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

+ CS(COMM) 558/2025, I.A. 13975/2025, I.A. 13976/2025, I.A. 13977/2025, I.A. 13978/2025 & I.A. 13979/2025

HERO INVESTCORP PRIVATE LIMITED &
ANR.

.....Plaintiffs

Through: Mr. Pramod Kumar Singh and
Ms. Aastha Sharma, Advocates.

versus

KAPIL AUTOMOBILES

.....Defendant

Through:

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

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29.05.2025

I.A. 13977/2025 (O-XI R-1(4) of the Commercial Courts Act)

1. The present application has been filed on behalf of the plaintiffs seeking leave to file additional documents under the Commercial Courts Act, 2015.
2. The plaintiffs are 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.
3. Accordingly, the application is disposed of.

I.A. 13978/2025 (seeking exemption from advance service to defendant)

4. The plaintiffs seek urgent interim relief against counterfeit 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 counterfeit 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.

5. The application is disposed of.

I.A. 13979/2025 (u/s 12A of Commercial Courts Act, 2015)

6. 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.

7. The application stands disposed of.

CS(COMM) 558/2025

8. Let the plaint be registered as a suit.

9. Issue summons.

10. 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.

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

12. 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.

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

14. List before the Joint Registrar on 6th August, 2025, for completion of service and pleadings.

15. List before the Court on 13th October, 2025.

I.A. 13975/2025 (O-XXXIX Rule 1 & 2 of CPC)

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

CASE SET UP IN THE PLAINT

17. Plaintiffs are group companies engaged in the manufacture and sale of motorcycles, scooters and their parts, and accessories under the well-known trademark 'HERO'.

18. The plaintiff no.1, [Hero Invest Corp Private Limited] and plaintiff no.2 [Hero MotoCorp Limited], are companies incorporated under the laws of India. It is stated that the plaintiff no.1 has been continuously, uninterruptedly and extensively using the 'HERO' trademarks, devices and label attached to it for more than 60 years in India and globally. The

plaintiffs use the label and device marks   for its diverse range of products which include auto parts of motorcycles and scooters under the name 'HERO GENUINE PARTS'.



19. It is averred that the mark 'HERO' has been protected by the plaintiff no.1 through numerous registrations across several countries. The plaintiff no.1 has also obtained the registrations of the trademark 'HERO', both as a word mark and its various artistic representations in India. The details of the registrations of the 'HERO' trademarks in favour of the plaintiff no.1 are given as under:

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)	4, 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 and 99	2191294	16.08.2011	16.08.2031
	4	2314273	12.04.2012	12.04.2032



(Device mark)				
 (H device)	4	2314274	12.04.2012	12.04.2032

20. The plaintiffs are also the registered owners of the artwork of the



unique device and label . The plaintiffs own the exclusive rights in



the artwork of the device and by virtue of the Copyright Act, 1957, the plaintiffs hold the exclusive rights to its use on all its products.

21. The sales figures and advertising and promotional expenses incurred by the plaintiffs in respect of its ‘HERO’ mark are given in paragraph 30 of the plaint.

22. The defendant is an entity carrying out business from its premises located in Faridabad, Haryana which is engaged in stocking, selling and distributing auto parts including but not limited to Cable Comp Front Brake, Disk Clutch Friction, Damper Rear Wheel, Roller Cam Chain Tensioner,

etc. bearing the marks “HERO”, , and .

23. During a periodical market survey in the month of May, 2025, the plaintiffs came across the defendant’s impugned products and found the same to be imitations of the plaintiffs’ copyright. In addition, the impugned products sold by the defendant bear the registered ‘HERO’ trademark and



device mark.

24. In order to reach the depth of the defendant's infringing activities the plaintiffs' representative visited the defendant's wholesale shop and purchased a sample product i.e. Disk Clutch Friction bearing the 'HERO' trademarks for an amount of Rs. 392/-. During the visit, it was confirmed that the defendant is not the authorised seller of the plaintiffs.

25. It is submitted that the defendant's infringing products sold under an identical mark, blatantly reference the plaintiffs' 'HERO' trademarks and device marks. These 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 and logos for identical goods, the defendant is misrepresenting and deceiving the public and tarnishing the plaintiffs' goodwill, reputation, and globally recognized brand image.

26. A comparison of the plaintiffs' and defendant's counterfeit products, purchased by the defendant, is given below:-

PLAINTIFFS' ORIGINAL PRODUCT	DEFENDANT'S COUNTERFEIT PRODUCT
Original Disk Clutch Friction	Counterfeit Disk Clutch Friction



27. The comparison above categorically demonstrates that the defendant has copied the packaging of the plaintiffs almost in its entirety and the same bears the falsified mark 'HERO' which is identical and deceptively similar to the plaintiff no.1's registered 'HERO' marks which plaintiff no.2 is exclusively authorized to use upon its products. Moreover, the defendant has also added the 'GENUINE PARTS' which is identical to the plaintiffs' packaging.

28. It is averred that the plaintiffs' products sold under the 'HERO



GENUINE PARTS' marks are affixed with a verifiable '*Unique Parts Identification*' (hereinafter the 'UPI') code, which is distinct for each spare part or bottle manufactured by the plaintiffs. The plaintiffs maintain a comprehensive database of all the UPI codes. It is further averred that these codes can be independently verified by any individual by sending the UPI code via SMS to a designated phone number operated by the plaintiffs, upon which the sender receives a response confirming or denying the authenticity of the part. Upon verifying the UPI details mentioned on the defendant's counterfeit products, the plaintiffs received the response as 'INVALID' from its automated system. In this regard, screenshots of SMS verification of counterfeit product of the defendant have been filed with the plaint.

29. Based on the averments made in the plaint, the plaintiffs have established their statutory as well as common law rights over the mark 'HERO' and its packaging.

30. On a *prima-facie* view, the products being sold by the defendant appear to be counterfeit of the registered trademarks as well as the copyright of the plaintiffs. The defendant has slavishly adopted the trademark and copyright of the plaintiffs. Clearly, an attempt has been made by the defendant to create an impression that the impugned products being sold by the defendant are connected to the plaintiffs.

31. Balance of convenience is in favour of the plaintiffs and against the defendant. Irreparable injury would be caused to the plaintiffs if the defendant continues to use the impugned marks/labels. Prejudice would also be caused to the public as the marks/labels of the defendant are deceptively similar to that of the plaintiffs and likely to cause confusion in the market.

32. Consequently, till the next date of hearing, the defendant, its



associates and agents, directors, officers, employees, distributors, franchisee, representatives and assigns are restrained from Stocking/Selling/Distributing auto parts bearing the 'HERO MARKS' which are identical and/or deceptively, confusingly, phonetically and visually similar to registered 'HERO MARKS' and/or any other mark/design deceptively and confusingly similar to 'HERO MARKS'.

33. Further, the defendant, its associates and agents, directors, officers, employees, distributors, franchisees, representatives and assigns are

restrained from using the Copyright vested in ,  and in its packaging.

34. In view of the fact that the plaintiffs have sought appointment of a Local Commissioner to seize the counterfeit goods, 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.

35. The prescribed affidavit in terms of Order XXXIX Rule 3 of the CPC shall be filed within three (3) days of the execution of the commission.

36. Issue Notice.

37. Notice be issued to the defendant *via* all permissible modes, including e-mail.

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



39. Rejoinder(s) thereto, if any, be filed within two (2) weeks thereafter.
40. List before the Joint Registrar on 06th August, 2025, for completion of service and pleadings.
41. List before the Court on 13th October, 2025.

I.A. 13976/2025 (O-XXVI R-9 of CPC)

42. The present application has been filed under Order XXVI Rule 9 of the CPC seeking the appointment of Local Commissioner to visit the premises of the defendant, make an inventory of all the goods having the impugned marks/labels and effect seizure of the same.
43. In view of what is stated above, the plaintiffs have made out a case for appointment of a Local Commissioner.
44. Accordingly, Mr. Uday Chauhan, Advocate (Mobile No. +91-9212843448) is appointed as Local Commissioner to visit the premises of the defendant situated at:

“Shop No. 881, Sector 23, Faridabad, Haryana”

45. The following directions are passed in this regard:
- i. 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.
 - ii. 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’).
 - iii. The Local Commissioner shall conduct a search at the defendant’s premises and seize the infringing goods, including any packaging/



promotional material reflecting infringement.

- iv. After seizing infringing material, the same shall be inventoried, sealed and signed by the Local Commissioner, in the presence of the parties, and released on *superdari* to the defendant on its 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 is 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.
46. The Local Commissioner shall file his/her 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.

47. The fees of the Local Commissioner, to be borne by the plaintiffs, is fixed at Rs.1,25,000/-. 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.

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

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

50. *Dasti.*

AMIT BANSAL, J

MAY 29, 2025/at