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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CS(COMM) 450/2025 & I.A. 11848-11852/2025

HERO INVESTCORP PVT LTD AND ANRPlaintiffs

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

versus

ASHOK KUMAR (JOHN DOE)Defendant

Through:

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

% 09.05.2025

I.A. 11851/2025 (seeking exemption from advance service to defendant)

1. The plaintiffs seek urgent interim relief against infringing products and for this purpose, an *ex-parte* appointment of Local Commissioner is also sought to confiscate the goods. It is submitted that there is a probability that the defendant may remove the infringing products if the defendant is given advance service of the plaint paper book. Therefore, in the peculiar facts and circumstances of this case, exemption from effecting advance service upon the defendant is granted.

2. The application is disposed of.

I.A. 11852/2025 (u/s 149 of the CPC)

3. Mr. Kunal Khanna, counsel appearing on behalf of the plaintiffs submits that the requisite court fees shall be paid within one (1) week.



3.1. Statement of counsel is taken on record.

4. The application is disposed of.

I.A. 11850/2025 (u/s 12A of Commercial Courts Act, 2015)

5. As the present suit 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.

6. The application stands disposed of.

CS(COMM) 450/2025

7. Let the plaint be registered as a suit.

8. Issue summons.

9. Summons be issued to the defendant through all modes. The summons shall state that the written statement shall be filed by the defendant within thirty days from the date of the receipt of summons. Along with the written statement, the defendant shall also file affidavit of admission/denial of the documents of the plaintiffs, without which the written statement shall not be taken on record.

10. Liberty is given to the plaintiffs to file replication(s), if any, within thirty days from the receipt of the written statement. Along with the replication(s) filed by the plaintiffs, affidavit of admission/denial of the documents of the defendant be filed by the plaintiffs.

11. The parties shall file all original documents in support of their respective claims along with their respective pleadings. In case parties are placing reliance on a document, which is not in their power and possession, its detail and source shall be mentioned in the list of reliance, which shall also be filed with the pleadings.



12. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

13. List before the Joint Registrar on 5th August, 2025 for completion of service and pleadings.

14. List before the Court on 6th October, 2025.

I.A. 11848/2025 (u/O-XXXIX Rule 1 & 2 of Code of Civil Procedure, 1908)

15. The present suit has been filed seeking permanent/ perpetual injunction restraining the defendant from infringing the trademark of the plaintiffs, along with passing off and other ancillary reliefs.

CASE SET UP IN THE PLAINT

16. The plaintiffs are group companies of the HERO Group. The plaintiff no.1, Hero InvestCorp Private Limited, is a company incorporated under the laws of India. It is stated that the plaintiff no.1 is the owner and proprietor of

the marks HERO,  ,  and  (hereinafter 'HERO marks') and has been continuously, uninterruptedly and extensively using the same for nearly 60 years in relation to scooters, motorcycles and parts thereof.

17. The plaintiff no.2, Hero MotoCorp Limited, is engaged in the manufacturing, marketing and sale of motorcycles, scooters and their parts and accessories under the 'HERO' marks. The plaintiff no.2 is stated to be a top manufacturer and seller of two-wheelers such as motorcycles and scooters and their spare auto parts in India as well as globally.

18. It is averred that the plaintiffs' 'HERO' marks have become a household name in India and are well-renowned across the world. The plaintiffs have thousands of dealers and several manufacturing facilities in



India and other countries including Columbia and Bangladesh.

19. The 'HERO' marks have been protected by the plaintiff no.1 through numerous registrations across several countries. The plaintiff no.1 has also obtained registrations for the 'HERO' marks in India. The details of the registrations of the 'HERO' marks in favour of the plaintiff no.1 are given below:

Trademark	Class	TM Application No.	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
 (H device)	9, 12, 16, 25, 35, 36, 37, 4, 42	2191293	16.08.2011	16.08.2031
 (Device mark)	9, 12, 16, 25, 35, 36, 37, 41, 42	2191294	16.08.2011	16.08.2031
 (Device mark)	4	2314273	12.04.2012	12.04.2032
 (H device)	4	2314274	12.04.2012	12.04.2032

20. It is stated that the plaintiff no.2, *vide* authority letter dated 10th May, 2022, is exclusively authorized to use the 'HERO' marks.

21. The plaintiff no.1 is also the registered owner of the artwork in the



unique  device.

22. The plaintiff no.2 manufactures and sells two-wheeler spare parts under



the marks 'HERO GENUINE PARTS' and 'HERO GENUINE PARTS marks') in addition to the 'HERO' marks. The plaintiffs use the 'HERO GENUINE PARTS' marks, in addition to the 'HERO' marks, for their diverse range of products including but not limited to auto parts of motorcycles and scooters.

23. The plaintiffs' high-quality products under the 'HERO GENUINE PARTS' marks include inlet valve, lever comp. L STRG HNDL., shoe comp. brake, sectionized engine assy., cable set throt, tube, set, seal set piston, pad set front, crank case comp. R, rub. Bush eng. Hanger, pipe comp air suction, plate bearing set, gasket crank case, crankcase comp. L, etc.

24. It is submitted that the plaintiffs' products under the 'HERO GENUINE PARTS' marks are specially designed by them after extensive efforts in terms of research and development, and substantial amounts have been invested by the plaintiffs in developing the same. As a result of the promotional activities undertaken by the plaintiffs and the superior quality of their products, the plaintiffs enjoy an unmatched reputation and goodwill across India. Resultantly, the plaintiffs' 'HERO' and 'HERO GENUINE PARTS' marks are widely and exclusively associated by the general public with the plaintiffs and not with any other person/ entity.



25. It is stated that the plaintiffs' products under the 'HERO GENUINE PARTS' marks bear the verifiable unique parts identification (UPI) code and are distributed through an extensive network of over 90 super stockists, 350 Hero Genuine Parts distributors and 6500 authorized service centres across India. The plaintiffs' two-wheelers and spare parts are also exported to over 40 countries across the world.

26. It is averred that the plaintiffs have also received several awards, accolades and recognition for their excellent quality products and customer service. The plaintiff no.2's annual revenue in respect of two-wheelers and spare parts for the financial year 2023-24 has been stated to be Rs. 37,456 crores.

27. The defendant (John Doe) is an unidentified entity/ person(s) who is carrying out manufacturing and sale of counterfeit two-wheeler auto-parts including but not limited to inlet valve and counterfeit packaging identical with that of the plaintiff no.2's products under the 'HERO GENUINE PARTS' marks and also bears the 'HERO' marks from its premises located at Karol Bagh, Delhi. However, it is stated that the plaintiffs are not aware of the exact constitution of the defendant and the extent of its business activities.

28. It is submitted that the plaintiffs' investigator came across the defendant carrying out manufacturing and sale of counterfeit two-wheeler auto-parts (hereinafter 'impugned products') at the defendant's premises and intimated the same to the plaintiffs.

29. It is submitted that the plaintiffs' investigator was able to procure the impugned products but the defendant did not issue an invoice for the same.

30. A comparison of the original products of the plaintiffs and the impugned products of the defendant, along with their respective packaging, is



reproduced below:

<u>PLAINTIFF'S PRODUCT</u>	<u>DEFENDANT'S PRODUCT</u>
	
	
	

<u>PLAINTIFF'S TRADEMARK</u>	<u>DEFENDANT'S FALSIFIED TRADEMARK</u>
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31. A perusal of the table above would show that the defendant has copied the packaging of the plaintiffs almost in its entirety and the impugned products of the defendant are sold under the falsified 'HERO' marks and the 'HERO GENUINE PARTS' marks.

32. It is submitted that the 'HERO' marks and the 'HERO GENUINE PARTS' marks are widely associated with the plaintiffs' premium quality products, recognized not only in India but globally. It is further submitted that by adopting and using identical marks/ product packaging in relation to the impugned products which are identical with those of the plaintiffs, the defendant is misrepresenting and deceiving the public and tarnishing the plaintiffs' goodwill, reputation and globally recognized brand image.

33. Based on the averments made in the plaint, the plaintiffs have established their statutory and/ or common law rights over the 'HERO' marks and the 'HERO GENUINE PARTS' marks.



34. On a *prima-facie* view, the impugned products being sold by the defendant appear to be counterfeits of the plaintiffs' goods under the 'HERO' marks and the 'HERO GENUINE PARTS' marks. Clearly, an attempt has been made by the defendant to create an impression that the impugned products being sold by the defendant are associated with the plaintiffs.

35. Balance of convenience is in favour of the plaintiffs and against the defendant. Irreparable loss, harm and injury would be caused to the plaintiffs if the defendant continues to sell the impugned products. Prejudice would also be caused to the public as the impugned products of the defendant are counterfeits of the plaintiffs' products under the 'HERO' marks and the 'HERO GENUINE PARTS' marks and are likely to cause confusion in the market.

36. Consequently, till the next date of hearing, the defendant, its proprietor/ partners, associates, agents, officers, employees, distributors, franchisees, representatives, servants, affiliates, stockiest and assigns are restrained from printing, distributing, supplying, marketing, or in any manner dealing with counterfeit packaging material bearing the plaintiffs' 'HERO' marks and the 'HERO GENUINE PARTS' marks including but not limited to the marks

HERO,  ,  ,  , HERO

GENUINE PARTS and  or any other mark/ logo/ label/ artistic work identical with or deceptively similar to the plaintiffs' 'HERO'



and 'HERO GENUINE PARTS' marks.

37. Issue Notice.

38. Notice be issued to the defendant through all permissible modes, including e-mail.

39. Reply be filed within four (4) weeks.

40. Rejoinder thereto, if any, be filed within two (2) weeks thereafter.

41. In view of the fact that the plaintiffs have sought appointment of a Local Commissioner to seize the counterfeit products, the very purpose of grant of *ex-parte* ad interim injunction would be defeated if the defendant is given notice contemplated in Order XXXIX Rule 3 of Code of Civil Procedure, 1908 (hereinafter 'CPC') prior to the execution of the commission. Hence, it is directed that the plaintiffs shall serve notice under Order XXXIX Rule 3 of CPC at the time of execution of the commission which shall not be later than two (2) weeks from today. The affidavit in terms of Order XXXIX Rule 3 of the CPC shall be filed by the plaintiffs within (1) week thereafter.

42. List before the Joint Registrar on 5th August, 2025 for completion of service and pleadings.

43. List before the Court on 6th October, 2025.

I.A. 11849/2025 (O-XXVI R-9 of CPC)

44. The present application has been filed under Order XXVI Rule 9 of the CPC seeking appointment of Local Commissioner to visit the premises of the defendant, make an inventory of all the goods having the impugned mark/label/packaging and effect seizure of the same.

45. In view of what is stated above, the plaintiffs have made out a case for appointment of a Local Commissioner.

46. Accordingly, Mr. Abhyudaya Tiwari, Advocate (Mobile No. +91-



7007785935) is appointed as Local Commissioner to visit the premises of the defendant situated in:

“Building No. 31, I Block, Sector 4, Bawana Industrial Area, New Delhi-110039.”

47. The following directions are passed in this regard:

47.1. The Local Commissioner, along with a representative of the plaintiffs and their counsel, shall be permitted to enter upon the premises of the defendant mentioned above or any other location/premises that may be identified during the course of commission, in order to conduct the search and seizure.

47.2. The Local Commissioner shall conduct a search at the defendant's premises and seize the infringing goods, including any packaging/ promotional material reflecting infringement.

47.3. The Local Commissioner shall make an inventory of all the infringing products including but not limited to label/packaging material (hereinafter referred to as 'infringing material').

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

47.5. The Local Commissioner shall also be permitted to make copies of the books of accounts including ledgers, cash registers, stock registers, invoices, books, etc. insofar as they pertain to the infringing products.



47.6. The defendant and its representatives are directed to provide full assistance to the Local Commissioner for executing the present commission.

47.7. In case, the aforesaid premises of the defendant or any part thereof are found locked, the Local Commissioner is permitted to break open the locks and doors for execution of the commission.

47.8. To ensure an unhindered and effective resolution of this order, the SHO of the local police station having jurisdiction of the aforesaid premises and the DCP concerned are directed to render the necessary protection and assistance to the Local Commissioner, if and when sought.

47.9. The Local Commissioner shall have the liberty to take photographs and/or videos of the stock seized and to take a sample of the infringing products to be filed along with the Report.

48. The Local Commissioner shall file his Report within two (2) weeks of executing the commission, along with photographs taken and photocopies of the books of account and stock and the inventory procured pursuant thereto.

49. The fees of the Local Commissioner, to be borne by the plaintiffs, is fixed at Rs.1,00,000/-. The plaintiffs shall also bear expenses for travel and lodging of the Local Commissioner and other miscellaneous out-of-pocket expenses for the execution of the commission.

50. The application stands disposed of in the above terms.

51. The order passed today shall not be uploaded for a period of two (2) weeks from today.



52. *Dasti.*

MAY 9, 2025
at

AMIT BANSAL, J