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

+ CS(COMM) 212/2025, I.A. 6226/2025, I.A. 6227/2025, I.A. 6228/2025, I.A. 6229/2025, I.A. 6230/2025, I.A. 6236/2025 & I.A. 6237/2025

X

.....Plaintiff

Through: Mr. Kunal Khanna, Mr. Madhav Anand, Mr. Krtin Bhasin, Mr. Yashveer Singh and Mr. Udit Sharma, Advs.

M: 9999757185

Email: ip.kunalkhanna@gmail.com

versus

Y

.....Defendant

Through: None

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

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07.03.2025

I.A. 6230/2025 (Exemption from filing original documents, certified copies, clearer copies of dim and illegible documents, typed and translated copies with left side margins, electronic documents, etc)

1. The present is an application under Section 151 of the Code of Civil Procedure, 1908 ("CPC"), on behalf of the plaintiff, seeking exemption from filing original documents, certified copies, clearer copies of dim and illegible documents, typed and translated copies with left side margins, electronic documents, etc.

2. Exemption is granted, subject to all just exceptions.



3. Plaintiff shall file original documents, certified copies, clearer copies of dim and illegible documents, typed and translated copies with left side margins, electronic documents, etc, on which the plaintiff may seek to place reliance, before the next date of hearing.

4. Accordingly, the present application is disposed of.

I.A. 6228/2025 (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 judgment 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. 6236/2025 (Exemption from advance service to the defendant)

8. The present is an application under Rule 22 of Delhi High Court Intellectual Property Rights Division Rules, 2022, read with Section 151 CPC, seeking exemption from advance service to the defendants.

9. The plaintiff seeks urgent interim relief, and has also sought appointment of a Local Commissioner. Therefore, in the peculiar facts and circumstances of this case, exemption from effecting advance service upon the defendant, is granted.

10. For the reasons stated in the application, the same is allowed and disposed of.



I.A. 6237/2025 (Application seeking extension of time for filing Court Fees)

11. The present application has been filed under Sections 149 of the CPC, seeking extension of time to file the Court Fees.
12. Learned counsel appearing for the plaintiff submits that the requisite Court Fees shall be deposited within a period of two weeks from today.
13. Liberty is granted.
14. With the aforesaid directions, the present application is disposed of.

I.A. 6229/2025 (Application seeking masking the identities of parties)

15. The present is an application filed under Section 151 CPC seeking to mask the identities of parties to the suit.
16. It is submitted that the plaintiff apprehends that upon discovering the plaintiff's name in the listed matter, the infringer will withdraw all the impugned products from the premises, and such disclosure would defeat the purpose of the present suit.
17. Thus, it is submitted that till the Local Commission is executed, the identities of the parties may not be reflected in the Cause List and the identities of the parties be masked and only be reflected as *X Versus Y*.
18. Considering the submissions made before this Court, it is directed that the identity of the parties shall be masked till the execution of the Local Commission, which shall be done within a period of two weeks, from today.
19. Noting the aforesaid, the present application is disposed of.

CS(COMM) 212/2025

20. Let the plaint be registered as suit.
21. 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 plaintiff's documents, without which, the written statement shall not be taken on record.

22. Liberty is given to the plaintiff 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 plaintiff, an affidavit of admission/denial of documents of the defendants, be filed by the plaintiff, 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.

23. List before the Joint Registrar (Judicial) for marking of exhibits, on 23rd May, 2025.

24. List before the Court on 25th August, 2025.

I.A. 6226/2025 (Application under Order XXXIX Rules 1 and 2 read with Section 151 CPC)

25. The present is a suit for permanent injunction, infringement of trademark, copyright, passing off, delivery up, rendition of accounts, damages, etc.

26. It is submitted that the present suit is being instituted by the plaintiff to *inter-alia* restrain the defendant from manufacturing, selling and offering for sale nutrition supplements for health and wellness needs which are identical, fraudulent and an obvious imitation of the plaintiff's products sold under the trade mark "WELLCORE" with its unique label. The present suit is also being filed so as to prevent the defendant from making use of the trade mark "WELLCORE", as well as the unique packaging of the plaintiff



that infringes the plaintiff's trade mark "WELLCORE" and the copyright subsisting in the original artistic work of the packaging and further leads to passing off of the defendant's products as that of the plaintiff.

27. It is submitted that the plaintiff company was incorporated in the year 2017 and for the sale of its aforesaid goods, honestly and *bonafidely* conceived the trademark "WELLCORE" amongst various other well-known trademarks conceived throughout its course of business, such as Ketofy, YouWeFit, Wellversed Dynamite, Wellversed Zero Sugar, Wellversed Okami, Unsnack, etc.

28. It is submitted that the plaintiff, since the date of its adoption, has continuously, commercially, openly, exclusively and without any interruption from any concern whatsoever, used the trademark "WELLCORE" in the course of the trade in relation to the said products and has been the exclusive proprietor of the said trademark. Further, owing to its distinctiveness and high quality products under the said trademark, the trade mark "WELLCORE" forms a prominent part of the business of the plaintiff and is solely associated with the plaintiff only.

29. It is submitted that in order to protect its rights subsisting in the said trademark, the plaintiff has filed applications for the registration of the trade mark "WELLCORE", details of which, are as below:

TRADEMARK	APPLICATION NO.	CLASS	STATUS	DATE OF APPLICATION	USER DATE
 Wellcore EMPOWERING HEALTH	5283382	5	Registered	13.01.2022	01.10.2020
 WELLCORE	6432137	5	Objected	14.05.2024	01.10.2020



30. It is submitted that the plaintiff has been taking continuous steps to popularize the said trade mark and has expended large sums of money on publicity, advertisements and sales promotional efforts, including, advertising its wide range of products through Instagram and Facebook, resulting in the extensive popularity of the goods under the said trademark. The plaintiff has also been actively promoting and advertising its goods on its official website <https://wellversed.in>, in order to promote and advertise the goods and services bearing the trade mark “WELLCORE”. Further, on account of the plaintiff's social media advertisements and operational websites, the goods of the plaintiff bearing the trade mark “WELLCORE”, has become popular not only throughout the territory of India but globally as well. It is submitted that the goods and services of the plaintiff bearing the trade mark “WELLCORE” is also popular and available even in the remotest parts of the country due to the said impeccable presence of the plaintiff on the internet.

31. Further, many online sales portals such as www.amazon.in, www.flipkart.com, <https://www.jiomart.com/> <https://nutrabay.com/> <https://www.1mg.com/> which are immensely popular in India, offer the plaintiff's goods under the trademark “WELLCORE” in India for sale and delivery, making it easily accessible and recognizable in India. Thus, the trademark “WELLCORE” with different variants, is well recognized in India, by both traders and general public, as originating from the plaintiff. The Plaintiff, by adherence to higher standards of quality and sales through various online portals mentioned hereinabove, has acquired a reputation in the relevant industry with respect to the goods under the trademark “WELLCORE”. It is submitted that the plaintiff has already commanded



handsome sales under the said trademark which can be made evident from the following table:

YEAR	SALES
2022-23	18,53,00,000/-
2023-24	1,04,65,00,000/-

32. It is submitted that other than the rights acquired by the plaintiff in the said trademarks, the plaintiff has acquired artistic rights over the label mark, having engaged the services of one of its employees for the creation of its original artistic work. Thus, the plaintiff holds exclusive rights over the label/artistic work, which was designed under their direction, supervision and instructions. The plaintiff is therefore, the owner of the copyright subsisting in its label and the artistic work is original within the meaning of Section 2(c) Copyright Act, 1957. The representation of the said label is as reproduced as under:

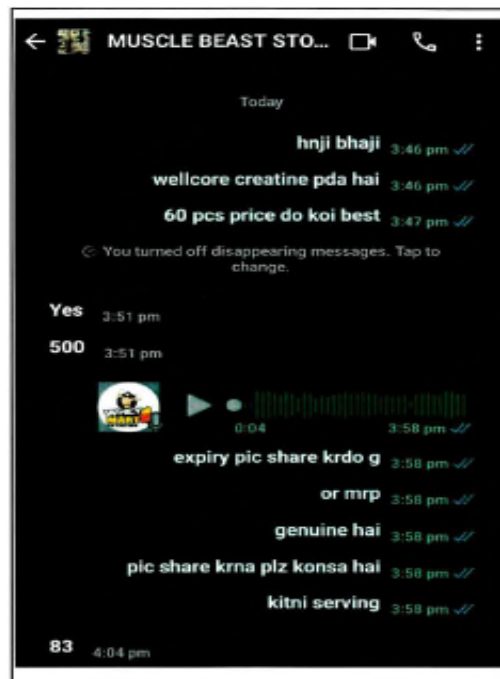


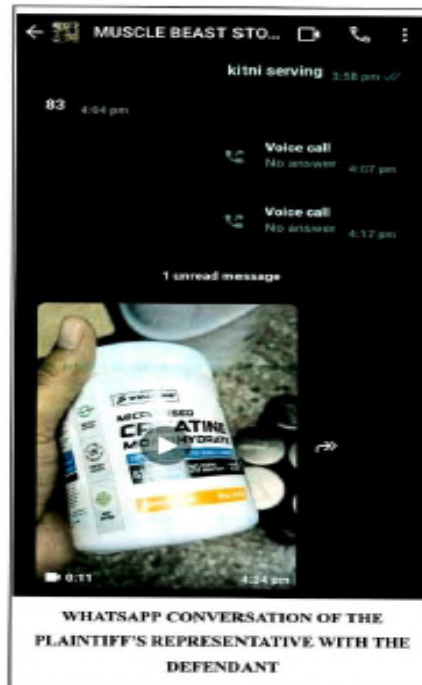
33. It is submitted that in the second week of February 2025, the plaintiff, for the first time, came across the defendant's impugned products bearing an



identical trade mark and label to the plaintiff's trade mark "WELLCORE" and unique label being offered for sale on an Instagram Page by the name of Musclebeaststore.

34. It is submitted that the plaintiff in order to ascertain the infringing activities of the defendant, contacted the defendant through WhatsApp on 25th February, 2025 through the plaintiff's representative on the number provided by the defendant on their Instagram Page. While inquiring regarding the availability of the products, the plaintiff's representative was shocked to find out that the defendant was dealing in such large scale quantities of the impugned products at such low prices. The telephonic conversation screenshot of the relevant WhatsApp conversation, is reproduced as under:





35. It is submitted that the plaintiff was deeply disturbed to discover that the defendant was selling such impugned products that were of plaintiff's rightfully owned trademark and copyright which the plaintiff exclusively uses to sell its goods. The representation of the products of the plaintiff and the impugned products of the defendant, are as follows:

PRODUCTS OF THE PLAINTIFF	IMPUGNED PRODUCTS OF THE DEFENDANT

36. It is submitted that the unauthorized use of the plaintiff's well-known



trade mark “WELLCORE” by the defendant who is selling the impugned goods under the trade mark “WELLCORE” for their lower quality products tantamount to infringement of plaintiff’s right vested in its registered trademark “WELLCORE”.

37. It is submitted that the defendant is in no way associated with the plaintiff companies and is neither its authorized manufacturer/seller of “WELLCORE” nor associated with the plaintiff companies through any other trade channels and that the first time plaintiff came across the defendant was in the second week of February, 2025, when plaintiff was informed about the defendant’s infringing activities. The plaintiff’s “WELLCORE” trade mark has a goodwill that spans across masses of India and even beyond the borders. It is respectfully submitted that the plaintiff is considered the top manufacturers and sellers of nutrition supplements for health and wellness needs in India and are one of the leading names in the domain globally.

38. It is submitted that the defendant by infringing upon the plaintiff’s rightfully owned and well-known trademark aims to ride upon plaintiff’s long standing goodwill and unmatched reputation for its own *malafide* gains.

39. It is further submitted that the defendant is engaging in printing label / artworks similar to that of the plaintiff, which is affixed on the goods sold under the “WELLCORE” trademark. Accordingly, the defendant is also infringing the copyright of the plaintiff, which is subsisting in the original artistic work of the label which is affixed on the said goods.

40. It is the case of the plaintiff that the defendant’s adoption and use of an identical mark and label in respect of the identical goods, are creating misrepresentation and deception in the minds of trade and common man and



thus would amount to infringement and passing off. The said act on part of the defendant is causing day to day damages to the plaintiff.

41. It is submitted that the use of the trademark and copyright by the defendant is *malafide* and dishonest. Therefore, while no loss would be suffered by the defendant, irreparable loss, injury and damage would be suffered by the plaintiff if the defendant is allowed to continue with their illegal activities.

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

43. Accordingly, till the next date of hearing, the defendant, its proprietor or partners, its associates and agents, officers, employees, distributors, franchisees, representatives and assignees, 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 identical or similar to plaintiff's 'WELLCORE' trademark, including, the device marks or any other mark/logo/labels, which are identical and similar to the plaintiff's 'WELLCORE' trademark and/or device marks, amounting to infringement of the plaintiff's registered trademark/copyright/passing off.

44. The defendant is further restrained from using any indicia whatsoever to show any association or affiliation or connection of the defendant or its products with the plaintiff.

45. Issue notice to the defendant by all permissible modes, upon filing of



process fees, returnable on the next date of hearing.

46. Reply be filed within a period of four weeks, from the date of service.
47. Rejoinder thereto, if any, be filed within a period of two weeks, thereafter.
48. Compliance of Order XXXIX Rule 3 CPC, be done, within a period of three weeks, from today.
49. List before the Court on 25th August, 2025.

I.A. 6227/2025 (Application for appointment of Local Commissioner)

50. The present application has been filed on behalf of the plaintiff under Order XXVI Rules 9 and 10, read with Order XXXIX Rule 7, read with Section 151 CPC, seeking appointment of a Local Commissioner.

51. 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.

52. Accordingly, the following directions are issued:

- i. Mr. Mayank Gupta, Advocate (Mob. No. 8826865211), is appointed as a Local Commissioner, with a direction to visit the following premises of the defendant:-

***Shop Number C - 14 B,
Ground Floor, Rama Park Rd,
Uttam Nagar, Extension, Delhi 110059***

- ii. The learned Local Commissioner, along with a representative of the plaintiff 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 or any other deceptively similar



variant of the plaintiff's trademark.

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 Commissioners 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 out by the plaintiff, is fixed at ₹1,00,000/- (Rupees One Lac). The plaintiff 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 plaintiff.

ix. The local commission shall be executed within a period of two weeks from today. The Local Commissioner shall file the report within a period of



two weeks from the date, on which the commission is executed.

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

54. The present application is accordingly disposed of, in the aforesaid terms.

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

MINI PUSHKARNA, J

MARCH 7, 2025/kr