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

+ **CS(COMM) 465/2025**

HARPEET NARULA AND OTHERS

.....Plaintiffs

Through: Ms. Neha Jain and Ms. Anjali
Sisodia, Advs.

Versus

SURMAYA FASHION LLP AND ORS.

.....Defendants

Through: None

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

% **14.05.2025**

I.A. 12136/2025 (*Exemption from pre-institution mediation*)

1. The plaintiffs, *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), are seeking exemption from instituting pre-litigation mediation.

2. Considering the averments made therein and as the plaintiffs are seeking an *ad-interim* relief as also appointment of Local Commissioner(s) 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 and followed by a Division Bench of this Court in ***Chandra Kishore Chaurasia vs. R. A. Perfumery Works Private Limited*** 2022:DHC:4454-DB, the plaintiffs are exempted from instituting pre-litigation mediation.

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

I.A. 12137/2025 (*Exemption*)

4. Application allowed, subject to all just exceptions.



5. The application stands disposed of.

I.A. 12135/2025 (*Exemption from advance notice*)

6. The plaintiffs, *vide* the present application under *Section 151* of the CPC, seek exemption from effecting advance service upon the defendants.

7. Learned counsel for the plaintiffs submits that considering the position involved, particularly since appointment of Local Commissioner(s) for execution of search and seizure of evidence at the premises of defendants are being sought, there is a likelihood that the apprehensions of the plaintiffs will become a reality in case advance service is affected and therefore, an exemption from effecting advance service is necessary.

8. For the reasons stated in the application, as also taking into account the aforesaid factors and in the interest of justice, the plaintiffs are granted exemption from effecting advance service upon the defendants.

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

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10. The plaintiffs, by way of the present plaint, seek grant of permanent injunction restraining infringement of design, trademark, copyright, passing off and unfair competition.

11. Let the plaint be registered as a suit.

12. 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 12.08.2025.

13. Needless to say, it shall be specified in the summons that the written statement(s) shall be filed by the defendants within a period of *thirty days* from the date of the receipt of the summons. Written statement(s) shall be



accompanied by affidavit(s) of admission/ denial of the plaintiff's documents, without which the written statement(s) shall not be taken on record.

14. 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 along with affidavit(s) of admission/ denial of documents filed by the defendants, without which the replication(s) shall not be taken on record.

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

16. List before the learned Joint Registrar for marking exhibits of documents on 12.08.2025. It is made clear that if any party unjustifiably denies any document(s), then it would be liable to be burdened with costs.

I.A. 12133/2025 (Order XXXIX rule 1 & 2 CPC: Stay)

17. By virtue of the present application under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908, the plaintiffs seek an *ex parte ad interim* injunction to restrain the defendants and all those associated directly or indirectly from infringing upon the plaintiff's copyrighted work/ trademark/ registered designs i.e., "Rimple and Harpreet Narula" (RAH) in any manner whatsoever and from using variation thereof which are confusingly/ deceptively similar to that of the plaintiff's copyrighted work/ trademark /registered designs.

18. The plaintiff no.1 is a company incorporated under Indian laws in the year 2002 and is engaged in the business of manufacturing and selling high end/ niche garments and their associated products i.e. lehenga, kurta,



sarees, etc., under its brand name/ trademark “Rimple and Harpreet Narula”. Pertinently, the products of the plaintiffs entail special designs and the said designs are a combination of rural craft and heritage, combined with exalted designs, and the same designs are registered as below:-

- *Design no. 367566-001 in class 02-02*
- *Design no. 347894-001 in class 02-02*
- *Design no. 384287- 001 in class 02-02*
- *Design no. 400338-001 in class 02-02*

19. Similarly, the plaintiffs’ products are well known in India and Central Asia due to their high quality and significant promotion. Additionally, the aforesaid information about the said products are available on multiple social media websites and are also available on the official website of the plaintiffs i.e. “<https://www.rimpleandharpreet.com>”, which cumulatively augments the presence of the plaintiffs’ brand in the mind of the general public.

20. Learned counsel for the plaintiffs submits that defendant no.1 is a company engaged in the business of stocking, marketing, offering to sell, and dealing in garments which are infringing upon the plaintiff’s copyrights/ trademark/ registered designs. Pertinently, defendant no.2 is the founder and director of the said company, and defendant no.3 is a partner/ director in the said company. Pertinently, the learned counsel states that defendant no.2, is an ex-employee of the plaintiffs and is utilizing proprietary knowledge of designs gained during her employment to infringe upon the plaintiffs’ intellectual property.

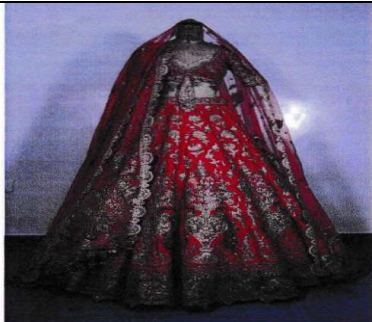
21. Similarly, *qua* conversation with the representatives of the



defendant no.2 and 3, the plaintiffs discovered that the defendant no.1 is manufacturing poor quality counterfeit garments, that too at a much lower price, and is selling the same not only in India but also across the globe. Lastly, the learned counsel for the plaintiffs submits that the defendant nos.4 and 5, are actively promoting and selling these counterfeit garments through online channels and as a consequence, are deriving undue benefits by infringing upon the intellectual property of the plaintiffs.

22. I have heard the submissions advanced by the learned counsel for the plaintiffs and perused the documents filed along with the plaint.

23. Before proceeding, reproduced hereinbelow are the comparative/ rival products of the plaintiffs and the defendants:-

<u>Product of the plaintiffs</u>	<u>Products of the defendants</u>
	
	

24. The aforesaid table shows that the defendants have adopted and are using the registered designs, which are *inter alia* visually similar to the



plaintiffs' products. In fact, in the opinion of this Court, the products of the defendants are confusingly/ deceptively similar to those of the plaintiffs, and the same is bound to create confusion in the minds of the general public.

25. Even otherwise, it is extremely difficult for a common man with average intelligence to decipher the barely visible and extremely minute/ miniscule changes/ alterations/ modifications made by the defendants as there is hardly anything of that sort visible to the bare-naked eyes of a common layman to decipher the actual difference *inter se* the products of the plaintiffs and the defendants.

26. Since the defendants were in the same line of business as the plaintiffs and were using/ operating through the same set of business network, and evidently, defendant no.2 was an ex-employee of the plaintiffs and *de facto* stole designs created by the plaintiffs, it is axiomatic that the defendants are intentionally and unduly capitalising on the goodwill of the plaintiffs. Moreover, the defendants are also using the name of the plaintiffs for projecting that they are in some manner connected with the plaintiffs.

27. Similarly, the packaging of counterfeit products is extremely close to the original product of the plaintiffs and the general consumer is unable to make out the difference between the two. Moreover, considering the intent of concealment *qua* non disclosure of the locations where the counterfeit products are being sold, it is inferred that the defendants are admittedly attempting to mislead the target customers.

28. In the opinion of this Court, the plaintiffs have been able to make out a *prima facie* case for the grant of an *ex parte ad interim* injunction



with the *balance of convenience* in their favour and against the defendants. If the defendants are not restrained and are allowed to continue their operations, the same will cause *irreparable harm, loss and injury* to the plaintiffs, as the reputation of the plaintiffs' well established good will and trust associated with the brand will be tarnished.

29. Accordingly, till the next date of hearing, the defendants and all those acting in concert/ associated with them are restrained from infringing upon the plaintiff's copyrighted work/ trademark/ registered designs i.e., "Rimple and Harpreet Narula" (RAH) by manufacturing/ importing, selling, offering for sale, storing, advertising or dealing in the impugned goods or any other mark/ design visually, confusingly or deceptively similar to the plaintiffs' products as well as from passing off their goods and business as those of the plaintiff or in any manner whatsoever.

30. Upon the plaintiffs taking requisite steps, issue notice to defendants through all permissible modes returnable before the Court on 09.09.2025.

31. Reply, if any, be filed within a period of *four weeks* from the date of service. Rejoinder thereto, if any, be filed within a period of *two weeks* thereafter.

32. The provisions of *Order XXXIX Rule 3 CPC* be complied within one week from the execution of the commission.

33. List before the Court on 09.09.2025.

I.A. 12134/2025 (*Appointment of Local Commissioner*)

34. The plaintiffs, *vide* the present application, are seeking appointment of Local Commissioner(s) to visit the premises of the defendant no.1, however, as per learned counsel for the plaintiffs, as of now, she is only



pressing for appointment of one Local Commissioner.

35. Learned counsel for the plaintiffs submits that the defendants are aware of the existence of the plaintiffs and their products. In view of the infringing materials placed on record, it is clear that the intention of the defendants is to ride upon the goodwill and reputation of the plaintiffs. The plaintiffs believe that the infringing products are sold at the locations set out in the memo of parties annexed with the plaint and the defendant no.1 is likely to remove all physical evidence or deny their involvement *qua* the infringing activities carried out by the defendants.

36. In view of the aforesaid, as also considering the factual matrix involved, and most relevantly, in order to preserve the infringing materials involved, in the considered opinion of this Court, it is deemed appropriate to appoint a Local Commissioner to visit the premises of the defendant no.1 at **Surmaya Fashion Company**, 58-A, Ground Floor, Hall Left Side Khizrabad, New Friends Colony, South-East, Delhi-110 025.

37. Accordingly, Ms. Ishita Kohli, Advocate [+91-9910021671] is appointed as Local Commissioner with a direction to visit the premises of the defendant no.1 at **Surmaya Fashion Company** 58-A, Ground Floor, Hall Left Side Khizrabad, New Friends Colony, South East, Delhi-110025.

38. The Local Commissioner is to execute the commission in the premises of the defendant no1. with the following directions:-

- a) The Local Commissioner be accompanied by a representative of the plaintiffs and/ or their counsel, who shall be permitted to



enter into the premises of the defendant no.1 as per the address mentioned hereinabove.

b) The Local Commissioner is permitted to seize, pack and seal the infringing products and handover the same on *Superdari* to the respective defendant upon the said defendant giving an ‘*Undertaking*’ that he/ 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 is 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 no.1, etc. for placing the hard copies or e-copies thereof on record.

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

e) The Local Commissioner is permitted to take the assistance of the Station House Officer [SHO] of the local Police Station within whose jurisdiction the premises of the defendant no.1 is situated.

f) 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 defendant no.1 in compliance of the present order.

g) If the premises of the said defendant no.1 is found under lock(s), the Local Commissioner is permitted to break open the said lock(s) in the presence of the SHO/ any designated police officer from the local Police Station.

39. The fee of the Local Commissioner is fixed at Rs.1,50,000/- 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 plaintiffs and paid in advance to the Local Commissioner.

40. The commission be executed within a period of *five days* from today, i.e. on or before 19.05.2025.

41. A copy of this order be provided to the Local Commissioner.

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

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

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SAURABH BANERJEE, J

MAY 14, 2025/Ab