



\$~28

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

+ **CS(COMM) 543/2025**

INTAS PHARMACEUTICALS LIMITEDPlaintiff

Through: Ms. Malvika Trivedi, Ms. Bitika Sharma, Ms. Aadya Chawla, Ms. Nandini Choudhary and Ms. Sujal Gupta, Advocates.

versus

DHARMENDRA SINGH CHAUHAN & ANR.Defendants

Through:

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

% **28.05.2025**

I.A. 13810/2025 (exemption from filing typed/ illegible and uncertified copies documents)

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

I.A. 13811/2025 (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. 13812/2025 (seeking exemption from advance service to defendants)



6. Plaintiff seeks 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 defendants may remove the infringing 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 defendant is granted.

7. The application is disposed of.

I.A. 13813/2025 (u/s 12A of Commercial Courts Act, 2015)

8. 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.

9. The application stands disposed of.

I.A. 13814/2025 (exemption from filing documents in separate volumes)

10. For the reasons stated in the application, the plaintiff is exempted from filing the documents in separate parts/ volumes.

11. The application stands disposed of.

I.A. 13815/2025 (u/s 149 of the CPC)

12. Ms. Malvika Trivedi, counsel appearing on behalf of the plaintiff submits that the requisite court fees has been paid.

13. The requisite court fee receipt shall be placed on record within two days.

14. The application is disposed of.

CS(COMM) 543/2025

15. Let the plaint be registered as a suit.



16. Issue summons.

17. 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.

18. 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.

19. 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.

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

21. List before the Joint Registrar on 12th August, 2025 for completion of service and pleadings.

22. List before the Court on 27th October, 2025.

I.A. 13808/2025 (u/O-XXXIX Rule 1 & 2 of Code of Civil Procedure, 1908)

23. The present suit has been filed seeking relief of permanent injunction restraining infringement of the plaintiff's trademark as well as passing off, along with other ancillary reliefs.



24. The case set up in the plaint is that the plaintiff is one of the leading multinational pharmaceutical companies in the world and among the top 10 pharmaceutical companies in India with a consolidated annual turnover of Rs. 19,625 crores for the final year 2023-24.

25. The plaintiff is a market leader in several therapeutic segments including the laxatives segment for many decades. The plaintiff coined the trade mark 'LOOZ' for the said products along with its variants and has a market share of 25% in the lactulose solution category amongst the laxatives.

26. The plaintiff has obtained various trademark registrations for the mark 'LOOZ', which are detailed in paragraph no.5 of the plaint. The earliest

LOOZ

registration for the device mark 'LOOZ' dates back to 1st January, 2001 with a user claim of 1st April, 2000.

27. The success of the plaintiff's products sold under the mark 'LOOZ' and its variant marks is evidenced from the sales figures of the said products, details of which are given in paragraph no.33 of the plaint. Pertinently, the sales of the plaintiff's 'LOOZ' range of products for the period of 2024-2025 were to the tune of Rs. 155,67,26,910.

28. It is also averred that the plaintiff has also spent a considerable amount of rupees over the past 25 years by way of promotional expenditure and advertisements for popularising their entire range of products under the mark 'LOOZ', details of which are given in paragraph no.32 of the plaint. The plaintiff's promotional expenses for the period 2024-2025 were to the tune of Rs. 3,89,18,173.

29. The defendant no.1, Mr. Dharmendra Singh Chauhan, is the



proprietor of M/s Konquill Pharma, which is stated to be the marketer of the product bearing the impugned mark 'ABDOLOOZ'.

30. The defendant no.2, Micro Organics Pharmaceuticals India Pvt. Ltd, is a company incorporated under the provisions of the Companies Act, 1956 and is stated to be the marketer of the product bearing the impugned mark 'ABDOLOOZ'.

31. It is the case of the plaintiff that in the third week of May 2025, the plaintiff got to learn that the defendants' product bearing the mark 'ABDOLOOZ' is being sold in various pharmacies across New Delhi.

32. Upon further investigation, the plaintiff came to know that defendant no.1 had recently applied for registration of the word mark 'ABDOLOOZ' in class 5 on 30th October, 2024 on a '*proposed to be used*' basis.

33. A comparison between the marks and products of the plaintiff and the defendants is given in the table below:-

	PLAINTIFF	DEFENDANTS
MARKS	LOOZ LOOZ-XT LOOZ ENEMA LOOZ SPRINKLES LOOZ PEG	ABDOLOOZ



34. From the comparison above, it is evident that the defendants have dishonestly copied the plaintiff's mark 'LOOZ' by adding a prefix 'ABDO', which is the shortened version of the word 'abdomen'. Further, the defendants are using a deceptively similar mark for an identical pharmaceutical product in the laxatives segment containing the same ingredient, i.e. lactulose. The defendants have also copied the trade dress, product presentation and the get-up of the product inasmuch as the bottle in which the defendants are selling their products is deceptively similar to the plaintiff's bottle.



35. Based on the averments made in the plaint, the plaintiff has established its statutory as well as common law rights over the mark 'LOOZ' and its formative marks. The mark being adopted by the defendants is deceptively similar to that of the plaintiff, and in respect of identical goods, i.e. laxatives and the trade channels are also the same as that of the plaintiff.

36. A *prima facie* case is made out by the plaintiff. Clearly, an attempt has been made by the defendants to create an impression that the products being sold by the defendant are connected to the plaintiff.

37. Balance of convenience is 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 mark. Prejudice would also be caused to the public as the mark of the defendants is deceptively similar to that of the plaintiff and is likely to cause confusion in the market.

38. Consequently, till the next date of hearing, the defendants, their subsidiaries, principal officers, assignees, servants and agents and all other persons claiming under the defendants are restrained from manufacturing, selling, offering for sale, advertising and/or promoting and/or using the mark 'ABDOLOOZ' in isolation and/or in conjunction with any other prefix/suffix and/or manufacturing under, selling, offering for sale, advertising and/or promoting and/or using in any manner the trademark 'LOOZ' and its variant marks and/or any other mark/name/label/device that contains the trade mark 'LOOZ' and/or any other mark/name/label/device that is deceptively similar/ infringing to the Plaintiff's trade mark 'LOOZ' and/or its variants.

39. In view of the fact that the plaintiff has sought appointment of a Local



Commissioner 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 12th August, 2025 for completion of service and pleadings.

45. List before the Court on 27th October, 2025.

I.A. 13809/2025 (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 Commissioner 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 a Local Commissioner.

48. Accordingly, Mr. Ojasvi Madan, Advocate (Mobile No. +91-9810402569) is appointed as Local Commissioner to visit the premises of



the defendant no.2 “Micro-Organics Pharmaceuticals (India) Pvt. Ltd.”
situated in:

*Village Ogli, Suketi Road,
Kala Amb, Nahan, Sirmaur,
Himachal Pradesh – 173030*

49. The following directions are passed in this regard:

- i. The Local Commissioner, along with a representative of the plaintiff and its 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.
- ii. The Local Commissioner shall conduct a search at the defendant’s premises and seize the infringing goods, including any packaging/ promotional material reflecting infringement.
- iii. 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’).
- iv. 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 defendant no.2 on their undertaking to produce the same as and when further directions are issued in this regard.
- v. 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.



- vi. The defendant and its representatives are directed to provide full assistance to the Local Commissioner for executing the present commission.
- vii. 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.
- 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 commissioner, if and when sought.
- ix. 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.
50. 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.
51. The fees of the Local Commissioner, to be borne by the plaintiff, is fixed at Rs.1,50,000/-. The plaintiff 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.
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 28, 2025

kd