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

+ CS(COMM) 420/2025

JOCKEY INTERNATIONAL, INC.Plaintiff

Through: Mr. Pravin Anand, Mr. Saif Khan,
Mr. Shobhit Agarwal, Mr. Prajjwal
Kushwaha and Ms. Meghana
Kudligi, Advs.

versus

M/S. VISHAL AGENCY & ORS.Defendants

Through: None

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

% **07.05.2025**

I.A. 11452/2025 (*Exemption from pre-institution mediation*)

1. *Vide* the present application under *Section 12A* of the Commercial Courts Act, 2015, read with *Section 151* of the Code of Civil Procedure, 1908 (*CPC*), the plaintiff seeks exemption from pre-litigation mediation.

2. Considering the averments made in the present application, as also since the plaintiff is seeking *ex-parte ad-interim* injunction in an accompanying application as also appointment of Local Commissioners, and in view of the judgment passed by the Hon'ble Supreme Court in *Yamini Manohar v. T.K.D. Krithi* 2024 (5) SCC 815, which has been followed by an Hon'ble Division Bench of this Court in *Chandra Kishore Chaurasia v. R. A. Perfumery Works Private Limited* 2022:DHC:4454-DB, the plaintiff is exempted from instituting pre-litigation mediation.

3. Accordingly, the present application stands disposed of.

I.A. 11451/2025 (*Additional document*)

4. *Vide* the present application under *Order XI Rule 1(4)* read with

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Section 151 of the CPC, the plaintiff seeks leave of this Court to file additional documents.

5. The plaintiff will be at liberty to file additional documents at a later stage, *albeit*, after initiating appropriate steps, strictly as per the provisions of the Commercial Courts Act, 2015 read with *Section 151* of the CPC and the Delhi High Court (Original Side) Rules, 2018.

6. Accordingly, the present application stands disposed of.

I.A. 11453/2025 *Exemption from making advance service to the defendants)*

7. *Vide* the present application under *Section 151* of the CPC, the plaintiff seeks exemption from advance service upon the defendant nos.1 to 8.

8. Learned counsel for the plaintiff submits that the defendant nos.1 to 8 are likely to destroy all evidence of their engaging in the infringing activities if advance service is effected, and the apprehensions of the plaintiff will become a reality in case advance service is affected and therefore, an exemption from effecting advance service is necessary.

9. For the reasons stated in the application, as also taking into account the aforesaid factors and in the interest of justice, the plaintiff is granted exemption from effecting advance service upon defendant nos.1 to 8.

10. Accordingly, the present application is allowed and disposed of.

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11. *Vide* the present plaint, the plaintiff, seeks permanent injunction restraining infringement of copyright, passing off, dilution, tarnishment, unfair competition rendition of accounts and damages etc.

12. Let the plaint be registered as a suit.

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13. Upon filing of the process fee, issue summons of the suit to the defendants through all permissible modes returnable before the learned Joint Registrar on 06.08.2025.

14. The summons shall state that the written statement(s) be filed by the defendants within a period of *thirty days* from the date of the receipt of the summons. Written statement(s) be filed by the defendants along with affidavit(s) of admission/ denial of documents of the plaintiffs, without which the written statement(s) shall not be taken on record.

15. Replication(s) thereto, if any, be filed by the plaintiffs within a period of *fifteen days* from the date of receipt of written statement(s). The said replication(s), if any, shall be accompanied by with affidavit(s) of admission/ denial of documents filed by the defendants, without which the replication(s) shall not be taken on record within the aforesaid period of *fifteen days*.

16. If any of the parties wish to seek inspection of any document(s), the same shall be sought and given within the requisite timelines.

17. List before the learned Joint Registrar for marking exhibits of documents on 06.08.2025. It is made clear that if any party unjustifiably denies any document(s), then such party would be liable to be burdened with costs.

I.A. 11449/2025 (*Stay*)


18. *Vide* the present application, the plaintiff seeks an order of *ex-parte ad-interim* injunction restraining the defendants and all others acting for and on their behalf from using the name/mark **JOCKEY** and/or any other mark which is identical/ deceptively similar to/ containing the **JOCKEY** trademark of the plaintiff as part of any domain, *email* address, business
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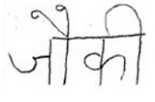
papers, or in any other manner in the course of trade, amounting to infringement of the plaintiff's trademark **JOCKEY**, infringement of copyright and passing off as also other ancillary reliefs.

19. As per pleadings, the plaintiff is a company registered under the laws of the United States, operating in India through its exclusive licensee M/s. Page Industries Limited, engaged in the business of manufacturing and distributing innerwear, nightwear, sportswear, etc. for men and women under the brand **JOCKEY**, globally since 1934, and in India since 1994.

20. The plaintiff has secured several registrations in India for the mark

JOCKEY and its variants with designs and colours like  **JOCKEY** /



and even in the Hindi language as , in Classes 25 and 35 as enumerated in *paragraph no.8* of the captioned plaint, and has been using the same extensively and continuously.

21. The plaintiff has generated significant revenue in sales, and made considerable investments in promotional expenditure with regards to the **JOCKEY** trademarks, has internet presence for *ecommerce* and has also achieved well-known status *vide* order dated 13.05.2014 passed by this Court in CS(OS)253/2012 titled "**Jockey International Inc. & Anr. v. R. Chandra Mohan & Ors.**", and was subsequently registered as a well-known trademark in the trademark journal (*Trade Marks Journal No. 2144 dated 19.02.2024*).

22. The defendants are various shops/ shop owners operating in CS(COMM) 420/2025



different parts of Northern part of India. Defendant no.1 is a shop located in Sadar Bazar, Delhi, defendant no.2 is a shop located in Jalandhar, Punjab, defendant no.3 is a private limited company registered under the Companies Act, 2012 in Ludhiana, Punjab, defendant no.4 is operating a shop located in Sonipat, Haryana, defendant no.5 is operating and trading as M/s. R K International out of Sonipat, Haryana and defendant nos.6 to 8 are shops located in Panipat, Haryana. Defendant no.9 is John Doe for unnamed/ unidentified persons who may be discovered to be undertaking in infringing activities by the plaintiff during the course of the present proceedings.

23. The plaintiff gained knowledge of the defendants' infringing activities through its market survey in April 2025, and found counterfeit products in the nature of 'JOCKEY towels' (*impugned products*) being stocked and sold in the Northern part of India by the defendants without issuance of any tax invoices. The plaintiff conducted inquiries and purchased the said counterfeit products, as depicted in *paragraph no.21* of the captioned plaint.

24. Learned counsel for the plaintiff submits that since counterfeit impugned products of inferior quality are being sold in the market, it amounts to deceiving consumers who are purchasing the impugned products under the belief that the same are genuine/ original products of the plaintiff, and that the same not only amounts to unfair infringement, but is also having a devastating effect on and causing *irreparable harm* to the goodwill and reputation of the plaintiff's trademark **JOCKEY**.

25. This Court has heard learned counsel for the plaintiff, as also gone through the pleadings and documents on record.



26. A comparative table of the plaintiff's original products and the impugned products as provided in the plaint and documents, relevant portions thereof are given below:

Original Product (Plaintiff's)	Impugned Product (Defendants')
	
	
	
	

27. From a perusal of the impugned products juxtaposed with the plaintiff's original products, the plaintiff has been able to make out a *prima facie* case of counterfeiting and infringement against the



defendants. The name of the brand, the packaging on the front, as well as the tags and wash care instructions have all been used *as it is* on the impugned products with little to no difference at all, and the defendants have attempted to come as close to the plaintiff's products as possible.

28. Further, on a visual inspection and the feel of the products, this Court finds that the quality of the impugned products is significantly inferior to that of the plaintiff's original products. Thus, the defendants are outrightly attempting to make an average consumer believe that the impugned products of substandard quality are original products of the plaintiff, and which amounts to loss of reputation and goodwill of the plaintiff as well as deceiving the average consumer.

29. In light of the aforesaid, as also considering the public interest since counterfeit products of a personal nature are involved, this Court is of the *prima facie* view that the *balance of convenience* tilts in favour of grant of an *ex-parte ad-interim* injunction in favour of the plaintiff, as *irreparable harm* in the form of damage to their goodwill and reputation is likely to be caused to the plaintiff if the infringing activities of the defendants are not restrained and counterfeit products are continued to be marketed under the trademark of the plaintiff.

30. Accordingly, till the next date of hearing, any person/ entity including the defendant nos.1 to 8, their principle officers, proprietors/ partners, servants, agent, affiliates, subsidiaries, distributors and all others acting for and on their behalf are hereby restrained from using the name/ mark **JOCKEY** and/ or any other mark which is identical/ deceptively similar to/ containing the **JOCKEY** trademark of the plaintiff as part of any domain, *email* address, business papers, or in any other manner in the

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course of trade, amounting to infringement of the plaintiff's trademark **JOCKEY**, infringement of copyright and passing off.

31. Upon the plaintiff taking requisite steps, issue notice to the defendants by all permissible modes returnable before Court on 02.09.2025.

32. Reply(s), if any, be filed within four weeks from the date of service. Rejoinder(s) thereto, if any, be filed within two weeks thereafter.

33. Provisions of *Order XXXIX rule 3 CPC* be complied within one week after the execution of the commission hereinbelow.

34. List before Court on 02.09.2025.

I.A. 11450/2025 (*For appointment of Local Commissioner(s)*)

35. *Vide* the present application, the plaintiff seeks appointment of four Local Commissioners to visit the premises of the defendants.

36. Learned counsel for the plaintiff submits that the defendants are aware of the plaintiff and its products and the impugned products placed on record are clear evidence of the intention of the defendants to ride upon the goodwill and reputation of the plaintiff. The plaintiff believes that the impugned products are sold at the locations set out in the memo of parties annexed with the plaint and the defendants are likely to remove all physical evidence or deny their involvement in the infringing activities.

37. In view of the aforesaid as also considering the factual matrix involved, and most relevantly, in order to preserve the impugned products involved, in the considered opinion of this Court, it is deemed appropriate to appoint Local Commissioner(s) to visit the premises of the defendants.



38. Accordingly, the following are appointed as Local Commissioners with a direction to visit the premises of the defendants as specified against their names:

S. No.	Name and contact details of Local Commissioner(s)	Location	Fee Schedule
1.	Mr. Nishant Chaudhry, Adv. [+91-9810999156]	Defendant no.1 M/s. Vishal Agency Through its owners/partners/proprietors Mr. Tarun Sahni and Mr. Vishal Sahni Shop No. 306, Tolia Market, Sadar Bazar, Delhi-110 006 <u>And also:</u> Shop No. 346, First Floor, Press Street, Sadar Bazar, Delhi-110 006	<i>Rs.2,00,000/-</i> <i>[Rupees Two Lakhs Only]</i>
2.	Ms. Jaisal Singh, Adv. [+91-9414063063]	Defendant no. 3 Naveen Bharat Furnishing Pvt. Ltd. Through its directors Mr. Surinder Pal Singh, Mr. Preet Kanwar Singh and Ms. Inderjeet Kaur S.C.O. 4-5-6, Near Nehru Sidhant Kendra, Pakhowal Road, Ludhiana-141 002, Punjab	<i>Rs.2,00,000/-</i> <i>[Rupees Two Lakhs Only]</i>
3.	Mr. Anshul Vats, Adv. [+91-9911700665]	Defendant no. 5 Mr. Sanjay Gupta Trading as M/s. RK International Gohana Road, Near Malik Hospital, Panipat – 132103, Haryana <u>And also:</u> Defendant no. 8 M/s. AV International Through its owner, Mr. Anmol Goel GT Road, Shiv Nagar, Near Shiv Mandir, Street No. 05, Panipat,	<i>Rs.2,50,000/-</i> <i>[Rupees Two Lakhs Fifty Thousand Only]</i>



		Haryana – 132103	
4.	Ms. Deepanshi Dahiya, Adv. [+91-7289077277]	Defendant no. 6 M/s Durga Enterprises Through its owner Mr. Balram Shop No. 19, Ganpati Handloom Market, Gohana Road, Panipat, Haryana – 132103 <u>And also:</u> Defendant no. 7 M/s. Jai Balaji Towel Store Through its owner, Mr. Dalip Arora 598/7, Near Vaterinery Hospital, Amar Bhawan Chowk, Panipat – 132103, Haryana	Rs.2,50,000/- [Rupees Two Lakhs Fifty Thousand Only]

39. Each of the Local Commissioner is to execute the respective commission in the premises of the respective defendant with the following directions:-

- a) The Local Commissioner(s) be accompanied by a representative of the plaintiff and/ or its counsel, who shall be permitted to enter into the premises of the respective defendant(s) as per the addresses hereinabove.
- b) The Local Commissioner(s) to seize, pack and seal the impugned products and handover the same on *Superdari* to the respective defendant(s) upon the said defendant(s) giving an ‘*Undertaking*’ that he/she/they shall not tamper with or remove the sealed products as also shall in compliance of the orders of this Court, as and when passed, produce the sealed products under *Superdari*.



c) The Local Commissioner(s) is/ are permitted to take photocopies and/ or screenshots of all the books of accounts including ledgers, cashbooks, bill books, purchases and sales records or any document(s) deemed necessary and found in the premises of the defendant(s), etc. for placing the hard copies or *e-copies* thereof on record.

d) The Local Commissioner(s) is/ are permitted to make a video recording of the execution of the commission at the premises of the defendant(s) in compliance of the present order.

e) The Local Commissioner(s) is/ are permitted to take the assistance of the Station House Officer [SHO] of the local Police Station within whose jurisdiction the premises of the defendant(s) is situated. The said SHO is directed to render and provide all and every necessary assistance and protection to the Local Commissioner, if as and when sought for ensuring unhindered and effective execution of the commission at the premises of the defendant(s) in compliance of the present order.

f) If the premises of the defendant(s) is found under lock(s), the Local Commissioner(s) is/ are permitted to break open the said lock(s) in the presence of the SHO/ any designated police officer from the local Police Station.

40. The fee of each of the Local Commissioner named hereinabove mentioned in the fee schedule is in addition to all the related expenses for travel as also any other miscellaneous out of pocket expenses for the execution of the commission. All the aforesaid expenses shall be borne by



the plaintiff and paid in advance to each of the Local Commissioner.

41. Additionally, this Court also permits each of the abovenamed Local Commissioner(s) to visit, secure, seize, pack and seal the infringing products on receiving any information or coming to know from the plaintiff of any other premises of any unknown defendant/ John Doe with the infringing products of the similar nature during the execution of the commission.

42. The fee of the Local Commissioner(s) for each additional premises visit is fixed at Rs.50,000/- [*Rupees Fifty Thousand Only*] in addition to all the related expenses for travel as also any other miscellaneous out of pocket expenses for execution of the commission. The additional visit expenses shall also be borne by the plaintiff and paid in advance to the Local Commissioner(s). In such a situation, the Local Commissioner(s) is/ are permitted to act in the same manner as enumerated in *paragraph no.39* hereinabove.

43. The commission be executed within a period of *seven days* from today, i.e. on or before 14.05.2025.

44. A copy of this order be provided to the Local Commissioners.

45. The report of the Local Commissioners be filed within a period of *two weeks* from the date of execution of the commission.

46. Accordingly, the application is allowed and disposed of.

Dasti.

SAURABH BANERJEE, J

MAY 7, 2025/Ab