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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(COMM) 1095/2025**

HERO INVESTCORP PVT LTD AND ANR.Plaintiffs

Through: Mr. Kunal Khanna, Mr. Madhav
Anand, Mr. Krtin Bhasin, Mr.
Yashveer Singh & Mr. Udit Sharma,
Advocates.

versus

SAKLIN ALIAS PRINCEDefendant

Through:

CORAM:

HON'BLE MR. JUSTICE TEJAS KARIA

ORDER

% **10.10.2025**

I.A. 25326/2025 (Exemption from advance service to the Defendant)

1. This is an Application filed by the Plaintiffs under Section 151 of the Code of Civil Procedure, 1908 (“CPC”), seeking exemption from advance service to the Defendant.
2. Mr. Kunal Khanna, the learned Counsel for the Plaintiffs, submitted that there is a real and imminent likelihood that the Defendant may take immediate steps to dispose of, conceal or suppress its infringing business operations and digital footprints bearing the deceptively similar Trade Mark.
3. In view of the fact that the Plaintiffs have sought an urgent *ex-parte ad-interim* injunction along with the appointment of the Local Commissioner, the exemption from advance service to the Defendant is granted.
4. The Application is disposed of.

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I.A. 25327/2025 (Extension of time to file Court Fees)

5. The present Application has been filed by the Plaintiffs under Section 149 read with Section 151 of the CPC, seeking exemption from payment of Court Fees at the time of the filing of the Suit.
6. Considering the submissions made in the present Application, time of two weeks is granted to deposit the Court Fees.
7. The Application stands disposed of.

I.A. 25325/2025 (Exemption from pre-institution Mediation)

8. This is an Application filed by the Plaintiffs seeking exemption from instituting pre-litigation Mediation under Section 12A of the Commercial Courts Act, 2015.
9. As the present matter contemplates urgent interim relief, in light of the judgment of the Supreme Court in *Yamini Manohar v. T.K.D. Krithi*, 2023 SCC OnLine SC 1382, exemption from the requirement of pre-institution Mediation is granted.
10. The Application stands disposed of.

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11. Let the Plaint be registered as a Suit.
12. Issue Summons. Let the Summons be served to the Defendant through all permissible modes upon filing of the Process Fee.
13. The Summons shall state that the Written Statement shall be filed by the Defendant within 30 days from the date of the receipt of Summons. Along with the Written Statement, the Defendant shall also file an Affidavit of Admission / Denial of the documents of the Plaintiffs, without which the Written Statement shall not be taken on record.
14. Liberty is granted to the Plaintiffs to file Replication, if any, within 30

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days from the receipt of the Written Statement. Along with the Replication filed by the Plaintiffs, an Affidavit of Admission / Denial of the documents of Defendant be filed by the Plaintiffs, without which the Replication shall not be taken on record.

15. In case any Party is placing reliance on a document, which is not in their power and possession, its details and source shall be mentioned in the list of reliance, which shall also be filed with the pleadings.

16. If any of the Parties wish to seek inspection of any documents, the same shall be sought and given within the prescribed timelines.

17. List before the learned Joint Registrar on 04.12.2025 for completion of service and pleadings.

I.A. 25323/2025 (U/O XXXIX Rule 1 and 2 of CPC)

18. Issue Notice. Notice be served through all permissible modes upon filing of the Process Fees.

19. The present Suit has been instituted by the Plaintiffs, *inter alia*, to restrain the Defendant from manufacturing, selling, or offering for sale engine oil / automotive lubricant bottles which are allegedly identical, fraudulent, and



obvious imitations of Plaintiff No. 2's unique and novel design / ' , registered under Design No. 311300 and 311301, dated 25.10.2018 ("**Suit Designs**"). The present Suit has also been filed to restrain the Defendant from



using the Trade Mark 'HERO' / Device Marks ' , / ' , /

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‘’ (“**Subject Marks**”) and infringing the Subject Marks and passing off the Defendant’s products as those of the Plaintiffs.

20. The learned Counsel for the Plaintiffs made the following submissions:

20.1. Plaintiff No. 1 is the proprietor and owner of the Subject Marks.

20.2. Plaintiff No. 2 is engaged in the business of manufacturing and selling motorcycles, scooters and their parts and accessories under the Trade Mark ‘HERO’ since 09.04.1985. Plaintiff No.

2 also uses the Device Marks ‘’, / ‘**Hero**’, /

‘’ for its diverse range of products which include engine oil / automotive lubricant sold as ‘HERO GENUINE OIL’.

20.3. The Subject Marks are reputed in the automotive industry and associated exclusively with the Plaintiffs and their products. Plaintiff No. 1 and its group companies currently own over 2,000 registrations / applications for registrations of Trade Mark ‘HERO’ in 121 countries across the world. The details of registrations of some of the Subject Marks in favour of Plaintiff No. 1 are reproduced below:



TRADE MARK	APPLICATION NO.	CLASS	DATE OF REGISTRATION	VALID UPTO
HERO	2205777	4	15.09.2011	15.09.2031
HERO	235780	12	13.06.1966	13.06.2028
	2191293	9, 12, 16, 25, 35, 36, 37, 4, 42	16.08.2011	16.08.2031
	2191294	9, 12, 16, 25, 35, 36, 37, 41, 42 and 99	16.08.2011	16.08.2031
	2314273	4	12.04.2012	12.04.2032
	2314274	4	12.04.2012	12.04.2032

20.4. Plaintiff No. 2 uses the Subject Marks for the sale of its engine oil / automotive lubricant sold as 'HERO GENUINE OIL' by virtue of authority letter dated 10.05.2022 issued by Plaintiff No. 1 in favour of Plaintiff No. 2. The engine oil / automotive lubricant sold as 'HERO GENUINE OIL' is specifically designed with advanced fuel-saving techniques in order to maximize fuel efficiency and ensure engine health.

20.5. In order to ensure that the Subject Marks are solely associated with the superior quality engine oil / automotive lubricant, Plaintiff No. 2 came up with the Suit Designs with the Subject Marks prominently displayed on the distinguishing label.



- 20.6. The Suit Designs have also over the years come to be solely associated with Plaintiff No. 2's engine oil / automotive lubricant sold as 'HERO GENUINE OIL' and their monumental sales also serve as evidence of their popularity.
- 20.7. As on the present date, Plaintiff No. 2 owns valid and subsisting design registrations in its products as detailed in the table below:

DESIGN REGISTRATION NO. 311300
FRONT VIEW

REAR VIEW




LEFT VIEW

RIGHT VIEW

TOP VIEW

BOTTOM VIEW




PERSPECTIVE VIEW

PERSPECTIVE VIEW

PERSPECTIVE VIEW

PERSPECTIVE VIEW


DESIGN REGISTRATION NO. 311301



FRONT VIEW



REAR VIEW



RIGHT VIEW



LEFT VIEW





TOP VIEW

BOTTOM VIEW

PERSPECTIVE VIEW

PERSPECTIVE VIEW




- 20.8. The Defendant is engaged in the business of manufacturing and selling engine oil / automotive lubricant bottles, unlawfully bearing the marks which are identical to the Subject Marks, and bottle designs that are identical, fraudulent imitations of the Suit Designs (“**Counterfeit Products**”).
- 20.9. In the second week of October, 2025, the Plaintiffs were informed through one of its investigators about large scale manufacture and sale of the Counterfeit Products. Upon further inquiry, the investigator informed the Plaintiffs that a criminal action had taken place during the first week of



October, 2025 at the premises of the Defendant, situated at Plot No. 492, Gali No. 10, Kanjhawala Industrial Area, Delhi, by another entity, which revealed that the Defendant was engaged in the manufacture and sale of the Counterfeit Products. The photographs of the Defendant's premise from the inside along-with the Counterfeit Products available at the said premise are reproduced below:







**PHOTOGRAPH OF THE DEFENDANT'S
PREMISE AND IMPUGNED PRODUCTS
MANUFACTURED**



- 20.10. The conduct of the Defendant is calculated to confuse and deceive consumers, trade, and the public, leading them to believe that the Counterfeit Products originate from, are associated with, or are endorsed by the Plaintiffs.
- 20.11. The Plaintiffs thus have a *prima facie* case of infringement and passing off. The acts of the Defendant demonstrate *mala fide* intent and constitute direct infringement under the Trade Marks Act, 1999 and the Design Act, 2000 and passing off under common law, aimed at unlawfully capitalizing on the Plaintiffs' investment in the Subject Marks, the Suit Designs and the goodwill associated therewith.
- 20.12. The Plaintiffs' business, under the Subject Marks and the Suit Designs is built on consumer trust, product authenticity, and consistent quality. The Defendant's unauthorized use of marks identical to the Subject Marks, and bottle designs that are identical, fraudulent imitations of the Suit Designs misleads consumers and severely undermines the integrity and reputation of the Plaintiffs' brand. By imitating the Subject Marks and the Suit Designs, the Defendant is attempting to trade on the Plaintiffs' goodwill, and dilutes the distinctiveness of the Subject Marks, erodes consumer confidence, and risks harm to the public who rely on the quality and safety of the Plaintiffs' products. Such acts cause irreparable harm that cannot be adequately compensated by monetary damages and strike directly at the Plaintiffs' long-standing brand reputation.



20.13. The balance of convenience lies in favour of the Plaintiffs, Plaintiff No. 1 is the lawful and exclusive owner of the Subject Marks and Plaintiff No. 2 is the lawful and exclusive owner of the Suit Designs. The Defendant has no legal right to use the Subject Marks and the Suit Designs for Counterfeit Products in any manner. A failure to restrain the Defendant from the alleged activities would result in continued consumer confusion, irreparable damage to the Plaintiffs' goodwill and reputation, dilution of the distinctiveness of the Subject Marks and the Suit Designs, and potential harm to the public who rely on the quality and reliability of the Plaintiffs' products.

21. The material placed on record demonstrates the Plaintiffs' extensive reputation and goodwill in respect of the Subject Marks. The photographs, and documents placed on record further show that the Defendant has been manufacturing and selling Counterfeit Products bearing marks and designs identical to the Subject Marks and the Suit Designs respectively. Such adoption and use of the Subject Marks and the Suit Designs is clearly calculated to mislead consumers into believing that the Counterfeit Products originate from, or are associated with the Plaintiffs.

22. It is also relevant to note the nature of the products in question, namely engine oil / automotive lubricant bottles. The products such as engine oil / automotive lubricant are purchased by a wide spectrum of consumers on the strength of brand value, quality, and reliability. The circulation of Counterfeit Products without any quality assurances is bound to erode consumer trust and confidence in the Plaintiffs' products and tarnish the reputation built over decades of trade, both in India and internationally.



23. Having considered the pleadings, documents and submissions advanced on behalf of the Plaintiffs, a *prima facie* case is made out. The acts attributed to the Defendant are such as to cause deception and confusion in the course of trade and amount to passing off as well as infringement of the Plaintiffs' proprietary rights. The balance of convenience is in favour of the Plaintiffs, and if the Defendant is not restrained from dealing in the Counterfeit Products the same shall result in irreparable harm to the Plaintiffs' goodwill and reputation.

24. Accordingly, till the next date of hearing, it is directed that

- a) The Defendant, their proprietors or partners, directors, servants, agents, stockists, dealers, distributors, affiliates, representatives, and all others acting for and on their behalf, are restrained from manufacturing, trading, supplying, selling, marketing, in any manner including online sale or dealing in any other way, any goods and / or any other products

under the Subject Marks 'HERO' /  , / 'Hero' , /



' or any other mark / logo / labels which are identical and similar thereto resulting in infringement of the Subject Marks and passing off the Counterfeit Products as those of the Plaintiffs;

- b) The Defendant, their proprietors or partners, directors, servants, agents, stockists, dealers, distributors, affiliates, representatives, and all others acting for and on their behalf, are restrained from manufacturing, promoting, marketing, selling in any manner including on online



platforms bottles that are in any manner identical or similar to the Suit Designs namely Design Nos. 311300 and 311301 resulting in infringement of the Suit Designs;

25. Let the Reply to the present Application be filed within four weeks after service of Notice. Rejoinder thereto, if any, be filed before the next date of hearing.

26. The compliance of Order XXXIX Rule 3 of the CPC be done within two weeks.

27. List before this Court on 12.02.2026.

I.A. 25324/2025 (for Appointment of Local Commissioner)

28. The present Application has been filed by the Plaintiffs under Order XXVI Rule 9 read with Order XXXIX Rule 7 of the CPC, seeking appointment of a Local Commissioner. The Court has considered the merits of the Plaintiffs' case and has granted an *ex-parte ad-interim* injunction as recorded above in I.A. 25323/2025 under Order XXXIX Rule 1 and 2 of the CPC.

29. Accordingly, in order to ensure that the injunction is fully complied with, it is deemed appropriate to appoint Local Commissioner to visit the Defendant premises at the following address:

Sr. No.	Particulars	Name of Local Commissioner
1.	Plot No. 492, Gali No. 10, Kanjhawala Industrial Area, Delhi.	Mr. Udbhav Nanda, Advocate [Mobile: 9755749441]



30. The mandate of the learned Local Commissioner is as under:

- i) The learned Local Commissioner shall visit the premises of the Defendant as per the above table, to inspect and seize any Counterfeit Products, fully or semi-manufactured Counterfeit Products of the Defendant.
- ii) If knowledge is acquired of any other premises than the aforesaid premises, where the Counterfeit Products could be stored or services can be provided from, the learned Local Commissioner is free to record the same and then visit the other premises and conduct a seizure there as well;
- iii) The learned Local Commissioner shall also inspect and seize any product materials including pamphlets, brochures, stickers, packaging materials, dyes or blocks used for preparing the manufacturing materials, display boards, sign boards, advertising material, dies or blocks, unfinished, packed, unpacked Counterfeit Products or any other documents, wrapper etc. so that it can be ensured that no fresh manufacturing of the Counterfeit Products can take place;
- iv) The learned Local Commissioner shall also obtain the details as to since when Counterfeit Products are being used by the Defendant and obtain copies of the accounts if the same is found to be sold in market;
- v) The learned Local Commissioner shall obtain accounts including ledgers, stock registers, invoice books, receipt books, cash books, purchase and sale records and any other books of record or commercial transactions kept at the premises of the Defendant, and take photocopy and / or record of all such transactions that pertain to Counterfeit



Products, if any. The Defendant shall cooperate and give passwords to the computers and the files containing the accounts, if the same is stored on the computer or a specific software;

vi) After preparation of the inventory, the Counterfeit Products including packaging materials, advertising, promotional materials, pamphlets, brochures, boxes, videos, hoardings, banners, signage, cartons and other material bearing the Subject Marks and packaging which are similar to the Subject Marks shall be released to the Defendant on *superdari*. The monetary value of the stock shall also be ascertained;

vii) The learned Local Commissioner is also permitted to break open the locks, with police help, if access to the premises where the Counterfeit Products have been stocked / manufactured, is denied to the Commissioner;

viii) Upon being requested, the concerned Station House Officer (SHO) shall render necessary cooperation for execution of the Commission, as per this order;

ix) The learned Local Commissioner is permitted to take photographs and record videos of the proceedings of the Commission, if it is deemed appropriate. Two representatives of the Plaintiffs', which would include a lawyer, are permitted to accompany the learned Local Commissioner;

x) The learned Local Commissioner, while executing the Commission, shall ensure that there is no disruption to the business of the Defendant, except for the purposes of the execution of the Commission. The Commission shall be executed in a peaceful manner.



31. Either the learned Counsel for the Plaintiffs or the learned Local Commissioner is directed to collect the certified copy of this Order from the Registry (Dispatch Branch) before the execution of the Commission.
32. The learned Local Commissioner shall carry the certified copy of this Order for execution of the Commission and a copy of the same shall be served upon the Defendant by the learned Local Commissioner at the time of the execution of the Commission.
33. The fees of the learned Local Commissioner is fixed at ₹1,00,000/- (Rupees One Lakh only) excluding out of pocket expenses, travel, lodging etc. All the aforesaid expenses shall be borne by the Plaintiffs and paid in advance to the learned Local Commissioner named hereinabove.
34. The Commission shall be executed on 17.10.2025, and the report of the learned Local Commissioner shall be filed within a period of two weeks thereafter.
35. Compliance of Order XXXIX Rule 3 of CPC shall be done within two weeks after the execution of the Commission.
36. It is directed that this Order shall be uploaded on the Court's website after the execution of the Commission is completed, to enable effective execution thereof.
37. List before this Court on 12.02.2026.
38. Order *dasti* under the signature of the Court Master.

TEJAS KARIA, J

OCTOBER 10, 2025/ 'A'