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

+ **CS(COMM) 271/2018 & I.A. 6418/2025**

SOCIETE DES PRODUITS NESTLE,S.A & ANR.Plaintiffs

Through: Ms. Akansha Singh and Mr. Saransh
Saini, Advs.

versus

MOHD ZAHID AND SONS & ORS.Defendants

Through: Mr. Vikram Jetly, CGSC with Ms.
Shreya Jetly, Adv. for Ministry of
Health and Family Welfare
M: 9811157321
Mr. J.K. Nayyar, Mr. Abhishek
Sharma and Mr. Ajai Sharma, Advs.
for D-190 and 191
M: 9810653868

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

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10.03.2025

**I.A. 6418/2025 (Application seeking permission for conducting local
commission)**

1. The present application was required to be listed before the learned Joint Registrar (Judicial), however, the same has been listed before this Court.
2. Learned counsel appearing for the plaintiffs submits that in view of the urgency, the present application be taken up by this Court, so that local commission can be executed against the person(s) who have been identified, 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. The present suit has been filed for permanent injunction restraining infringement of trademark, passing off, infringement of copyright, unfair competition, rendition of accounts of profits/damages and delivery up, etc.

5. *Vide* order dated 28th November, 2014, an *ex-parte ad-interim* injunction has already been granted in favour of the plaintiffs and against the defendants, restraining the defendants and other ‘John Does’ defendants from manufacturing, selling, offering for sale, advertising, directly or indirectly dealing in counterfeit NESCAFE products.

6. Learned counsel appearing for the plaintiffs submits that the plaintiffs, through an independent investigator agency namely Nucleion Risk Consulting Pvt. Ltd., have come to know on 06th March, 2025, that a manufacturing unit situated at *Khasra Number 2/25/1, Swatantra Nagar, Narela, New Delhi*, is engaged in manufacturing and packaging of counterfeit Nescafe coffee. Thus, in compliance of the directions passed *vide* order dated 15th December, 2023, and 23rd January, 2024, the plaintiffs are filing an affidavit of plaintiffs, along with the investigation report, containing the photographs of the premises. The same have been filed as Document-4 along with the present application.

7. Thus, it is submitted that local commission be allowed to be executed



in the newly identified premises.

8. Accordingly, considering the submissions made before this Court, the followings directions are issued:

i. Mr. Bal Krishan Singh, Advocate (Mob. No. 9958239636), is appointed as a Local Commissioner, with a direction to visit the following premises of the defendant:-

***Khasra Number 2/25/1,
Swatantra Nagar, Narela, New Delhi***

ii. The learned Local Commissioner, along with a representative of the plaintiffs and its counsel, shall be permitted to enter upon the premises of the defendant(s) as 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 variant of the plaintiffs' trademark.

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

iv. The learned Local Commissioner 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.

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



- vi. Both the parties shall provide assistance to the learned Local Commissioner, for carrying out the aforesaid directions.
- vii. In case, any of the premises are found locked, the learned Local Commissioner shall be permitted to break open the lock(s). To ensure an unhindered and effective execution of this order, the Station House Officer (“SHO”) of the local Police Station, is directed to render all assistance and protection to the Local Commissioner, as and when, sought.
- viii. The fee of the learned Local Commissioner, to be borne out by the plaintiffs, is fixed at ₹ 1,00,000/- (Rupees One Lac). The plaintiffs shall also bear all the expenses for travel of the Local Commissioner, and other miscellaneous out-of-pocket expenses, for the execution of the commission. The fee of the Local Commissioner shall be paid in advance by the plaintiffs.
- ix. The local commission shall be executed within a period of one week from today. The Local Commissioner shall file the report within a period of one week from the date, on which the commission is executed.
9. The order passed today, shall not be uploaded for a period of two weeks.
10. The present application is accordingly disposed of in the aforesaid terms.
11. *Dasti* under signatures of the Court Master.

MINI PUSHKARNA, J

MARCH 10, 2025/kr