



\$~33

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

+ CS(COMM) 459/2025 with I.A. 11973/2025, I.A. 11974/2025, I.A. 11975/2025, I.A. 11976/2025 and I.A. 11977/2025

**MONKSAYS SUPERFOODS
PRIVATE LIMITED**

.....Plaintiff

Through: Mr. Essenese Obhan, Ms. Anjuri
Saxena, Ms. Urvashi Singh,
Advocates.

versus

**GOLDEN HERBS NUTRACEUTICALS
AND OTHERS**

.....Defendants

Through: None.

**CORAM:
HON'BLE MR. JUSTICE AMIT BANSAL**

**ORDER
13.05.2025**

%

I.A. 11974/2025 (exemption from filing original/certified copies etc.)

1. Allowed, subject to the plaintiff filing legible copies of documents within four (4) weeks from today.
2. The application stands disposed of.

I.A. 11975/2025 (O-XI R-1(4) of the Commercial Courts Act)

3. The present application has been filed on behalf of the plaintiff seeking leave to file additional documents.
4. The plaintiff is permitted to file additional documents in accordance with the provisions of the Commercial Courts Act, 2015 and the Delhi High Court (Original Side) Rules, 2018.



5. Accordingly, the application is disposed of.

I.A. 11977/2025 (seeking exemption from advance service to defendants)

6. The plaintiff seeks urgent interim relief against counterfeit products and for this purpose, an *ex-parte* appointment of Local Commissioners is also sought to confiscate the goods.

7. It is submitted that there is a probability that the defendants may remove the counterfeit products if the defendants are 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 defendants is granted.

8. The application is disposed of.

CS(COMM) 459/2025

9. Let the plaint be registered as a suit.

10. Issue summons.

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

12. Liberty is given to the plaintiff to file replications, if any, within thirty days from the receipt of the written statement(s). Along with the replications filed by the plaintiff, affidavit of admission/denial of the documents of the defendants be filed by the plaintiff.

13. 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.

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

15. List before the Joint Registrar on 11th August, 2025 for completion of service and pleadings.

16. List before the Court on 8th October, 2025.

I.A. 11973/2025 (u/O-XXXIX Rule 1 & 2 of Code of Civil Procedure, 1908)

17. The present suit has been filed seeking a permanent injunction restraining the infringement of the trademarks of the plaintiff, along with passing off and other ancillary reliefs.

18. The plaintiff, Monksays Superfoods Private Limited, is a leading Indian healthcare company which specializes in providing premium health supplements. The plaintiff provides a wide range of health supplements, which are sold under the trade mark “BBETTER”, depicted as “**BBETTER**” (hereinafter referred to as “plaintiff’s Marks/BBETTER marks”).

19. The plaintiff has filed for trademark registrations for the “BBETTER” mark in various classes, of which the BBETTER wordmark has been registered in classes 10 and 35 and is pending registration under classes 1, 5, 30, 42 and 44. The plaintiff honestly adopted the BBETTER marks in August 2019 and has been continuously and uninterruptedly using the same



ever since its adoption. Details of the plaintiff's trademark registrations are given in paragraph 8 of the plaint.

20. The present suit concerns two of the plaintiff's top-selling products, viz. 'BBETTER ORTHOURJA' and 'BBETTER PURIFIED SHILAJIT'.

21. As per the plaintiff's internal records, the plaintiff's sales for 'BBETTER Orthourja' is more than INR 9 crores and for 'BBETTER Purified Shilajit' is over INR 16 crores during the period of 2024 -2025.

22. The plaintiff's Orthourja and Shilajit products are sold with a distinctive packaging, attributable to the plaintiff, which is well-known to its consumers.

23. the defendant no.1, Golden Herbs Nutraceuticals is a manufacturing company engaged in the business of manufacturing health supplements, contract manufacturing and private label services to its clients. The defendant no.1 operates on the defendant no.4's platform using different seller IDs, viz. 'BBETTERR c/o Meesho' and 'Ayurvedic Storeeeee c/o Meesho'

24. the defendant no.2, i.e. Aryavarta Ayurveda is a partnership firm based in New Delhi. The defendant no.2 also operates on the defendant no.4's platform using various seller names such as 'Vedayur' and 'Ayurherbals C/o Meesho'.

25. The defendant no.3, Vedayur, is an entity based in Faridabad. The defendant no.3 is listed as a seller as 'Vedayur' on the defendant no.4's website.

26. The defendant no.4, Meesho Technologies Private Limited, is a company incorporated under the laws of India, which operates an online platform 'www.meesho.com'.



27. The defendant no.5 is Ashok Kumar, i.e. all the manufacturers/suppliers operating on the defendant no.4's platform selling products that are virtually identical to Plaintiff's products bearing the BBETTER marks/trade dress and whose identity is unknown to the plaintiff.

28. Around October 2024, the plaintiff came across listings on the defendant no.4's platform selling products that appeared virtually identical to the plaintiff's Orthoruja and Purified Shilajit products. Upon a detailed inspection, the plaintiff realized that multiple entities, i.e., the defendants no.1, 2, 3 and 5 herein have been manufacturing and supplying products that are deceptively similar/virtually identical to the plaintiff's products and are using the plaintiff's marks "BBETTER"/ "BBETTER".

29. A table comprising of details of the products being sold by the defendants no.1, 2, 3, and 5 on the defendant no.4's platform has been set out below:

Sr. No.	Image of the Impugned Product	Supplier information as visible on Defendant No. 4's platform	Licensing details as visible on Defendant No. 4's platform
Defendant No. 1 i.e. Golden Herbs Nutraceuticals			
1.	Product 1: Purified Shilajit (Counterfeit)	Seller name: Ayurvedic Storeee c/o Meesho	FSSAI License Number: 13322999000317



	 472264035	Document No. 16 @ Pg 473/ PDF731	
	Document No. 16 @ Pg 470 / PDF 728		
2.	Product 2: Orthourja (Counterfeit) 	Seller name: BBETTER c/o Meesho	FSSAI: No license number provided.
	Document No. 16 @ Pg 476/ PDF 734		
Defendant No. 2 Aryavarta Ayurveda			
3.	Product 1: Purified Shilajit (identical to Plaintiff's trade dress)	Seller: Vedayur c/o Meesho (Defendant No.	FSSAI License Number:



	 Document No. 17 @ Pg. No 479/ PDF 737	3) Document No. 17 @ Pg 482/ PDF 740	13322999000317 Note: This FSSAI license is registered in the name of Defendant No. 1 (Document No. 27 @ Pg 695/ PDF 952)
4.	Product 2: Purified Shilajit (Counterfeit)  Document No. 17 @ Pg 485/ PDF 743	Seller: Ayurherbals c/o Meesho Document No. 17 @ Pg 489/ PDF 747	AYUSH License No.: DL-466A&U Note: This license number is untraceable (Document No. 28 @ Pg. 699 / PDF 957)
5.	Product 2: Orthourja (Counterfeit)	Seller: Vedayur c/o Meesho	FSSAI License Number: 13322999000317



	 Document No. 17 @ Pg 496/ PDF 754	Document No. 17 @ Pg 505/ PDF 763	Note: This FSSAI license is registered in the name of Defendant No. 1 (Document No. 27 @ Pg 695/ PDF 952) AYUSH Licence No. DL-466A&U Note: Ayush license number is untraceable. (Document No. 28 @ Pg. 699 / PDF 957)
Defendant No. 5 (Ashok Kumar)			
6.	Purified Shilajit (counterfeit)	Seller: Vedayurrrr c/o Meesho Document No.	FSSAI: No license number provided.



 Document No. 19 @ Pg 549/ PDF 807	19 @ Pg 564/ PDF 822	
---	-------------------------	--

Licensing details	Defendant No. 1's listing	Defendant No. 2's listing with the mark "AYUBEAT"	Defendant No. 2's listing with the mark "BBETTER"
FSSAI License Number	13322999000317	13322999000317	Not provided
AYUSH License Number	Not provided	DL-466A&U	DL-466A&U
Manufacturer	Golden Herbs Nutraceuticals	Aryavarta Ayurveda	Aryavarta Ayurveda
Packer	Golden Herbs Nutraceuticals	Aryavarta Ayurveda	Aryavarta Ayurveda



30. From the above tables, the collusion between the defendants no.1, 2 and 3 is evident, specifically in light of the discrepancies in their licences i.e., untraceable AYUSH license mentioned by the defendants nos. 2 and 3, and the FSSAI licence registered in the name of the defendant no.1 being used by the defendant no.2.

31. The *mala fide* of the defendants no.1, 2, 3 and 5 is also evident by the fact that they have blatantly copied the plaintiff's literary and artistic work in their packaging as is evident from the comparison below:

Plaintiff	Defendant No. 1
BBETTER Purified Shilajit 	Product 1: Purified Shilajit (counterfeit) 



HOW DOES THIS HELP? Various scientific research on Shilajit shows that it  • Helps improve the body's immunity • Helps improve memory • Helps boost energy	HOW DOES THIS HELP? Various scientific research on Shilajit shows that it  • Helps improve the body's immunity • Helps improve memory • Helps boost energy s-472204099
HOW TO CONSUME  • Take 1-2 capsules twice a day or as advised by your healthcare professional  s-472204099	HOW TO CONSUME  • Take 1-2 capsules twice a day or as advised by your healthcare professional  s-472204099
WHY CHOOSE US?    	WHY CHOOSE US?     s-472204099



NUTRITIONAL FACTS

Serving Size: 1 capsule
Serving per container: 60 N Vegetarian Capsules
Each 500mg tablet contains:

Nutrients	Amount Qty. per Tablet
Shilajit (Asphaltum Punjabanum) Ext.	500mg

Recommended Dosage: 1-2 capsules twice daily or as advised by your healthcare professional. / tablet

Storage: Store in a cool & dry place

BENEFITS



BBETTER Orthourja



Product 2: Orthourja (counterfeits)



6-433165947



Plaintiff	Defendant No. 2
	Product 1: Purified Shilajit (identical to Plaintiff's trade dress)  s-496779219
BBETER Purified Shilajit 	Product 2: Purified Shilajit (Counterfeit) 
BBETER Orthourja	Product 3: Orthourja



	(counterfeit)
Plaintiff	Defendant No. 5/John Doe
BBETTER Purified Shilajit 	Product 1: Purified Shilajit (counterfeit) 

32. It is further evident that the defendant no.4 does not verify the details of sellers/manufacturers that offer to sell products on its platform, causing blatant counterfeiting and passing off of the plaintiff's products. Additionally, certain counterfeit listings by Ashok Kumar defendants do not even have basic seller/manufacturer details available, which raises serious questions about the verification process utilized by the defendant no.4.



33. More than thirty emails have been exchanged between the defendant no.4 and the plaintiff since October 2024 to date. Despite the same, new listings with products counterfeiting the plaintiff's products continue to appear on the defendant No. 4's platform.

34. A *prima facie* case has been made out in favour of the plaintiff and against the defendants.

35. Balance of convenience is also in favour of the plaintiff and against the defendants. Irreparable injury would be caused to the plaintiff if the defendants continue to use the impugned device mark. Prejudice would also be caused to the public as the marks of the defendants are deceptively similar/nearly identical to that of the plaintiff and are likely to cause confusion in the market.

36. Consequently, till the next date of hearing, the defendants, including but not limited to, the defendants no.1, 2, 3 and 5's agents, sister concerns, servants, representatives and all other persons on behalf of the defendants are restrained from passing off their goods/business under the "BBETTER"/"BBETTER" marks or any other deceptively similar trade mark as that of the plaintiff.

37. Further, the defendants, including but not limited to, the defendants no.1, 2, 3 and 5's agents, sister concerns, servants, representatives and all other persons on behalf of the defendants are restrained from infringing the plaintiff's copyright in the artistic work of the label of its Orthourja and



Shilajit products depicted as _____ and _____, respectively.

38. The defendant no.4 is also directed to disclose all the details, including but not limited to the KYC details, bank account details, of the sellers with the user names “Ayurvedic Storeeeee”, “Vedayur”, “BBETTERR” and “Shree Ji Ayurveda” or any other seller which is selling/offering products which pass off the plaintiff’s products under BBETTER/“**BBETTER**” marks.

39. In view of the fact that the plaintiff has sought appointment of Local Commissioners to seize the infringing goods, the very purpose of grant of *ex-parte ad interim* injunction would be defeated if the defendants are given notices 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 plaintiff shall serve notices 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 prescribed affidavit in terms of Order XXXIX Rule 3 of the Code of Civil Procedure, 1908 shall be filed within one week of the execution of the commission.

40. Issue Notice.

41. Notice be issued to the defendants *via* all permissible modes,



including e-mail.

42. Reply(ies) be filed within four (4) weeks.

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

44. List before the Joint Registrar on 11th August, 2025 for completion of service and pleadings.

45. List before the Court on 8th October, 2025.

I.A. 11976/2025 (O-XXVI R-9 of CPC)

46. The present application has been filed under Order XXVI Rule 9 of the CPC seeking appointment of Local Commissioners to visit the premises of the defendants, make an inventory of all the goods having the impugned design and effect seizure of the same.

47. In view of what is stated above, the plaintiff has made out a case for appointment of Local Commissioners.

48. Accordingly, Ms. Deeksha Khurana, Advocate (Mobile No. +91-9811911222) and Mr. Nishant Goyal, Advocate (Mobile No. +91-9971758821) are appointed as Local Commissioners to visit the premises of the defendants situated at:

- i. *Golden Herbs Nutraceuticals,
154, Pocket F, Sector 3,
Bawana Industrial Area,
New Delhi - 110039,*
- ii. *Vedayur,
772, Gali No.17, Shree Ram Chowk,
Surya Vihar, Sehtapur, Opp. Kallu Ka Khet,
Faridabad Haryana - 121003*

49. The following directions are passed in this regard:

- i. The Local Commissioners, along with a representative of the



plaintiff and its counsel, shall be permitted to enter upon the premises of the defendants mentioned above or any other location/premises that may be identified during the course of the commission, in order to conduct the search and seizure.

ii. The Local Commissioners shall conduct a search at the defendants' premises and seize the infringing goods, including any packaging/ promotional material reflecting infringement.

iii. The Local Commissioners shall make an inventory of all the infringing products bearing the impugned mark, including but not limited to label/packaging material (hereinafter referred to as 'infringing material').

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

v. The Local Commissioners 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.

vi. The defendants and its representatives are directed to provide full assistance to the Local Commissioners for executing the present commission.

vii. In case, the aforesaid premises of the defendants or any part thereof are found locked, the Local Commissioners are permitted to break open the locks and doors for execution of the commission.



- viii. 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 commissioners, if and when sought.
- ix. The Local Commissioners 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.
50. The Local Commissioners shall file their Reports 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.
51. The fees of the Local Commissioners, to be borne by the plaintiff, is fixed at Rs.1,25,000/- each. The plaintiff shall also bear expenses for travel of the Local Commissioners and other miscellaneous out-of-pocket expenses for the execution of the commission.
52. The application stands disposed of in the above terms.
53. The order passed today shall not be uploaded for a period of two (2) weeks from today.
54. *Dasti.*

AMIT BANSAL, J

MAY 13, 2025

Vivek/-