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

+ **CS(COMM) 656/2025**

KEI INDUSTRIES LIMITED

.....Plaintiff

Through: Mr. Jayant Mehta, Sr. Adv. with
Mr. Pallav Palit, Mr. Arnav Das
Gupta and Mr. Shashank Shekhar
Mishra, Adv.

versus

SHREE BALAJI ENTERPRISES

.....Defendant

Through: None.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

07.07.2025

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I.A. 15568/2025, I.A. 15569/2025, I.A. 15571/2025 (*Exemption*)

1. The present application(s) are allowed, subject to all just exceptions.

2. The applications stand disposed of.

I.A. 15572/2025 (*Exemption from advance service to defendant*)

3. *Vide* the present application under *Section 151* of the CPC, the plaintiff seeks exemption from advance service upon the defendant/ Ashok Kumar.

4. Learned counsel for the plaintiff submits that considering the position involved, particularly since appointment of a Local Commissioner for execution of search and seizure of evidence/ counterfeit products at the premises of defendant is sought, there is a likelihood that



the apprehensions of the plaintiff will become a reality in case advance service is effected and therefore, an exemption from effecting advance service is necessary.

5. For the reasons stated in the application as also taking into account the aforesaid factors and in the interest of justice, the plaintiff is granted exemption from effecting advance service upon the defendant.

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

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7. *Vide* the present plaint, the plaintiff seeks grant of permanent and mandatory injunction restraining trademark infringement, copyright infringement, passing-off, act of unfair competition, seeking damages, rendition of accounts, delivery up and other appropriate reliefs against the defendant.

8. Let the plaint be registered as a suit.

9. Upon filing of the process fee, issue summons of the suit to the defendant through all permissible modes returnable before the learned Joint Registrar on 13.10.2025.

10. The summons shall state that the written statement be filed by the defendant within *thirty days* from the date of the receipt of the summons. Written statement be filed by the defendant along with affidavit of admission/ denial of documents of the plaintiff, without which the written statement shall not be taken on record.

11. Replication thereto, if any, be filed by the plaintiff *fifteen days* from the date of receipt of the written statement. The said replication, if any, shall be accompanied by with affidavit of admission/ denial of documents filed by the defendant, without which the replication shall not be taken on



record within the aforesaid period of *fifteen days*.

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

13. List before the learned Joint Registrar for marking exhibits of documents on 13.10.2025. It is made clear that if any party unjustifiably denies any document(s), then such party would be liable to be burdened with costs.

I.A. 15567/2025 (Stay)

14. *Vide* the present application, the plaintiff seeks to restrain the defendant from infringing upon their registered trademark “**KEI**”/ , and its variants thereof, as also other ancillary relief(s).

15. As per pleadings, the plaintiff is a company incorporated under the Companies Act, 1956 and continues to subsist under the Companies Act, 2013, since the year 1968. The plaintiff has been engaged in the manufacturing and sale of house wiring rubber cables since the inception of the company’s operations.

16. Further, the plaintiff successfully secured registration of the trademark “**KEI**”, i.e., word mark under *Class 9* of the Trademarks Act, 1999 (“**TM Act**”) *vide* application no. 498435 dated 27.09.1988 as also the , the device mark *vide* application no. 1568305 dated 14.06.2007 under *Classes 6 and 9* and the plaintiff in relation to its business, has secured registrations in various other classes including *Classes 6, 9, 16, 35, 37 and 42* of the TM Act. Pertinently, the Trademark Registry has declared the aforesaid word and device mark as a “*well known mark*” *vide* Trade Marks Registry Journal No. 2144 dated



19.02.2024. Moreover, the plaintiff is the owner of the copyright in relation to the artistic works under *Section 2(c)* of the Copyright Act, 1957 applied on the packaging of its products sold by it.

17. The plaintiff has also been making significant investments *qua* advertising their products under the above trademarks and have generated considerable revenue and has also won several awards attributable to the impeccable quality and overall pre-eminence as a leader in the electrical industry. Additionally, the plaintiff also owns a domain name/ website, namely “www.kei-ind.com”, as also has a significant presence on social media, and the plaintiff has also sponsored a considerable amount, which gives the plaintiff a global presence and goodwill.

18. In the month of April 2025, the plaintiff first became aware of the defendant, who is selling ‘Poly winding wire and Submersible winding wire insulated wires and cables’ and the aforesaid products are being sold under the style, art work, pattern, colour combination, fonts, placement of artistic and literary components, which are deceptively similar to that of the plaintiff’s product (“**impugned products**”) in the state of Punjab.

19. Since the defendant is continuing with the usage of the infringing marks and copyright, the plaintiff has instituted the captioned suit against the defendant, wherein the present application has been filed.

20. In furtherance thereof, as per learned counsel for plaintiff the plaintiff is well and truly entitled for an order of *es parte* ad interim injunction in its favour against the defendant.

21. This Court has heard the submissions advanced by the learned counsel for the plaintiff and gone through the pleadings as also perused the documents on record.



22. The genesis of the dispute involved *inter se* the parties is as below in the comparative table between the original products of the plaintiff and the impugned products of the defendant:-

PLAINTIFF'S PACKAGING	PRODUCT	DEFENDANT'S PACKAGING	PRODUCT
			
			
			

23. As borne out, *prima facie*, the defendant has copied not only the trademark of the plaintiff as also the entire packaging used with all the contained text, art work, pattern, colour, colour combination, fonts, placement of artistic and literary components therein as it is. This leaves



hardly any doubt that a common man may think/ say/ conclude that they are the same as there is/ are/ can be no iota of difference *inter se* them, particularly, since there is hardly any visible change/ difference therein.

24. The visually, phonetically, structurally adoption and use of the impugned mark and the identical use of trade dress/ packaging by the defendant, and that too in respect of the similar products, are all giving an overall impression to the public at large, as also to the general members of the trade, that the products sold by the defendant are either emanating from the house of the plaintiff or that the defendant/ the impugned products have some nexus with it.

25. What has been done are extremely minute/ miniscule changes/ modifications which is/ are/ can be hardly visible to an average consumer with imperfect recollection and average intelligence. In fact, the defendant has taken all measures to come as close as possible to the plaintiff and has, in fact, not left any stone unturned to show/ portray to the general public at large that its impugned products are those of/ originating from the plaintiff.

26. All the above are, *prima facie*, likely to cause confusion and be detriment to the public interest since the impugned products of the defendant bearing the impugned mark and the impugned trade dress/ packaging are intended for use by humans. Thus, any kind of compromise therein, especially those relating to the quality thereof, can lead to drastic repercussions. The same calls upon this Court to be extra cautious and circumspect at this stage.

27. Therefore, the plaintiff is able to make out a strong *prima facie* case against the defendant. Considering the element of public deception, the



balance of convenience and probabilities also tilts in favour of the plaintiff. Also, since allowing the defendant to continue dealing in the impugned products is likely to cause *irreparable harm, loss and injury* to the plaintiff, the plaintiff has been able to make out a case for grant of an *ex parte ad interim* injunction in its favour and against the defendant.

28. Accordingly, till the next date of hearing, any person/ entity, including the defendant herein, its proprietor or partners, its associates and agents, officers, employees, distributors, franchisees, representatives, and assigns are hereby restrained from manufacturing, selling, offering for sale, exporting, exhibiting, advertising good/ products using the plaintiff's copyrighted art work and trademark as also the product packaging of the impugned products, amounting to infringement/ passing of the same.

29. Upon the plaintiff taking requisite steps, issue notice to the defendant through all permissible modes returnable before the Court on 03.11.2025.

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

31. List before Court 03.11.2025.

I.A. 15570/2025 (*Appointment of Local Commissioner*)

32. *Vide* present application under *Order XXVI rule 9* of the CPC, the plaintiff seeks appointment of a Local Commissioner to visit the premises of the defendant.

33. Learned counsel for the plaintiff submits that the defendant is aware of the plaintiff and their products and the infringing materials placed on record are clear evidence of the intention of the defendant to ride upon the goodwill and reputation of the plaintiff. The plaintiff believes that the



infringing products are being marketed from the location set out in the memo of parties annexed with the plaint and the defendant is likely to remove all physical evidence or deny their involvement in the infringing activities.

34. In view of the aforesaid as also considering the factual matrix involved, and most relevantly, in order to preserve the counterfeit and 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.

35. Accordingly, Ms. Himanshi Gautam, Advocate (+91-7303635761) is appointed as Local Commissioner with a direction to visit the premises of the defendant at Shree Balaji enterprises at Malakpur, Khayala, Mansa, Punjab, 151508.

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

- a) The Local Commissioner be accompanied by a representative of the plaintiff and/ or its counsel, who shall be permitted to enter into the premises of the defendant as per the address hereinabove.
- b) The Local Commissioner to seize, pack and seal the infringing products and handover the same on *Superdari* to the defendant upon the said defendant giving an '*Undertaking*' that he/ she shall not tamper with or remove the sealed products as also shall produce the sealed products under *Superdari* in compliance of the orders of this Court, as and when passed.
- 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, 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 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 is situated. 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 the defendant in compliance of the present order.

f) If the premises of the defendant 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 for compliance of the aforesaid directions.

37. The fee of the Local Commissioner is fixed at Rupees Two Lakhs Only [Rs.2,00,000/-] 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 plaintiff and paid in advance to the Local Commissioner.

38. Additionally, this Court also permits the abovenamed Local Commissioner to visit, secure, seize, pack and seal the infringing products



on receiving any information or coming to know from the plaintiff of any other premises in the same vicinity with the infringing products of the similar nature at the time of execution of the commission. In such a scenario, the fee of the Local Commissioner for each additional visit is fixed at Rupees Fifty Thousand Only [Rs.50,000/-] per premise in addition to all the related expenses for travel as also any other miscellaneous out of pocket expenses for execution of the commission. The additional visit expenses shall also be borne by the plaintiff and paid in advance to the Local Commissioner. In such a situation, the Local Commissioner is permitted to act in the same manner as enumerated in paragraph 33 hereinabove.

39. The commission be executed within a period of *seven days*, i.e. on or before 13.07.2025.

40. The provisions of *Order XXXIX rule 3* of the CPC be complied forthwith, after the execution of the commission.

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

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

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

Dasti.

SAURABH BANERJEE, J.

JULY 07, 2025/bh