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

+ **CS(COMM) 326/2026**

CASTROL LIMITED

.....Plaintiff

Through: Mr. Urfee Roomi, Ms. Janaki Arun,
Mr. Jaskaran Singh, Mr. Ayush Dixit and Ms.
Adhya S., Advocates.

versus

SURESH KUMAR

.....Defendant

Through:

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **27.03.2026**

I.A. 8213/2026 (u/S 151 CPC)

1. This application is filed on behalf of the Plaintiff seeking exemption from effecting advance service on the Defendant.
2. For the reasons stated in the application, the same is allowed exempting the Plaintiff from effecting advance service on the Defendant.
3. Application stands disposed of.

I.A. 8210/2026 (u/O XI Rule 1 (4) r/w Section 151 CPC)

4. This application is filed on behalf of the Plaintiff seeking leave to place on record additional documents.
5. Plaintiff, if it wishes to file additional documents at a later stage, shall do so strictly in accordance with provisions of the Commercial Courts Act, 2015.
6. Application is disposed of.



I.A. 8212/2026 (for pre-institution mediation)

7. This application is filed on behalf of the Plaintiff under Section 12-A of the Commercial Courts Act, 2015 read with Section 151 CPC seeking exemption from Pre-Institution Mediation.

8. Having regard to the facts of the present case wherein urgent relief is prayed for and in light of the judgment of Supreme Court in ***Yamini Manohar v. T.K.D. Keerthi, (2024) 5 SCC 815***, as also Division Bench of this Court in ***Chandra Kishore Chaurasia v. RA Perfumery Works Private Ltd., 2022 SCC OnLine Del 3529***, exemption is granted to the Plaintiff from Pre-Institution Mediation.

9. Application is allowed and disposed of.

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10. Let plaint be registered as a suit.

11. Upon filing of process fee, issue summons to the Defendant through all permissible modes, returnable before the learned Joint Registrar on 17.04.2026.

12. Summons shall state that the written statement shall be filed by the Defendant within 30 days from the receipt of summons along with affidavit of admission/denial of the documents filed by the Plaintiff.

13. It will be open to the Plaintiff to file replication within 30 days from the date of receipt of written statement along with affidavit of admission/denial of documents filed by the Defendant.

14. If any of the parties wish to seek inspection of any documents, the same be sought and given the timeline prescribed in Delhi High Court (Original Side) Rules, 2018.

15. Learned Joint Registrar will carry out admission/denial of documents



and marking of exhibits.

I.A. 8209/2026(u/O XXXIX Rules 1 and 2 r/w Section 151 CPC)

16. This application is filed on behalf of the Plaintiff seeking *ex parte* ad interim injunction against the Defendant.

17. Issue notice to the Defendant through all permissible modes, returnable before Court on 09.07.2026.

18. Case of the Plaintiff as set out in the plaint is that Plaintiff is a part of the British Petroleum Group of Companies and was founded in 1899 in United Kingdom. Plaintiff has become a world leader in the field of lubricants, oil, coolants and grease and related services over the years and its goods and services cater primarily to the automotive, industrial, marine and aviation sectors. Plaintiff's lubricants, oil, coolants and grease have been at the heart of numerous technological feats on land, air, sea and in space for over 100 years and today Plaintiff has a presence in over 150 countries around the world and serves more than 550,000 customers with nearly 200 million end users.

19. It is stated that Plaintiff is a registered proprietor of trademark ACTIV and its formative marks as also of the mark MAGNATEC and the registration details are as follows:-

S. No.	Reg. No.	Mark	Class	Date of Filing	User Claim	Status
1.	838183	ACTIV	4	25/01/1999	Proposed To Be Used	Registered
2.	3355419		4	08/04/2016	Proposed To Be Used	Protection Granted
3.	1989556	MAGNATEC	4	06/07/2010	Proposed To Be Used	Registered
4.	2709612		4	31/03/2014	Proposed To Be Used	Registered



5.	6153641		4	17/10/2023	31/12/2013	Registered
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20. It is stated that Plaintiff first used the marks ACTIV, MAGNATEC



and in 1999, 1996 and 2012 respectively, as also



packaging in 2012.

21. It is stated that over the years, Plaintiff has sold engine oil and lubricants bearing Plaintiff's marks in a unique packaging, essential features of which are as follows:-

Plaintiff's Old Packaging



Plaintiff's New Packaging



22. It is stated that the essential features of the new packaging include container/packaging of silver-grey colour with a red cap. The front of the container bears a label in the shape of a curved trapezoid, the top of which prominently displays the CASTROL New Roundel Device mark, below which Plaintiff's other marks depending on the product, such as ACTIV are written in a stylized font. The centre of the label features words



‘CONTINUOUS PROTECTION’ in a red banner. The back label, which is also in the shape of a trapezoid bears the CASTROL Roundel Device mark and the ACTIV mark. In the area below, the details of the manufacturer, place of manufacturing, etc are mentioned.

23. It is stated that owing to long standing use and distinctiveness, Plaintiff’s marks and packaging have become source identifier of Plaintiff’s oil and lubricants and due to the distinctive getup and layout, packaging constitutes protectable trade dress under Section 2(1)(m) of the Trade Marks Act, 1999 (‘1999 Act’). Furthermore, Plaintiff also holds copyright in the ‘original artistic work’ comprised in the marks and packaging under the Copyright Act, 1957 (‘1957 Act’), which entitles it to exclusive right to use and reproduce the artistic work in any material form.

24. It is stated that within a few years of being introduced in the Indian market, Plaintiff’s products under the aforesaid marks and packaging achieved enormous success, which is evident from turnover sales figures pertaining to oil, coolants and lubricants. Annual turnover from 2015 to 2025 is as follows:-

Annual Turnover in India (2015-2025)

YEAR	ANNUAL TURNOVER (in thousand crores INR)
2015	3.3
2016	3.4
2017	3.5
2018	3.9
2019	3.9
2020	3.05



2021	4.2
2022	4.8
2023	5.1
2024	5.4
2025	5.7

25. It is stated that Plaintiff's Indian Subsidiary spends significant sums of money annually on marketing oil, coolants and lubricants bearing Plaintiff's marks and packaging. Plaintiff has advertised its products since as early as 1918 in India through different media platforms as also through films and television/OTT shows. In 2024, Plaintiff announced a partnership with one of the leading teams, the Mumbai Indians, as the official performance partner for India's leading sports event, the Indian Premier League. Over the years, many popular and eminent Bollywood stars and sports personalities have endorsed Plaintiff's products as brand ambassadors. Details of the promotional expenditure incurred by Plaintiff in India are as follows:-

YEAR	MARKETING EXPENSES (in crores INR)
2015	129.14
2016	130
2017	112.73
2018	127.91
2019	113.88
2020	132.97
2021	141.75
2022	130.21
2023	129.15
2024	146.32
2025	163.92



26. It is stated that Plaintiff's goodwill and reputation in  (device mark) is exemplified from the fact that this Court vide judgment dated 26.05.2025 in CS(COMM) 313 of 2024 titled *Castrol Limited v. Govind Mohan Sharma*, has declared the mark as a well-known mark under Section 2(1)(zg) of the 1999 Act.

27. It is stated that in January 2026, Plaintiff came across Defendant's published Application bearing No.5883684 for the word mark MAXSTAR ACTIVE under Class 04, covering "*industrial oils and greases; wax; lubricants; dust absorbing, wetting and binding compositions; fuels and illuminants; candles and wicks for lighting*" filed on 07.04.2023 claiming use since 06.02.2019. On conducting internet searches, Plaintiff came across Defendant's listings for products bearing the impugned marks ACTIVE,



as also impugned



packaging / on its website <https://www.omshivlubricants.com/> as also on several third-party e-commerce websites, such as IndiaMart, Trade India etc.



28. It is stated that further investigation revealed that Defendant manufactures, markets and sells engine oils and lubricants through online listings to customers across India and operates in a clandestine manner and sells his products only in bulk. Plaintiff's investigator purchased a box of Defendant's products with impugned marks, which revealed that Defendant has mentioned false/misleading information about the source and origin of its product and details mentioned on the back of the engine oil bottle do not mention Defendant's address or GST details etc. and rather there is a reference to a fictitious entity, namely, Max Star Prime Lubricants based out of Mumbai. Moreover, the QR code on the black label is also misleading, as it redirects to the Google search result page for 'MAX. STAR PVT. LTD., Mumbai (India), Cust. Care 9992771905', which entity has no relationship with the Defendant.

29. Learned counsel for the Plaintiff submits that a comparison of the rival marks and packaging would show that they are deceptively similar. Clearly, the parties are in the same business and trade channels and consumers being common, there is likelihood of confusion among the members of the public. Defendant's use of the impugned marks for goods falling in Class 04, amounts to infringement of Plaintiff's trademarks under Section 29 of the 1999 Act. Defendant is also infringing Plaintiff's copyright in the artistic work in the device marks and packaging, which Plaintiff is entitled to protect. All three ingredients of passing off i.e. reputation and goodwill of Plaintiff; deception and misrepresentation by the Defendant; and irreparable damage to Plaintiff's goodwill, exist in the present case, since Defendant is using a deceptively similar marks and packaging in relation to identical/similar goods with an intent to ride upon the goodwill and



reputation of the Plaintiff and encash on it. It is clear that members of public are being misguided into believing that Defendant's products under the impugned mark have an association with the Plaintiff and this is causing irreparable damage to Plaintiff's reputation and also diluting its brand.

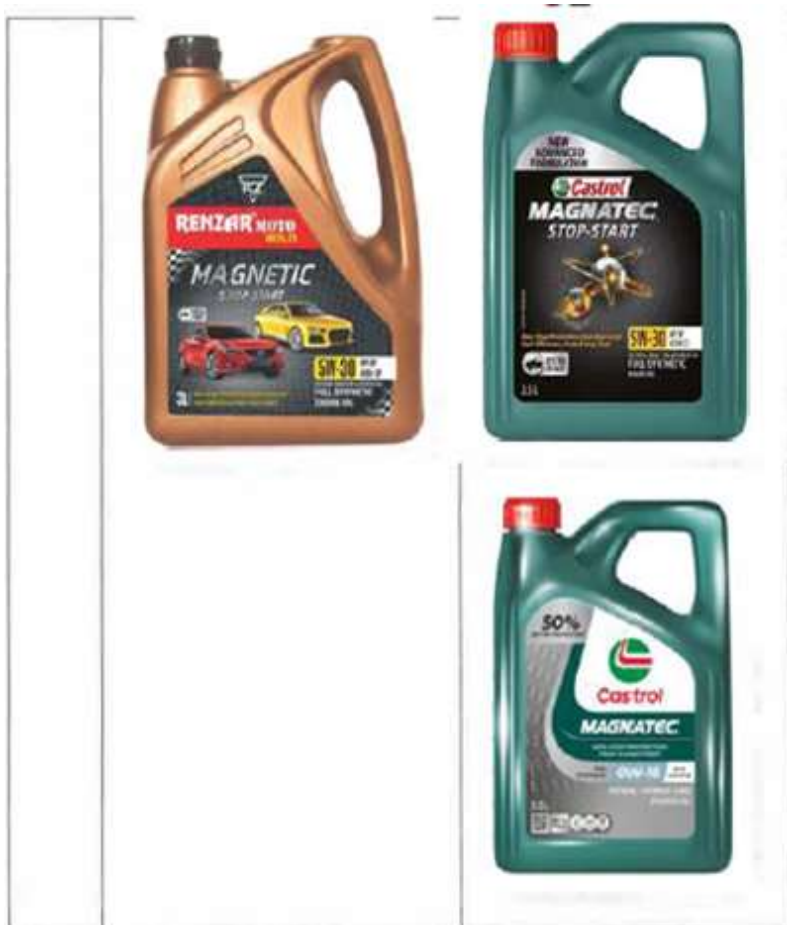
30. Having heard learned counsel for the Plaintiff and upon perusal of the documents, I am of the view that Plaintiff has made out a *prima facie* case for grant of *ex parte* ad interim injunction against the Defendant. Balance of convenience lies in favour of the Plaintiff and it is likely to suffer irreparable harm in case the interim injunction, as prayed for, is not granted.

31. Plaintiff is the registered proprietor of the trademark ACTIV and its formative marks as also the mark MAGNATEC. It owns copyright in the artistic work in the device marks as also the packaging, which is unique and distinctive owing to its special features detailed in the plaint. Defendant is using deceptively similar marks for identical/similar goods as also deceptively similar packaging. *Prima facie* Defendant is infringing Plaintiff's registered trademarks ACTIV and MAGNATEC as also its copyright. Rival marks and goods being deceptively similar and trade channels and consumer base being common, there is likelihood of confusion among members of public and potential consumers. *Prima facie* Defendant has dishonestly adopted the impugned marks and trade dress to encash on the formidable reputation and goodwill of the Plaintiff so as to pass off its goods as those of the Plaintiff and the misrepresentation is leading to irreparable damage to the goodwill and reputation of the Plaintiff. For ready reference, comparative of rival marks and packaging, as brought forth in the



plaint, is as follows:-

S. No.	The Defendant's Marks and/or the Defendant's Packaging	The Plaintiff's Marks and/or the Plaintiff's Packaging
1.		
3.	<u>ACTIVE</u>  	<u>ACTIV</u>   
4.	<u>ACTIVA</u> 	
5.	<u>MAGNETIC</u> 	MAGNATEC 



32. Accordingly, till the next date of hearing, Defendant and/or its officers, managers, employees, agents, dealers, licensees, companies, retailers, or any other persons/entities related or affiliated to the Defendant and/or all others acting for and on its behalf, either individually or collectively, are restrained from manufacturing, offering for sale, selling, displaying, advertising, marketing, whether directly or indirectly, on the internet or otherwise, engine oil, coolants, gear oil and lubricants and/or

allied/cognate goods, bearing impugned marks, ACTIVE, , , , ,



as also impugned packaging



and



and/or

any other mark which is identical or deceptively similar to Plaintiff's marks

ACTIV,



,



,



,

MAGNATEC and



and packaging



,



,



, amounting to infringement of trademarks,

copyright and/or passing off.

33. Plaintiff shall comply with the provisions of Order XXXIX Rule 3 CPC within a period of two weeks from the date of execution of the local commission.



I.A. 8211/2026 (u/O XXVI Rules 9 and 10 r/w Order XXXIX Rule 7 r/w Section 151 of CPC)

34. This application is filed on behalf of the Plaintiff seeking appointment of Local Commissioner.

35. Upon hearing, the application is allowed.

36. Accordingly, Ms. Yashika Kapoor, Advocate (Mobile No. 7011263450) is appointed as Local Commissioner, who shall visit the premises as indicated below:-

Om Shiv Lubricants,
Ahir Mohalla, Naresh Park, Nangloi,
Delhi- 110041.

37. Local Commissioner shall visit the aforesaid premises of the Defendant and inspect and make an inventory of the infringing goods and thereafter seize and take into custody the same including unfinished and semi-finished goods, incriminating materials and packaging materials bearing the impugned marks/packaging. Local Commissioner shall also inspect and seize the books of accounts, ledgers and stock registers relating to sale of the offending goods. The goods so seized shall be handed over to the Defendant on *superdari* with an undertaking that the same shall be produced in Court when directed.

38. Local Commissioner along with the representative of the Plaintiff and/or counsel shall be permitted to enter the aforesaid premise by the Defendant. In case of any obstruction in execution of the commission, Local Commissioner will be at liberty to take assistance of SHO of the concerned police station, who on being contacted shall render complete assistance and cooperation. In case the premises are found locked, Local Commissioner will be at liberty to break open the locks.



39. Plaintiff shall serve a copy of this order upon the Defendant along with paper book of the suit at the time of execution of the commission.
40. Fee of the Local Commissioner is fixed at Rs. 1,50,000/- in addition to other miscellaneous out-of-pocket expenses. Fee of the Local Commissioner shall be paid in advance by the Plaintiff.
41. Report shall be filed by the Local Commissioner within two weeks from the date of execution of the commission and Registry shall be informed of the execution of commission and the filing of the report, only after which summons will be issued to the Defendant.
42. Application is disposed of.
43. This order will not be uploaded on the website of this Court till execution of the commission by the Local Commissioner.
44. Copy of the order be given *dasti* under signatures of the Court Master.

JYOTI SINGH, J

MARCH 27, 2026/RW