



\$~37

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

+ CS(COMM) 179/2025 & I.A. Nos. 5429/2025, 5430/2025,
5431/2025, 5432/2025, 5433/2025 & 5434/2025

HERO INVESTCORP PRIVATE LIMITED & ANR.Plaintiffs

Through: Mr. Pramod K. Singh with Mr. Kirat
Singh and Ms. Aastha Sharma,
Advocates.
(M): 9718209970
Email: aastha@thelegist.com

versus

ASHOK KUMARDefendant

Through: None.

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

% **03.03.2025**

I.A. 5432/2025 (Exemption from filing original and clear copies of documents)

1. The present is an application under Section 151 of the Code of Civil Procedure, 1908 ("CPC"), on behalf of the plaintiffs, seeking exemption from filing original, clear copies, documents with proper margin and official translated copy of vernacular language documents.
2. Exemption is granted, subject to all just exceptions.
3. Plaintiffs shall file legible, clear, and translated copies of the documents, on which the plaintiffs may seek to place reliance, before the



next date of hearing.

4. Accordingly, the present application is disposed of.

I.A. 5434/2025 (Exemption from undergoing Pre-Institution Mediation)

5. The present is an application under Section 12A of the Commercial Courts Act, 2015, read with Section 151 of CPC, seeking exemption from undergoing Pre-Institution Mediation.

6. Having regard to the facts of the present case and in the light of the judgments of Supreme Court in the case of *Yamini Manohar Versus T.K.D. Keerthi*, 2023 SCC OnLine SC 1382, and Division Bench of this Court in *Chandra Kishore Chaurasia Versus RA Perfumery Works Private Ltd.*, 2022 SCC OnLine Del 3529, exemption from undergoing Pre-Institution Mediation is granted.

7. Accordingly, the application stands disposed of.

I.A. 5431/2025 (Application seeking leave to file additional documents)

8. This is an application under Order XI Rule 1(4), read with Section 151 CPC, as amended by the Commercial Courts Act, 2015, seeking leave to file additional documents.

9. The plaintiffs, if they wish to file additional documents at a later stage, shall do so strictly as per the provisions of Commercial Courts Act, 2015 and the Delhi High Court (Original Side) Rules, 2018.

10. The application is disposed of with the aforesaid directions.

I.A. 5433/2025 (Exemption from advance service to the defendant)

11. The present is an application under Section 151 CPC, seeking exemption from advance service to the defendant.

12. The plaintiffs seek urgent interim relief, and have also sought appointment of Local Commissioner. Therefore, in the peculiar facts and



circumstances of this case, exemption from effecting advance service upon the defendant is granted.

CS(COMM) 179/2025

13. Let the plaint be registered as suit.

14. Upon filing of the Process Fee, issue summons to the defendant by all permissible modes. Summons shall state that the written statement be filed by the defendant within thirty days from the date of receipt of summons. Along with the written statement, the defendant shall also file affidavit of admission/denial of the plaintiffs' documents, without which, the written statement shall not be taken on record.

15. Liberty is given to the plaintiffs to file replication within thirty days from the date of receipt of the written statement. Further, along with the replication, if any, filed by the plaintiffs, an affidavit of admission/denial of documents of the defendant, be filed by the plaintiffs, without which, the replication shall not be taken on record. If any of the parties wish to seek inspection of the documents, the same shall be sought and given within the timelines.

16. List before the Joint Registrar (Judicial) for marking of exhibits on 13th May, 2025.

17. List before the Court on 13th August, 2025.

I.A. 5429/2025 (Application under Order XXXIX Rules 1 and 2 CPC)

18. The present suit has been filed for permanent/perpetual injunction, infringement of trademark, copyright, passing off, delivery up, rendition of accounts, damages etc.

19. Learned counsel appearing for the plaintiffs submits that the present suit is being filed by the plaintiffs *qua* the defendant to *inter-alia* restrain the



defendant from manufacturing, selling and offering for sale auto parts, including, but not limited to Cam Chain Kit, Disk Clutch Friction and Brake shoes which bear the falsified marks

“HERO”, Hero/ Hero and 

which are identical and/ or deceptively and confusingly similar to the registered ‘HERO MARKS’ of the plaintiffs and copyright vested in artistic work.

20. It is further submitted that plaintiffs are group companies and plaintiff no. 2 is engaged in manufacturing and sale of motorcycles, scooters and their parts and accessories under the mark “HERO” since 09th April, 1985 and prominently uses on all its products one or the other device marks depicted as below:

Hero/ Hero and 

21. It is submitted that the plaintiff no. 2 also sells accessories, including, Alloy Wheels, Disk Clutch Friction, Cam Chain, Brake Shoes, Ball Races Kit, Plug Spark, Plug Adaptor, engine oils, lubricants, etc. with its trademarks prominently displayed on its label. The nature of business carried on by the plaintiff no. 1’s group companies is such that the plaintiffs have their presence in almost every major city and town of India.

22. It is further submitted that the plaintiffs’ two-wheeler range of products sold under its mark ‘HERO’ by reason of its excellent quality, durability and high performance combined with high volume of sales, have garnered enviable reputation and goodwill amongst the members of trade and public and the mark ‘HERO’ is always associated with that of plaintiffs only, and to this day its ‘HERO’ two-wheelers stands as a symbol of



excellence, confidence, affordability, power and elegance.

23. It is submitted that since the year 1985, plaintiffs have been continuously, extensively and widely manufacturing, marketing and selling their two-wheelers in India under its distinctive trademark 'HERO' and/ or its 'H' logo. All the plaintiffs' products bear the house mark 'HERO' and are sold across India and globe. The plaintiff no. 2's two-wheelers prominently display the trademark 'HERO' and/or its 'H' logo.

24. It is further submitted that the said well-known mark HERO has been advertised extensively by the plaintiffs, its group companies and affiliates on a very large scale through various media of advertisements and publicities, including, print media, television, Internet and the said well-known trademark HERO, has received worldwide media coverage over the last six decades of its use and existence.

25. It is submitted that plaintiff no. 1 is an honest adopter, true owner, lawful proprietor of trademark HERO and on account of superior quality of goods and services provided under said trademark, and due to continuous use of said trademark, the same has acquired a secondary significance in favour of plaintiff no.1 that any goods/services sold and/or provided under well-known mark HERO or any other deceptively similar mark, are bound to be confused by members of public and trade emanating from the plaintiff no. 1. The said trademark HERO of plaintiff no. 1 is one of the 100 super brands of India.

26. It is further submitted that plaintiff no. 2 has been using the following trademarks, the details whereof, as given in the plaint, is reproduced as under:



Trademark	Class	TM Application No.	Date of Registration	Valid upto
HERO (word mark)	4	2205777	15.09.2011	15.09.2031
HERO (word mark)	12	235780	13.06.1966	13.06.2028
HERO (word mark)	12	659053	16.03.1995	16.03.2032
 (H device)	9, 12, 16, 25, 35, 36, 37, 4, 42 and 99	2191293	16.08.2011	16.08.2031
Hero (Device Mark)	9, 12, 16, 25, 35, 36, 37, 41	2191294	16.08.2011	16.08.2031

	42 and 99			
Hero (Device Mark)	4	2314273	12.04.2012	12.04.2032
 (H device)	4	2314274	12.04.2012	16.08.2031



27. It is submitted that the plaintiff no. 2, being a Hero Group company, uses these trade marks by virtue of authorization letters dated 28th August, 2018 and 10th May, 2022, issued by the plaintiff no.1 in favour of plaintiff no. 2, in pursuance of the License Agreement dated 13th April, 2011,

thereby, authorizing plaintiff no. 2 to use the trademark HERO and , in relation to two and three-wheeler vehicles and light commercial vehicles, and allied goods and services in connection therewith and/or any business related thereto.

28. It is further submitted that further, the plaintiffs are the proprietor of copyright in the artistic works vested in the logo and 'HERO' mark, represented as under, which bear unique and fanciful styles and amount to original artistic work within the meaning of section 2(c) of the Copyright Act 1957:



29. It is further submitted that the plaintiff no. 2 sells auto spare parts to be used in its two wheelers vehicles manufactured in a unique packaging, consisting of unique colour combinations Red and White. The packaging prominently displays the trademark 'HERO' and its 'H' logo. The packaging further mentions the word 'Genuine Parts' right below the trademarks and prominently mentions its tradename. The said packaging is an original and novel creation of plaintiffs, and the plaintiffs are proprietors of copyright



vested in original artistic work on the packaging and labels of the plaintiffs HERO spare parts, comprising of distinctive arrangement of features, get-up, artwork and layout, which are reproduced as under:



30. It is submitted that plaintiff no. 1's said trademark "HERO" and goods and services provided thereunder, have been well-received by the public, and the mark "HERO" has become a household word, owing to its huge publicity running into several hundred crores annually. The goods and services of the plaintiffs under the said trademark, are instantaneously recognized by the members of relevant section of the public and the said trademark has acquired huge fame.

31. It is further submitted that the said trademark HERO has been



registered/applied for registration in more than 121 countries and the plaintiff no.1 holds more than 2000 registrations/applications for the said trademark. The same also reflect the wide and extensive use and registration of the said trademark.

32. It is submitted that during the periodical market survey carried out by the authorized personnel of plaintiff no. 2 in the month of February 2025 in the markets of Delhi, it was learnt that defendant is openly engaged in stocking and selling auto parts, including, but not limited to Cam Chain Disk, Disk Clutch Friction and Brake shoes which bear the falsified marks

“HERO”, Hero/ Hero and  / 

which are identical and/or deceptively and confusingly similar to the registered ‘HERO MARKS’ of the plaintiffs and copyright vested in artistic work of

Hero/ Hero and  / 

of plaintiffs and packaging.

33. It is further submitted that the defendant is arrayed as Ashok Kumar, which is based on the John Doe principle, as applicable in India, the same being an unknown identity. It is submitted that at present, plaintiffs are not aware of the exact constitution of the defendant and the defendant may be asked to state its exact constitution.

34. It is further submitted that the plaintiffs’ representative during visit to the defendant’s premises, purchased samples of infringing Cam Chain Kit from the defendant, which bear the falsified trademarks



‘HERO’ and 

for an amount of Rs. 450/-. The sample product (Cam Chain Kit) purchased from defendant was thoroughly inspected by the plaintiffs; spare parts department and the same were found to be counterfeit.

Photographs of infringing good bearing the marks **‘HERO’** and  which are identical and/or deceptively, confusingly, phonetically and visually similar to registered ‘HERO MARKS’ and copyright of the plaintiffs are reproduced as under:





35. It is submitted that from the above depiction of the photographs and differences, it is made sufficiently clear that the defendant has adopted the

falsified marks “HERO”, **Hero/ Hero** and



which are identical and/or deceptively, confusingly, phonetically and visually similar to registered ‘HERO MARKS’ of the plaintiffs, in respect of identical goods, which creates the same commercial impression, thereby, causing confusion amongst the purchasing public and trade in general. Further, the defendant has copied the packaging adopted by plaintiffs. The adoption of the falsified marks being identical to plaintiffs’ well-known

trademark “HERO”, **Hero/ Hero** and



and

adoption of copyright vested with plaintiffs, tantamount to infringement of plaintiffs’ right vested in its registered ‘HERO MARKS’, infringement of copyright and amounts to violation of plaintiffs’ prior rights, and passing off its products, as that of plaintiffs, with the motive to cause deception among public as aforesaid.

36. It is further submitted that owing to the overwhelming publicity generated around ‘HERO’ trademark of plaintiffs and the goodwill and reputation that arises therefrom, it is apparent that the present and potential consumers will easily get misled into believing that the defendant’s product is in some manner associated/affiliated with plaintiffs, and the defendant’s products are either connected with, or an extension of plaintiffs’ products, under its reputed trademark ‘HERO’.

37. It is submitted that the end purchaser of the said impugned products



are mechanics who are either illiterate/less literate and they may be easily deceived or misled by the infringing products sold by defendant bearing the plaintiffs' trademark 'HERO' and the copyright vested in the packaging.

38. It is further submitted that the consumers and members of trade dealing in products and accessories, such as, Cam Chain Kit, Disk Clutch Friction, Brake Shoes, Plug Spark, Ball Races Kits etc. identify, recognize and exclusively associate the well-known trademark 'HERO' with plaintiffs, especially, in the field of auto industry, having priority in adoption coupled with long and continuous use and extensive popularity, which is therefore, accordingly entrenched in the minds of the public.

39. It is submitted that by adopting the falsified marks

"HERO", **Hero/ Hero** and  and copyright/

trade dress which are identical and/or deceptively, confusingly, phonetically and visually similar to registered 'HERO MARKS' of the plaintiffs and copyright vested in plaintiffs for identical goods, and passing off its products as those of the plaintiffs, the defendant is not only riding on the immense and valuable goodwill and reputation enjoyed by the plaintiffs, but is also attempting to show some association or nexus with plaintiffs, where none exists. It is submitted that the plaintiffs' goods are sold popularly and unwary consumers will be duped into buying impugned products by mistaking it for plaintiffs' products which is subjected to stringent quality test to ensure safe and quality products reach the consumers.

40. It is further submitted that said action of the defendant clearly exhibits its clear knowledge of the plaintiffs' goodwill and reputation attached to its



trademark, as well as its intention to trade upon the same and derive unjust benefits therefrom, as confusion is inevitable in the market and the consuming public.

41. It is further submitted that the defendant is likely to unlawfully continue the use of falsified marks

“HERO”, **Hero/ Hero** and  adopted by it which are identical and/or deceptively, confusingly, phonetically and visually similar to registered ‘HERO MARKS’ and copyright vested in the plaintiffs’ products, in relation to its business to promote and sell its products, unless restrained by this Court.

42. In the above circumstances, the plaintiffs have demonstrated a *prima facie* case for grant of injunction and, in case, no *ex-parte ad-interim* injunction is granted, the plaintiffs will suffer an irreparable loss. Further, balance of convenience also lies in favour of the plaintiffs, and against the defendant.

43. Accordingly, till the next date of hearing, the following directions are issued:

I. The defendant, its associates and agents, directors, officers, employees, distributors, franchisee, representatives, assignees and anyone associated with the defendant, are restrained from using the marks

Hero/ Hero,  which are identical



and/or deceptively, confusingly, phonetically and visually similar to registered 'HERO MARKS' of the plaintiffs and/or any other mark deceptively and confusingly similar to 'HERO MARKS' of the plaintiffs.

II. The defendant is further restrained from using the marks i.e.,



, in which copyright is vested in the plaintiffs in the packaging, as used by the defendant, which is identical to the plaintiffs' copyright vested in the



device marks.

III. Further, the defendant is also restrained from using any indicia whatsoever to show any association or affiliation or connection of the defendant or its products with plaintiffs.

44. Issue notice to the defendant by all permissible modes upon filing of the Process Fee, returnable on the next date of hearing.

45. Let reply be filed within a period of four weeks.

46. Rejoinder thereto, if any, be filed within two weeks, thereafter.

47. Compliance of Order XXXIX Rule 3 CPC, be done, within a period of three weeks.

48. List before the Court on 13th August, 2025.

I.A. 5430/2025 (Application for appointment of Local Commissioner)

49. The present application has been filed on behalf of the plaintiffs under Order XXVI Rule 9, read with Section 135 of the Trade Marks Act, 1999,



seeking appointment of Local Commissioner.

50. It is submitted that in order to preserve evidence of infringement, it is necessary that Local Commissioner be appointed to visit the premises of the defendant.

51. Accordingly, the following directions are issued:

I. Mr. Abheet Mangleek, Advocate (M: 9871923291), is appointed as Local Commissioner, with a direction to visit the following premises of the defendant:

**2185, Gali No-62,
Naiwala,
Karol Bagh,
New Delhi-110005**

II. The learned Local Commissioner, along with a representative of the plaintiffs and its counsel, shall be permitted to enter upon the premises of the defendant mentioned hereinabove, or any other location/premises, that may be identified, during the course of commission, in order to conduct the search, and seize the infringing products and auto parts, including, Cam Chain Kit, Disk Clutch Friction and Brake shoes, other accessories and products and all printing material bearing the trademark

“HERO”, Hero/ Hero and  / .

III. After seizing the infringing material, the same shall be inventoried, sealed, and signed by the learned Local Commissioner, in the presence of the parties, and released on *superdari* to the defendant, on its undertaking to produce the same, as and when further directions are issued, in this regard.

IV. The learned Local Commissioner shall also be permitted to make



copies of the books of accounts, including ledgers, cash books, stock registers, invoices, books, etc., in so far as they pertain to the infringing products.

V. Further, the learned Local Commissioner shall be permitted to undertake/arrange for photography/videography of the execution of the commission.

VI. Both the parties shall provide assistance to the learned Local Commissioner for carrying out the aforesaid directions.

VII. In case, any of the premises are found locked, the learned Local Commissioner shall be permitted to break open the lock(s). To ensure an unhindered and effective execution of this order, the Station House Officer (“SHO”) of the local Police Station is directed to render all assistance and protection to the Local Commissioner, as and when sought.

VIII. The fee of the learned Local Commissioner, to be borne by the plaintiff, is fixed at ₹ 1,00,000/- (Rupees One Lakh only). The plaintiffs shall also bear all the expenses for travel of the Local Commissioner and other miscellaneous out-of-pocket expenses, for the execution of the commission. The fee of the Local Commissioner shall be paid in advance by the plaintiffs.

IX. The Local Commission shall be executed within a period of two weeks from today. The Local Commissioner shall file its report within a period of two weeks from the date on which the commission is executed.

52. The order passed today shall not be uploaded for a period of two weeks.

53. In terms of the foregoing, the present application stands disposed of.



54. *Dasti* under signatures of the Court Master.

MINI PUSHKARNA, J

MARCH 3, 2025

C