trade connections will be submerged into irrelevance if I conclude that 'SYZYG' is a well-known mark.

[35] I have two reservations on this point. For one, I do not think it would sit right from a procedural standpoint to enter a *prima facie* finding of well-known mark status in a contested case in the manner that Ms Gupta proposes. For another, judicial recognition of a trademark as well-known typically requires a showing of sufficient evidence under statutory criteria. This case, simply put, is not yet ripe for this determination.

[36] Accordingly, the Plaintiff's motion for *ad interim* relief is allowed in part. The Defendant is prohibited forthwith from using, in any manner whatsoever, any artistic work substantially similar to the Plaintiff's artwork that forms part of its registered logo trademark 'SYZYG'. A statement of compliance from the Defendant in this regard, under the hand of its authorized signatory, may be filed within seven days from today.

[37] Needless to say, my opinion is nothing more than a *prima facie* assessment of the materials placed before me, and ought not to be read as firm findings of fact intended to bind the litigants at trial.

[38] List before this Court for case management on 15 September 2025.

[39] Statutory timelines for appeal(s), if any, to run per usual.

[40] No costs.

(Merchant, J)