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

+ **CS(COMM) 271/2018 & I.A. 3797/2025**

SOCIETE DES PRODUITS NESTLE,S.A & ANRPlaintiffs

Through: Mr. Manish Kumar Mishra, Ms. Akansha Singh, Mr. Saransh Saini, Advocates (M:9438804704)

versus

MOHD ZAHID AND SONS & ORSDefendants

Through: Mr. J.K. Nayyar, Advocate for D- 190 and 191 (M: 9810653868)

Mr. Kunal Sharma, Ms. Asha Garg, Mr. Dushyant Swaroop, Advocates for D-213 (M:9811340327)

Email:advdushyantswaroop@gmail.com

Mr. Dilshad Husain, Advocate for D- 198 (M:8057523786)

Mr. Arpit Bamal, Advocate for D-163

Mr. Vikram Jetly, CGSC with Ms. Shreya Jetly, Advocate for Ministry of Health and Family Welfare (M:9811157321)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

13.02.2025

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I.A. 3797/2025

1. Though the present application was required to be listed before the learned Joint Registrar, the same has been listed before this Court.
2. Learned counsel for the plaintiffs submits that in view of the urgency, the present application be taken up by this Court, so that local commissions



are executed against the persons, that have been identified, who are dealing with the counterfeit products of the plaintiffs.

3. The present application has been filed pursuant to the liberty granted to the plaintiffs *vide* order dated 15th December, 2023, wherein, it was directed as follows:

“xxx xxx xxx

12. Insofar as any additional defendants who may be impleaded are concerned, the plaintiffs are free to file an affidavit before the Joint Registrar and upon satisfying the Joint Registrar, the Local Commission would also be executed and the said parties shall also be impleaded as defendants in this suit.

xxx xxx xxx”

4. Learned counsel for the plaintiffs submits that the plaintiffs by an independent investigating agency, namely, Brand Protect IP, have come to the knowledge on 10th February, 2025, that a few wholesalers and retailers in Hapur, Uttar Pradesh are engaged in wholesale and retail of counterfeit Nescafe coffee.

5. Thus, it is submitted that in compliance of the directions passed *vide* 15th December, 2023 and 23rd January, 2024, plaintiffs have also filed an affidavit along with investigation report containing photographs of the premises of the entities, as detailed in paragraph 4 of the present application. The same have been filed as *Document-3* to the present application. Thus, it is prayed that the local commissions be allowed to be executed in the newly identified premises.

6. Accordingly, considering the submissions made before this Court, the following directions are issued:

6.1 Mr. Pramod Saigal, Mob: 9810027366, is appointed as Local Commissioner to visit the following premises:



- i. **Rohit Goel Naman Goel General Store**
Address: Badi Mandi Patia, Hapur, Uttar Pradesh.
- ii. **Pratham Kirana Store**
Address: Arjun Nagar, Hapur, Uttar Pradesh.
- iii. **Laxman Maida Waala**
Address: Badi Mandi Patia, Hapur, Uttar Pradesh.

6.2 Ms. Hiteshi Kakar, Mob: 7503000714, 9711902217, is appointed as Local Commissioner to visit the following premises:

- i. **HNK General Store (Naim Kirana Store)**
Address: Badi Mandi Patia, Hapur, Uttar Pradesh
- ii. **Ujjwala Kirana Store**
Address: Badi Mandi Patia, Hapur, Uttar Pradesh.
- iii. **D.I. Enterprises**
Address: Chandi Road, Kissanganj Market, Hapur, Uttar Pradesh-245101

6.3 The learned Local Commissioners, along with a representative of the plaintiffs and its counsel, shall be permitted to enter upon the premises of the entities mentioned hereinabove, or any other location/premises, that may be identified, during the course of commission, in order to conduct the search, and seize the infringing products, or any other deceptively similar variants of the plaintiffs' trademark or products.

6.4 After seizing the infringing material, the same shall be inventoried, sealed, and signed by the learned Local Commissioners, 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.

6.5 The learned Local Commissioners shall also be permitted to make



copies of the books of accounts, including ledgers, cash books, stock registers, invoices, books, etc., in so far as they pertain to the infringing products.

6.6 Further, the learned Local Commissioners shall be permitted to undertake/arrange for photography/videography of the execution of the commission.

6.7 Both the parties shall provide assistance to the learned Local Commissioners, for carrying out the aforesaid directions.

6.8 In case, any of the premises are found locked, the learned Local Commissioners shall be permitted to break open the lock(s). To ensure an unhindered and effective execution of this order, the Station House Officers (“SHOs”) of the respective local Police Stations, are directed to render all assistance and protection to the Local Commissioners, as and when sought.

6.9 The fee of the learned Local Commissioners, to be borne by the plaintiffs, is fixed at ₹ 2,00,000/- (Rupees Two Lakh) each. The plaintiffs shall also bear all the expenses for travel/lodging of the Local Commissioners and other miscellaneous out-of-pocket expenses, for the execution of the commission. The fee of the Local Commissioners shall be paid in advance by the plaintiffs.

6.10 The local commissions shall be executed within a period of one week from today. The Local Commissioners shall file their reports within a period of one week from the date, on which the commission is executed.

7. The order passed today shall not be uploaded for a period of one week.

8. In terms of the foregoing, the present application stands disposed of.

9. *Dasti* under signatures of the Court Master.



CS(COMM) 271/2018

10. Learned counsels for defendant nos. 190, 191, 198 and 213 submit that they have already deposited the token amount of ₹ 6000/- towards damages and have also filed their undertaking, in terms of the orders dated 17th January, 2018 and 15th December, 2023, passed by this Court.
11. Learned counsel for the plaintiffs submits that he has no objection and the suit can be decreed against the said defendants.
12. Accordingly, it is directed that decree of permanent injunction is passed against defendant nos. 190, 191, 198 and 213, in terms of Paragraph-40 (a) to (c) of the plaint.
13. Let decree sheet be drawn up.
14. The suit stands disposed of *qua* the aforesaid defendants.
15. List before the Joint Registrar (Judicial) on the date already fixed, i.e., 16th April, 2025.

MINI PUSHKARNA, J

FEBRUARY 13, 2025

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