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

+ EX.P. 54/2025

SHIVANI ARORA

.....Decree Holder

Through: Mr. Sachin Gupta, Mr. Rohit Pradhan,
Mr. Adarsh Agarwal, Ms. Prashansa
Singh and Mr. Ajay Kumar,
Advocates.

versus

DEEPAK NIJHAWAN AND ANR.

.....Judgement Debtors

Through: Ms. Rupali Bandhopadhyaya, Mr.
Abhijeet Kumar and Ms. Amisha
Gupta, Advocates for JD1.

CORAM:

HON'BLE MR. JUSTICE TEJAS KARIA

ORDER

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08.09.2025

EX.APPL.(OS) 948/2025

1. This is an Application filed on behalf of the Petitioner / Decree Holder under Order XXVI Rules 7 and 9 of the Code of Civil Procedure, 1908 ('CPC') and Section 135 of the Trade Marks Act, 1999 for the appointment of Local Commissioner.
2. In view of filing of the EX.APPL.(OS) 1274/2025, the learned Counsel for the Decree Holder does not press this Application.
3. Accordingly, this Application stands disposed of.

EX.APPL.(OS) 949/2025

4. This is an Application filed on behalf of the Decree Holder under

EX.P. 54/2025

Page 1 of 8



Section 151 of the CPC seeking exemption from filing original / certified copies of the documents.

5. Exemption is allowed, subject to all just exceptions.

6. The Application stands disposed of.

EX.APPL.(OS) 950/2025

7. This is an Application filed on behalf of the Decree Holder under Section 151 of the CPC seeking exemption from advance service to the Respondents / Judgement Debtors.

8. Exemption is allowed, subject to all just exceptions.

9. The Application stands disposed of.

EX.APPL.(OS) 951/2025

10. This is an Application filed on behalf of the Decree Holder under Section 151 of the CPC seeking exemption from filing Decree Sheet.

11. Exemption is allowed, subject to all just exceptions.

12. The Application stands disposed of.

EX.APPL.(OS) 952/2025

13. This is an Application filed on behalf of the Decree Holder under Order XXI Rule 41 read with Section 151 of the CPC seeking disclosure from the Judgement Debtors and directions to customs authorities.

14. Issue Notice. The learned Counsel for the Judgement Debtors accepts Notice.

15. Let the Reply to this Application be filed within a period of four weeks from date. Rejoinder thereto, if any, be filed within a period of two weeks thereafter.

EX.APPL.(OS) 953/2025

16. This is an Application filed on behalf of the Decree Holder under



Section 151 of the Code of Civil Procedure, 1908 seeking masking of party details in the cause list and related court records.

17. In view of the disposal of the EX.APPL.(OS) 948/2025, there is no requirement to mask the identities of the Parties in the present Execution Petition. Therefore, the Parties' names shall be shown in the cause list and the orders henceforth.

18. The Application stands disposed of.

EX.APPL.(OS) 1274/2025

19. This is an Application filed on behalf of the Decree Holder under Section 151 of the Code of Civil Procedure, 1908 seeking directions for destruction of the goods under the impugned mark 'NEXTGEN' in continuation of the order dated 17.07.2025.

20. The relevant extract of the order dated 17.07.2025 is as under:

"3. At this stage, Mr. Deepak Nijhawan has handed over a list of various stocks (Annexure-1) of impugned products bearing the impugned mark which are presently in the possession of the judgment debtors. The same is taken on record.

4. Mr. Deepak Nijhawan submits that since the judgment debtors are no more engaged in manufacturing, offering for sale, selling, marketing, dealing or advertising any of the products in violation of the judgment and decree dated 10.01.2025 in any manner whatsoever, the judgment debtors shall take appropriate steps to recall all such products already available in the open market within a period of one week. Mr. Deepak Nijhawan is directed to file an affidavit to the said effect, which shall be accompanied with the relevant proof(s) of all the steps taken by the judgment debtors.

5. Learned counsel for the judgment debtors seeks, and is granted, a period of five days for reverting with appropriate instructions as to the projected timeline and the mode of destruction of all the aforesaid products which are in the possession of the judgment debtors presently as also which are liable to be recalled from the open market in stark violation of the judgment and decree dated



10.01.2025.”

21. During the hearing on 17.07.2025, the learned Counsel for the Judgement Debtors had sought and was granted time of five days for reverting with the appropriate instructions as to the timeline and mode of destruction of all the products bearing the impugned mark ‘NEXTGEN’ in the possession of the Judgement Debtors as per the list of stocks marked as Annexure-1 handed over during the hearing of 17.07.2025.

22. The learned Counsel for the Judgement Debtors submits that instead of destruction, the Judgement Debtors may be permitted to rebrand the said products as mentioned in Annexure-1, which was submitted during the hearing on 17.07.2025.

23. The learned Counsel for the Decree Holder strongly objects to this submission and submits that the order dated 17.07.2025 was very clear and time was granted only with regard to the timeline and mode of destruction and not for rebranding the impugned products. It was further submitted by the learned Counsel for the Decree Holder that it would be impossible for either the representative of the Decree Holder or the Court Commissioner to supervise or monitor the rebranding of the impugned products.

24. The learned Counsel for the Judgement Debtors submits that the order dated 10.01.2025 did not contemplate destruction of the goods and, therefore, the present Application seeking direction for destruction of the goods is not maintainable as the original Decree did not have directions for destruction of the goods in possession of the Judgement Debtors.

25. The learned Counsel for the Decree Holder submits that although there was no contemplation of destruction of the goods, the terms of the Decree are clear that the Judgement Debtors shall not use the brand name



‘NEXTGEN’ on any product after the passing of the Decree.

26. The learned Counsel for the Judgement Debtors also submitted that the submission in Paragraph No. 5 of the order dated 17.07.2025 was a Counsel’s statement regarding seeking time to take instructions with regard to the destruction and there was no admission that the Judgement Debtors agreed for the destruction of the goods.

27. Having considered the submissions made by the Parties, it is found that the Consent Decree passed in this matter is absolutely clear that the Judgement Debtors shall not use the brand name ‘NEXTGEN’ on any products after the passing of the said Decree and would also change the packaging of the impugned products to adopt a colour combination that would be different from the packaging of the Decree Holder.

28. Pursuant to the order dated 17.07.2025, Judgement Debtor No.1 has filed an Affidavit dated 23.07.2025 confirming that he has not manufactured any product bearing the Mark “NEXTGEN” since December, 2024 and the products, which are mentioned in Annexure-1 are the only products which are available with the Judgement Debtors. The Decree Holder has filed a Reply Affidavit dated 01.08.2025 stating that the content of the Affidavit filed by Judgement Debtor No. 1 is nothing but an afterthought and that the Judgement Debtors have been manufacturing the goods after the passing of the Decree.

29. It is clear from the order dated 17.07.2025 that the learned Counsel for the Judgement Debtors was to revert with the timeline, methodology and manner of the destruction of the goods as mentioned in Annexure-1 submitted during the hearing on 17.07.2025 within a period of five days, however, the Affidavit dated 23.07.2025, filed by Judgement Debtor No.1 is



silent on that aspect and even during the hearing today, the learned Counsel for the Judgement Debtors has not been able to satisfactorily give an answer regarding the destruction of the goods and has sought for an opportunity to rebrand the said goods.

30. In view of the same, Ms. Shravya Pathak [Contact No.: +91-7011836700] is appointed as the Local Commissioner with the following mandate:

- i). The learned Local Commissioner shall ensure that the goods mentioned in Annexure-1, submitted during the hearing on 17.07.2025, are identified and thereafter, either destructed or rebranded during the presence of the learned Local Commissioner.
- ii). The learned Local Commissioner will examine whether it is possible to rebrand these goods and the timeline for rebranding the same. If it is possible to rebrand these goods within a period of 15 days from the date, the learned Local Commissioner will permit the rebranding of the goods. However, if the rebranding of the goods is not possible within a period of 15 days, then the goods shall be destroyed in the presence of the learned Local Commissioner.
- iii). The learned Local Commissioner shall also inspect and seize any product materials including pamphlets, brochures, stickers, packaging materials, dyes or blocks used for preparing the manufacturing materials, display boards, sign boards, advertising material, dies or blocks, unfinished, packed, unpacked impugned goods or any other documents, wrapper



etc. so that it can be ensured that no fresh manufacturing of the impugned products can take place;

- iv). The learned Local Commissioner is also permitted to break open the locks, with police help, if access to the premises where the infringing goods and products have been stocked / manufactured, is denied to the Commissioner;
- v). Upon being requested, the concerned Station House Officer (SHO) shall render necessary cooperation for execution of the Commission, as per this order;
- vi). The learned Local Commissioner is permitted to take photographs and record videos of the proceedings of the Commission, if it is deemed appropriate. Two representatives of the Plaintiff, which would include a lawyer, are permitted to accompany the learned Local Commissioner;
- vii). The learned Local Commissioner, while executing the Commission, shall ensure that there is no disruption to the business of the Judgment Debtors, except for the purposes of the execution of the Commission. The Commission shall be executed in a peaceful manner.

31. The fees of the learned Local Commissioner shall be ₹5,00,000/- (Rupees Five Lakh Only), which shall be paid by the Judgement Debtors within a period of five days to the learned Local Commissioner.

32. The Judgement Debtors shall also file an Affidavit with regard to the latest stock available with the Judgement Debtors including the stock mentioned in Annexure-1 as well as the goods that have been recalled pursuant to the order dated 17.07.2025 and the Affidavit dated 23.07.2025



filed by Judgement Debtor No.1 within a period of 7 days.

33. List for further proceedings on 16.12.2025.

TEJAS KARIA, J

SEPTEMBER 8, 2025

sms