

IN THE COURT OF SANJEEV KUMAR MALHOTRA
DISTRICT JUDGE (COMMERCIAL COURT)-08
CENTRAL: TIS HAZARI COURTS:DELHI

CS (Comm) 51/2025
CNR No.DLCT01-000512-2025



M/s Karim Hotels Pvt. Ltd.
Through its Manager
having its registered office at:
16, Gali Kababiyan, Bazar Matia Mahal
Near Jama Masjid, Delhi-110006

.....Plaintiff

Vs

Karim's Food
Through its authorized representative
having its address at:-
Q2XC+6MJ, Diamond Cinema Road,
Mohsin-E-Azam Colony, Rampur,
Uttar Pradesh-244901.

.....Defendant

Date of Institution : 14.01.2025
Date of Arguments : 22.09.2025
Date of Judgment : 18.10.2025

JUDGMENT

1. This is a commercial suit under Section 134 & 135 of Trade Marks Act, 1999 for permanent injunction to restrain infringement, passing off, delivery up, damages etc., as filed by the plaintiff against the defendant.
2. In brief, facts of the case as made out in the plaint are plaintiff is a company duly incorporated under the Companies Act, 1956 and carries out its trade/business under the corporate name of M/s Karim Hotels Pvt. Ltd and the plaintiff is also the owner and proprietor of mark '**KARIM/KARIM'S/KAREEM**'. It is stated that M/s Karim

Hotels Pvt. Ltd. is a renowned name in the restaurant and catering industry and has been operating a chain of Mughlai food restaurants in the name of '**Karim's/Kareem/Karim**' for over a century.

3. It is averred that first branch of Karim Restaurant was opened in 1913 by its founder Haji Karimuddin and thereafter the next branch at Nizamuddin was opened four decades later i.e. in the early 2000's. It is stated that over a period of 111 years, the plaintiff's name has become an authority on mughlai cuisine and it has amassed a loyal clientele and a solid reputation both Pan-India as well as overseas. It is further stated that Mr. Haji Karimuddin opened the first restaurant in Old Delhi by innovatively using the initial letters of his own name, adopted and conceived '**KARIM**'. Further, in order to provide statutory protection to its trade name/trade mark, plaintiff also applied for registration of trade marks under various classes i.e. 16, 29, 30, 42, 43 of Trade Marks Act, 1999. It is averred that the plaintiff to give effect to its expansion plans, had entered into and executed several license agreements with its licensee restaurants, which are operating under the name of '**KARIM/KARIM'S/KAREEM**' or any of its variants, which have also been recorded with the Trademark Registry.

4. It is averred that plaintiff is the owner of Indian Trademark "**KARIM**", "**KARIM**", & "**KARIM'S**" (word mark, logo, device, stylized word mark with device) and its variants. It is stated that over the year, plaintiff has spent

huge sum of money in carrying out extensive advertisements and publicity of its restaurants under the said trade mark. It is further stated that by offering great value for money, Karim's has attained immense goodwill and reputation amongst the members of public which have come to identify/recognize the plaintiff's marks '**KARIM**', '**KARIM'S**', '**KAREEM**', in the restaurant and catering business as a benchmark of authentic mughlai food as well as highest quality of services.

5. It is averred that plaintiff has also invested an enormous amount of its resources, time and effort into promoting, advertising, marketing, the brand name '**KARIM, KARIM'S, KAREEM**' in visual and print media, including in leading newspapers, travel and food magazines, available in India as well as overseas. The plaintiff has also been promoting its mark/brand name through its website www.karimhoteldelhi.com and is also extensively advertised on the internet through numerous third-party websites, which give information about outlets of the plaintiff. It is stated that plaintiff has also received numerous awards. Further, the videos showing plaintiff's restaurants and also the preparation of various types of dishes are available on various sites, such as on www.youtube.com and <https://youtu.be/-QhkZgRIRO>. It is stated that the lengthy and unwavering use by the plaintiff of the mark '**Karim**', '**Karim's**', '**Kareem**' for over a century, the authentic quality of mughlai cuisine served at affordable prices, the positive word of mouth publicity as well as the extensive promotion of the brand in print and

electronic media helped the plaintiff's brand to attain distinctiveness in restaurant and catering business. It is further averred that in the light of well known nature of plaintiff's brand/mark "**Karim, Karim's and Kareem**", the consumers identify the plaintiff as the mark's/brand's sole proprietor. It is stated that apart from holding the Indian registration of trademark "**KARIM, KARIM'S & KAREEM**", in various classes for all its goods and services, the plaintiff also holds registration of its trade name **M/s Karim Hotel Pvt. Ltd.**

6. It is case of the plaintiff the defendant being the proprietor of restaurant namely "**KARIM'S FOOD**" which is in operation at Diamond Cinema Road, Rampur, Uttar Pradesh, visually, phonetically and conceptually adopted the name **KARIM'S FOODS** for its restaurant, which is deceptively similar to the plaintiff reputed marks/brand "**KARIM, KARIM'S & KAREEMS**". It is stated that in the month of June, 2024, plaintiff came to know that the defendant is operating an outlet under the name and style of "**KARIM'S FOOD**", which is exactly identical to the plaintiff's trademarks "**Karim's, Karim and Kareem**" in respect of similar business of restaurant and catering industry. Thereafter, the plaintiff sent a legal notice dated 01.07.2024 to the defendant inviting him to stop its impugned activities of infringement and violation of plaintiff's right in the registered trademark **KARIM/KARIM'S/KAREEM** and its variants alongwith a direction to desist, cease, discontinue, withhold and withdraw the use of plaintiff's trademark, but no reply of

the said notice has been received. It is stated that the defendant is not only using the impugned mark **KARIM'S FOOD** conspicuously as part of its trading name, but also publicizing the same through leaflets, brochures, menu cards as well as on the world wide web through numerous third party sites. It is further stated that the defendant impugned mark **KARIM'S FOOD**, which is deceptively similar to the plaintiff's well know trade mark, wrongly conveys to an unwary consumer the false impression that the service under the impugned mark is being offered directly or in association with the plaintiff and that the defendant is causing continuous loss to the plaintiff.

7. It is averred that the defendant by adoption/use of deceptively similar name **KARIM'S FOOD** for its spurious food product and services has resulted in severe tarnishment of the reputation of plaintiff's brand **KARIM/KARIM'S/KAREEM** which is widely recognized both Pan-India and internationally for its authentic and flavouful mughlai cuisine.
8. Perusal of record reveals that the defendant was served through whatapp and courier on 20.03.2025 and 21.03.2025, but the defendant neither appeared before court nor filed written statement, the defence of the defendant was struck off by Ld. Predecessor vide order dated 24.04.2025.
9. From the pleadings, following notional issues were framed by Ld. Predecessor:-
 1. Whether the plaintiff is entitled for decree of

permanent injunction as prayed for ? OPP

2. Whether the plaintiff is entitled to the relief of passing off? OPP

3. Whether the plaintiff is entitled to rendition of accounts? OPP

4. Whether the plaintiff is entitled to damages as prayed for ? OPP

5. Relief.

10. In order to expedite disposal of case, Ld. Predecessor vide order dated 24.04.2025 appointed Sh. Shriram Verma, Advocate as Local Commissioner to record the evidence.

11. In support of its case, plaintiff examined Mr. Ziauddin, Manager of plaintiff as PW-1, who tendered his examination in chief by way of affidavit as Ex.PW1/A. PW-1 has relied upon following documents:-

1. Copy of SPA i.e. Ex.PW1/1.

2. Copy of certificate of incorporation of the plaintiff's company i.e. Ex.PW1/2.

3. Trademark applications registration certificates, renewal certificate in respect of plaintiff's marks from website of registrar of trademark i.e. Ex.PW1/3.

4. Status of the mark KAREEM having registration no.2051015 in Class 43 i.e. Ex.PW1/3A.

5. Form TM-1 i.e. Application for registration no. 2051015 i.e. Ex.PW1/3B

6. Status of the mark KARIM'S having registration no. 2051018 in class 16 i.e. Ex.PW1/3C.

7. Form TM-1 i.e. Application for registration no. 2051018 i.e. Ex.PW1/3D
8. Status of the mark KARIM having registration no. 2051024 in class 43 i.e. Ex.PW1/3E.
9. Form TM-1 i.e. Application for registration no. 2051024 i.e. Ex.PW1/3F.
10. Status of the mark KARIM having registration no. 2051025 in class 16 i.e. Ex.PW1/3 G.
11. Form TM-1 i.e. Application for registration no. 2051025 i.e. Ex.PW1/3 H.
12. Status of the mark KARIM having registration no. 1143864 in class 29 i.e. Ex.PW1/I.
13. Certificate of registration of trademark i.e. Ex.PW1/3 J.
14. Status of the mark KARIM'S having registration no. 833801 in class 29 i.e. Ex.PW1/3 K.
15. Certificate of registration of trademark i.e. Ex.PW1/3 L.
16. Status of the mark KARIM HOTELS PVT. LTD. - right place for mughlai food having registration no. 1491350 in class 42 i.e. Ex.PW1/3 M.
17. Certificate of registration of trademark i.e. Ex.PW1/3 N.
18. Examination report i.e. Ex.PW1/3O.
19. Status of the mark KARIM'S MUGHLAI ZAIQA having registration no.2478168 in class 43 i.e. Ex.PW1/3P.

20. Certificate of registration of trademark i.e. Ex.PW1/3Q.
21. Status of the mark KARIM'S FOOD having registration no. 2478169 in class 43 i.e. Ex.PW1/3R.
22. Certificate of registration of trademark i.e. Ex.PW1/3S.
23. Status of the mark K having registration no. 2051010 in class 16 i.e. Ex.PW1/3T.
24. Certificate of registration of trademark i.e. Ex.PW1/3U.
25. Status of the mark K having registration no. 20511 in class 30 i.e. Ex.PW1/3V.
26. Certificate of registration of trademark i.e. Ex.PW1/3W.
27. Status of the mark K having registration no. 2051012 in class 43 i.e. Ex.PW1/3X.
28. Certificate of registration of trademark i.e. Ex.PW1/3Y.
29. Status of the mark KAREEM having registration no. 2051013 in class 16 i.e. Ex.PW1/3Z.
30. Certificate of registration of trademark i.e. Ex.PW1/3AA.
31. Status of the mark KAREEM having registration no. 2051014 in class 30 i.e. Ex.PW1/3AB.
32. Status of the mark KARIM having registration no. 2051016 in class 16 i.e. Ex.PW1/3AC.
33. Status of the mark KARIM having registration no. 2051017 in class 30 i.e. Ex.PW1/3AD.

34. Certificate of registration of trademark i.e. Ex.PW1/3AE.
35. Status of the mark KARIM having registration no. 2051019 in class 30 i.e. Ex.PW1/3AF.
36. Certificate of registration of trademark i.e. Ex.PW1/3AG.
37. Status of the mark KARIM having registration no. 2051020 in class 16 i.e. Ex.PW1/3AH.
38. Certificate of registration of trademark i.e. Ex.PW1/3AI.
39. Status of the mark KARIM'S having registration no. 2051021 in class 30 i.e. Ex.PW1/3AJ.
40. Certificate of registration of trademark i.e. Ex.PW1/3AK.
41. Status of the mark KARIM'S having registration no. 2051022 in class 30 i.e. Ex.PW1/3AL.
42. Certificate of registration of trademark i.e. Ex.PW1/3AM.
43. Status of the mark KARIM having registration no. 2051023 in class 30 i.e. Ex.PW1/3AN.
44. Certificate of registration of trademark i.e. Ex.PW1/3AO.
45. Status of the mark KARIM'S having registration no. 2051026 in class 30 i.e. Ex.PW1/3AP.
46. Certificate of registration of trademark i.e. Ex.PW1/3AQ.
47. Status of the mark KARIM'S having registration no. 2051027 in class 43 i.e. Ex.PW1/3AR.
48. Certificate of registration of trademark i.e.

Ex.PW1/3AS.

49. Secret of good mood taste of KARIM'S food having registration no. 2051028 i.e Ex.PW1/3AT.

50. Certificate of registration of trademark i.e. Ex.PW1/3AU.

51. Secret of good mood taste of KARIM'S food having registration no. 2051029 i.e. Ex.PW1/3AV.

52. Certificate of registration of trademark i.e. Ex.PW1/3AW.

53. Secret of good mood taste of KARIM'S food having registration no. 2051030 i.e. Ex.PW1/3AX.

54. Certificate of registration of trademark i.e. Ex.PW1/AY.

55. KARIMS THE MUGHAL CHEF AKBARI MURGH MASALA having registration No. 2894259 i.e. Ex.PW1/3AZ.

56. Certificate of registration of trademark i.e. Ex.PW1/3BA.

57. KARIMS THE MUGHAL CHEF AKBARI MURGH MASALA having registration No. 28942560 is Ex.PW1/3AZ.

58. Certificate of registration of trademark i.e. Ex.PW1/3BC.

59. KARIMS THE MUGHAL CHEF BUTTER CHICKEN having registration No. 2894261 i.e Ex.PW1/3BD.

60. Certificate of registration of trademark i.e. Ex.PW1/3 BE.

61. KARIMS THE MUGHAL CHEF BUTTER CHICKEN having registration No. 2894262 i.e. Ex.PW1/3BF.
62. Certificate of registration of trademark i.e. Ex.PW1/3BG.
63. KARIMS THE MUGHAL CHEF CHICKEN BIRYANI having registration No. 2894263 i.e. Ex.PW1/3BH.
64. Certificate of registration of trademark i.e. Ex.PW1/3BI.
65. KARIMS THE MUGHAL CHEF CHICKEN BIRYANI having registration No. 2894264 i.e. Ex.PW1/3BJ.
66. Certificate of registration of trademark i.e. Ex.PW1/3BK.
67. KARIMS THE MUGHAL CHEF CHICKEN STEW having registration No. 2894265 i.e. Ex.PW1/3BL.
68. Certificate of registration of trademark i.e. Ex.PW1/3BM.
69. KARIMS THE MUGHAL CHEF CHICKEN STEW having registration No. 2894266 i.e. Ex.PW1/3BN.
70. Certificate of registration of trademark i.e. Ex.PW1/3BO.
71. KARIMS THE MUGHAL CHEF DAL DARBARI having registration No. 2894267 i.e. Ex.PW1/3BP.
72. Certificate of registration of trademark i.e.

Ex.PW1/3 BQ.

73. KARIMS THE MUGHAL CHEF DAL DARBARI having registration No. 2894268 i.e. Ex.PW1/3BR.

74. Certificate of registration of trademark i.e. Ex.PW1/3BS.

75. KARIMS THE MUGHAL CHEF JAHANGIRI CHICKEN QORMA having registration No. 2894269 i.e. Ex.PW1/3BT.

76. Certificate of registration of trademark i.e. Ex.PW1/3BU.

77. KARIMS THE MUGHAL CHEF JAHANGIRI CHICKEN having registration No. 2894270 i.e. Ex.PW1/3BV.

78. Certificate of registration of trademark i.e. Ex.PW1/3 BW.

79. KARIMS THE MUGHAL CHEF having registration No. 2894272 i.e. Ex.PW1/BX.

80. Certificate of registration of trademark i.e. Ex.PW1/3BY.

81. KARIMS THE MUGHAL CHEF having registration No. 2894273 i.e. Ex.PW1/3BZ.

82. Certificate of registration of trademark i.e. Ex.PW1/3CA.

83. KARIMS THE MUGHAL CHEF SHAHI SUBZ BIRYANI having registration No. 2894274 i.e. Ex.PW1/3CB.

84. Certificate of registration of trademark i.e. Ex.PW1/3CC.

85. KARIMS THE MUGHAL CHEF SHAHI SUBZ BIRYANI having registration No. 2894275 i.e. Ex.PW1/3CD.
86. Certificate of registration of trademark i.e. Ex.PW1/3CE.
87. KARIMS THE MUGHAL CHEF NAHARI having registration No. 2894276 i.e. Ex.PW1/3CF.
88. Certificate of registration of trademark i.e. Ex.PW1/3CG.
89. KARIMS THE MUGHAL CHEF NAHARI having registration No. 2894277 i.e. Ex.PW1/3CH.
90. Certificate of registration of trademark i.e. Ex.PW1/3CI.
91. KARIMS THE MUGHAL CHEF MUGHLAI PANEER having registration No. 2894278 i.e. Ex.PW1/3CJ.
92. Certificate of registration of trademark i.e. Ex.PW1/3CK.
93. KARIMS THE MUGHAL CHEF MUGHLAI PANEER having registration No. 2894279 i.e. Ex.PW1/3CL.
94. Certificate of registration of trademark i.e. Ex.PW1/3CM.
95. KARIMS THE MUGHAL CHEF JALFAREZI KARAHI CHICKEN having registration No. 2894280 i.e. Ex.PW1/3CN.
96. Certificate of registration of trademark i.e. Ex.PW1/3CO.
97. KARIMS THE MUGHAL CHEF JALFAREZI

KARAHI CHICKEN having registration No. 2894281 i.e. Ex.PW1/3CP.

98. Certificate of registration of trademark i.e. Ex.PW1/3CQ.

99. Photographs of the plaintiffs restaurant menu cards. Promotional material i.e. Ex.PW1/4.

100. Web pages of plaintiff's website <http://karimhotels.com> i.e. Ex.PW1/5.

101. Print out of online article "Fit for an emperor: old Delhi" most enduring restraint KARIM'S celebration its centenary i.e. Ex.PW1/6A.

102. Printout of online article "100 years of KARIM'S i.e. Ex.PW1/6B

103. Printout of online article "restaurant review: Karim hotel in New Delhi india" i.e. Ex.PW1/6C.

104. Printout of online article "old Delhi's 108 years old KARIM'S takes its expansion plans the franchisee way" i.e. Ex.PW1/6 D.

105. Printout of online article "an enduring legacy" is Ex.PW1/6E.

106. Printout of online article "KARIM'S Jama Masjid excellent repast for foodies" i.e. Ex.PW1/6F.

107. Printout of online article "family feasting and fasting" i.e. Ex.PW1/6G.

108. Printout of online article "eating out in Delhi" an enduring legacy" i.e. Ex.PW1/6H.

109. Printout of online article "KARIM'S old delhi best food joint serves kababs and korma to die for" i.w. Ex.PW1/6I.

110. Printout of online article "the tezzy tiles" i.e. Ex.PW1/6J.
111. Printout of online article "KARIM'S Jama Masjid-from the kitchen of the Mughals to your place" i.e. Ex.PW1/6K.
112. Printout of online article "Karim hotel recipes from the royal kitchen of Mughal empire" i.e. Ex.PW1/6 L.
113. Printout of online article "KARIM'S a must visit restaurant for the non vegetarians" i.e. Ex.PW1/6M.
114. Printout of online article "paragon to Karims 7 iconic restaurant make it to the list of worlds top 10" legendary restaurant's" i.e. Ex.PW1/6N.
115. Printout of online article "destination Asia India Karim hotel" i.e. Ex.PW1/6O.
116. Copy of the awards/recognitions won by the plaintiffs restaurant i.e Ex.PW1/7.
117. Copy of excerpts from books "around the world in eighty meals" i.e. Ex.PW1/8A.
118. Copy of excerpts from books ""India" i.e. Ex.PW1/8B.
119. Copy of excerpts from books "eating India exploring the food and culture of the land of spices/banquets of the imperial place Muslim style" i.e. Ex.PW1/8C.
120. Copy of excerpts from books "to north India with love i.e. Ex.PW1/8D.
121. Copy of excerpts from books "Delhi city guide" i.e. Ex.PW1/8E.

122. CA certified financial statements showing annual turnover and profit of the plaintiffs' restaurant and catering business i.e. Ex.PW1/9 (colly).

123. Legal notice dated 01/07/2024 addressed to the defendant i.e. Ex.PW1/10.

124. Web pages of third party websites showing details of defendants restaurant operational at Q2XC+6MJ, Diamond cinema road, mohsin-E-Azam colony, rampur, Uttar Pradesh-244901 i.e. Ex.PW1/11.

125. Copy of certificate of Non starter report issued by the central district legal services authority, Tis Hazari courts, Delhi dated 25/11/2024 i.e. Ex.PW1/12.

12. Arguments have been advanced by Md. Affan, Ld. Counsel for plaintiff. None has appeared on behalf of defendant to address final arguments. I have gone through the record as well as written submission, as filed on behalf of plaintiff. Ld. Counsel for plaintiff has relied upon following judgments:-

1. Karim Hotel Pvt. Ltd. vs. Kareem Dhanani, CS (Comm) 112/2022;

2. Karim Hotels Pvt. Ltd. & Anr. vs. Nizamuddin & Anr., CS (Comm) 241/2018;

3. M/s Karim Hotel Pvt. Ltd. vs. Md. Iftikhar and Anr., CS (OS) 2707/2012;

4. Karim Hotels vs. Md. Mustak and Anr. CS (OS) 2709/2012;
5. Zydus Healthcare Limited and Ors. vs. Alder Biochem Pvt. Ltd., 2024 SCC Online Del 7890;
6. Shambhu Nath & Brothers & Ors. vs. Imran Khan, 2018 SCC Online Cal 7145;
7. Procter & Gamble Company vs. Joy Creators & Ors., 2011 SCC Online Del 929;
8. M/s Bikanervala vs. M/s New Bikanervala, 2005 SCC Online Del 103;
9. Glaxo Group Limited vs. Maiden Pharmaceuticals Limited, 2023 SCC Online Del 1974;
10. Dr. Reddys Laboratories Limited vs. Fast Cure Pharma and Anr., 2023 SCC Online Del 6462;
11. M/s South India Beverages Pvt. Ltd. vs. General Mills Marketing Inc. & Anr., 2014 SCC Online Del 1953;
12. M/s Kirorimal Kashiram Marketing & Agencies Pvt. Ltd. vs. M/s Shree Sita Chawal Udyog Mill, 2010 SCC Online Del 2933;
13. Foodlink F and B Holdings India Pvt. Ltd. vs. Wow Momos Foods Pvt. Ltd., 2023 SCC Online Del 4719;
14. Crompton Greaves Consumer Electricals Ltd. vs. V-Guard Industries Ltd., 2024 SCC Online Del 1838;

15. N. R. Dongre and Ors. vs. Whirlpool Corporation and Anr., (1996) 5 SCC 714;

16. TTK Prestige Ltd. vs. K. K. and Company Delhi Pvt. Ltd. and Ors., 2023 SCC Online Del 1125;

17. S. Syed Mohideen vs. P. Sulochana Bai, (2016) 2 SCC 683;

18. Vinita Gupta vs. Amit Arora, 2022 SCC Online Del 3249.

13. My issue wise findings are as under:-

Issue no.1 & 2:-

1. Whether the plaintiff is entitled for decree of permanent injunction as prayed for ? OPP

2. Whether the plaintiff is entitled to the relief of passing off? OPP

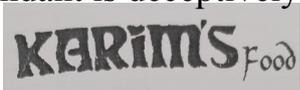
14. Both these issues are taken up together being interconnected. Onus to prove these issues was upon the plaintiff. It is relevant to note here that the defence of defendant was struck off vide order dated 24.04.2025 and these notional issues as framed by Ld. Predecessor can be treated as a point of determination to decide the claim of the plaintiff.

15. I have perused the case law cited. Every case is based on its on facts. Any infringement apart from parties allegations against each other and the material proved on record, has to be seen from the aspect of common man, who is the consumer. First it has to be seen whether there exists

any similarity and if the answer is in the affirmative, then it is required to be seen whether there is any likelihood of the consumer being confused between the two. The comparison of the two trademarks has to be done not only from the aspect of visuality but also from the aspect of phonetic similarity. If the pronunciation of both the words generate the similar phonetic effect, then the same has to be considered. For deciding so, the same has to be done from the aspect of a consumer, who does not go to the market with trademarks in his memory and just has a general impression of the name of the product and if the prominent features of the name in his memory are similar, then he is bound to be confused. The consumer has no side by side comparison of the two trademarks and the similarity test has to be done from the aspect of the consumer. The two trademarks may not be the exact copy of each other but even then can be similar from the aspect of the consumer.

16. The evidence led by PW-1 has gone unrebutted and unchallenged and there is nothing on record to disbelieve the same. As per affidavit of evidence of PW-1 Ziauddin, the plaintiff company, M/s Kareem Hotels Pvt. Ltd. is a renowned name in the restaurant and catering industry and has been opening a chain of mughlai food restaurants in the name of **KARIM/KARIM'S/KAREEM** for over a century. He deposed that plaintiff is a sole and exclusive proprietor of their celebrated internationally renowned trademarks **KARIM/KARIM'S/KAREEM** and proved the certificate of registration of trademarks of plaintiff as Ex.PW1/3I, J, L, N, Q, S, U etc.

17. As per plaintiff, the defendant's impugned mark '**KARIM'S FOOD**' is deceptively similar to the plaintiff's well known trademark "**KARIM**" and wrongly conveys to an unwary consumer, the false impression that the service under the impugned mark is being offered directly or in association with the plaintiff. PW-1 has proved the web pages of 3rd party website showing the details of defendant restaurant operational at Q2XC+6MJ, Diamond Cinema Road, Mohsin-E-Azam Colony, Rampur, UP as Ex.PW1/11 (colly).

18. Plaintiff has proved that he is the prior user, adopter and owner of the marks **KARIM/KARIM'S/KAREEM** having outlets Pan-India and overseas. The mark "**KARIM'S FOOD**" as used by the defendant is deceptively similar as of the plaintiff's trademark  i.e. Ex.PW1/3S. In my view, plaintiff has made out a prima facie case for grant of injunction. Balance of convenience also lies in favour of the plaintiff, who has been using the trademark since 1913 and it appears that defendant has dishonestly chosen to adopt a deceptively similar trademark as of the plaintiff with a view to pass off his goods as that of the plaintiff. In case, the injunction, as prayed is not granted, irreparable injury shall be caused to the plaintiff. Accordingly, these issues are decided in favour of the plaintiff.

Issue no.3 & 4.

3. Whether the plaintiff is entitled to rendition of accounts? OPP

4. Whether the plaintiff is entitled to damages as prayed for ? OPP

19. Issue no. 3 and 4 are taken up together. Onus to prove these issue was upon the plaintiff. As per case of the plaintiff, in and around the month of June, 2024 the plaintiff came to know that the defendant is operating an outlet under the name and style of **KARIM'S FOOD** at Q2XC+6MJ, Diamond Cinema Road, Mohsin-E-Azam Colony, Rampur, UP and sent a legal notice on 01.07.2024 to the defendant inviting him to stop the infringement and violation of the plaintiff's registered trademarks.

20. Hon'ble High Court in **Larsen and Toubro Limited Vs. Chagan Bhai Patel** reported at MIPR 2009(1)194 observed that it would be encouraging the violators of intellectual property, if the defendants not withstanding having contested the suit are not burdened with punitive damages.

21. Hon'ble High Court of Delhi in the case of **Microsoft Corporation v. Rajendra Pawar & Anr.** reported as 2008 (36) PTC 697 (Del.), considering the aspect of punitive damages, it was held as below: -

"22. Perhaps it has now become a trend of sorts, especially in matters pertaining to passing off, for the defending party to evade Court proceedings in a systematic attempt to jettison the relief sought by the Plaintiff. Such flagrancy of the Defendant's conduct is strictly deprecatory, and those who recklessly indulge in such shenanigans must do so at their peril, for it is now an inherited wisdom that evasion of Court proceedings does not de facto tantamount to escape from liability. Judicial Process has its own way of bringing to task such

erring parties whilst at the same time ensuring that the aggrieved party who has knocked the doors of the Court in anticipation of justice is afforded with adequate relief, both in law and in equity. It is here that the concept of awarding punitive damages comes into perspective.

23. Punitive damages are a manifestation of equitable relief granted to an aggrieved party, which, owing to its inability to prove actual damages, etc., could not be adequately compensated by the Court. Theoretically as well as practically, the practice of awarding of punitive damages may be rationalized as preventing under compensation of the aggrieved party, allowing redress for undetectable torts and taking some strain away from the criminal justice system. Where the conduct of the erring party is found to be egregiously invidious and calculated to mint profits for his own self, awarding punitive damages prevents the erring party from taking advantage of its own wrong by escaping prosecution or detection.”

22. Plaintiff has though claimed damages of Rs.10,01,200/-, but not led any evidence to show regarding the actual damages suffered by him for use of impugned mark by the defendant, who has not put his appearance before the court. However, plaintiff is a user of trademark **KARIM/KARIM'S/KAREEM** since 1913 and is also registered owner of trademark “**KARIM's**” w.e.f. 1998 i.e. Ex.PW1/3L and  w.e.f. 14.02.2013 i.e. Ex.PW1/3S and the adoption of similar deceptive mark by the defendant i.e. **KARIM'S FOOD** might have caused loss of goodwill and reputation of the plaintiff trademark in the eyes of general public due to illegal use of the word/name “**KARIM'S FOOD**” by the defendant. Hence, taking into account the totality of facts and circumstances, it is deemed appropriate to award

punitive damages of Rs.2 lac to the plaintiff. Accordingly, these issues are decided in favour of plaintiff.

Relief:

23. In view of my findings on abovementioned issues, a decree of permanent injunction is passed in favour of the plaintiff and against the defendant thereby restraining the defendant, his agents, representatives etc. from using the mark “**KARIM’S FOOD**” or any other mark identical to the plaintiff’s registered trademark **KARIM & KARIM’S FOOD**. A decree of punitive damages of Rs.2 lac is also passed in favour of plaintiff. Costs of suit are also awarded in favour of plaintiff. Decree sheet be prepared accordingly.
24. File be consigned to Record Room.

**Announced in the open court
on 18th October, 2025**

**(Sanjeev Kumar Malhotra)
District Judge (Commercial Court)-08
Central District
Tis Hazari Courts, Delhi**