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

+ CS(COMM) 679/2025 with I.A. 15964/2025, I.A. 15965/2025, I.A. 15966/2025, I.A. 15967/2025, I.A. 15968/2025 & I.A. 16060/2025

M/S. CP CENTURY HARDWARE PVT. LTD.Plaintiff
Through: Mr. Satish Kumar, Mr. Vishal Patel,
Mr. Nishant Dwivedi, Ms. Divya
Verma, Advocates.

versus

PRATIK BANSALDefendant
Through:

CORAM:
HON'BLE MR. JUSTICE AMIT BANSAL

ORDER
10.07.2025

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I.A. 15966/2025 (u/s 12A of the Commercial Courts Act, 2015)

1. 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.
2. The application is disposed of.

I.A. 15967/2025 (seeking exemption from filing originals and true typed copies of documents)

3. Allowed, subject to plaintiff filing true typed copies of documents within four (4) weeks.
4. The plaintiff is exempted from filing the originals at this stage.
5. The application stands disposed of.



I.A. 16060/2025 (seeking exemption from effecting advance service of the plaint paperbook upon the defendant)

6. The plaintiff seeks urgent interim relief against infringing products and for this purpose, an *ex-parte* appointment of Local Commissioner is also sought to confiscate the infringing products.

7. It is submitted that there is a probability that the defendant may remove the infringing products if the defendant is given advance service of the plaint paperbook. Therefore, in the peculiar facts and circumstances of this case, exemption from effecting advance service of the plaint paperbook upon the defendant is granted.

8. The application is disposed of.

I.A. 15968/2025 (seeking condonation of delay in re-filing the suit)

9. This is an application seeking condonation of delay of 48 days in re-filing the present suit.

10. For the reasons stated in the application, the delay of 48 days in re-filing the present suit is condoned.

11. The application is disposed of.

CS(COMM) 679/2025

12. Let the plaint be registered as a suit.

13. Issue summons.

14. Summons be issued to the defendant through all permissible modes. The summons shall state that the written statement shall be filed by the defendant within thirty (30) 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 plaintiff, without which the written statement shall not be taken on record.



15. Liberty is given to the plaintiff to file replication, if any, within thirty (30) days from the receipt of the written statement. Along with the replication filed by the plaintiff, affidavit of admission/ denial of the documents of the defendant be filed by the plaintiff.

16. The parties shall file all original documents in support of their respective claims along with their respective pleadings. In case the 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.

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

18. List before the Joint Registrar on 15th September, 2025 for completion of service and pleadings.

19. List before the Court on 10th November, 2025.

I.A. 15964/2025 (u/O-XXXIX Rules 1 & 2 of the CPC)

20. The present suit has been filed seeking relief of permanent injunction restraining infringement of trade marks and passing off, along with other ancillary reliefs.

21. It is averred that the plaintiff, incorporated on 5th April, 2021, is a leading and reputed company and is engaged in the business of manufacturing and marketing of various goods including all kinds of modular kitchen hardware, cabinet hardware, modular kitchen accessories, household and kitchen containers, etc. under the trade marks

CP CENTURY ,

CWPL CENTURY ,



and



22. It is stated that the marks **CP CENTURIES** and  were adopted in the year 2010 by Mr. Pradeep Kumar, proprietor of M/s. Aggarwal Trading Company, in respect of manufacturing, marketing and sale of hardware goods, kitchen hardware, cabinet hardware, household utensils, kitchen utensils, kitchen accessories, etc.

23. Mr. Pradeep Kumar applied for and obtained registration for the mark



Centuries in classes 6 and 21 with a user claim since 1st April, 2010.

24. It is submitted that in the year 2018, Mr. Pradeep Kumar, along with his brother Mr. Anil Kumar, started a new proprietorship firm, namely, M/s. Century World. Mr. Anil Kumar was the sole proprietor of the aforesaid

firm and was permitted to use the marks **CP CENTURIES** and .

Subsequently, Mr. Anil Kumar adopted the marks **CP CENTURY**,

CWPL CENTURY,  and  and applied for registration thereof in class 6 on 20th April, 2018 on a 'proposed to be used' basis.

25. Mr. Anil Kumar is also the registered owner of original artistic works



and , details of which are given in paragraph no.5 of the plaint.

26. Subsequently, the aforesaid business along with the aforementioned



marks were transferred in favour of the plaintiff and the original proprietors Mr. Pradeep Kumar and Mr. Anil Kumar became the directors of the plaintiff.

27. The details of currently valid and subsisting trade mark registrations in favour of the plaintiff are provided in paragraph no.6 of the plaint as per which, the plaintiff has *inter alia* registrations for the mark CP CENTURY in classes 6, 8 and 35 and the mark CWPL CENTURY in classes 6 and 21.

28. The plaintiff and its predecessor's gross turnover for the financial years 2017-18 to 2024-25 is provided in paragraph no.18 of the plaint. Pertinently, in the financial year 2024-25, the plaintiff had made gross sales of approximately Rs. 53 crores.

29. The plaintiff also operates its website, accessible at www.centuryhardwares.in, where it provides information about its business to the consumers and public at large.

30. It is submitted that in February 2022, the defendant filed a trade mark



application for registration of similar trade mark bearing application no.5159613 in class 6 in respect of 'metal hardware, small items of metal hardware, architectural hardware made of common metals and alloys thereof, metal alloys, steel building materials, metal building materials, transportable metal buildings, cables, wires and chains, of metal, metal cable wire, metal cables [non-electric], ironmongery, pipes and tubes of metal, safes, common metals, ores, steel mchirnneys, metal chimneys, modular steel chimney systems, metal materials for building and construction, metal containers for storage and transport, metallic doors,



windows, shutters and slatted shutters, rolling window shutters of metal, corrosion - resistant metal overlays and alloys for fittings' on a 'proposed to be used' basis.

31. It is submitted that the plaintiff objected to the aforesaid trade mark application by filing an interlocutory petition for non-publication and non-acceptance of the defendant's aforesaid trade mark application. The defendant's aforesaid application is currently pending.

32. It is submitted that the defendant has not only copied the mark 'CENTURY' but also the mark 'HYZIK' of a third-party, who is the registered proprietor of the said mark in class 6.

33. It is further submitted that the plaintiff came to know only on 3rd April, 2025 that the defendant has launched its products such as tandem box

bearing the marks HYZIK CENTURY/ **HYZIK CENTURY**/



(hereinafter 'impugned marks').

A photograph of the impugned product bearing the impugned mark is reproduced below:





34. Attention of the Court has been drawn to the judgment passed by the Division Bench of this Court in ***M/s. Shivam Hardware Store v. M/s. Century World***, wherein it was noted that the word 'CENTURY' is the prominent part of the trade mark of the plaintiff herein. Further, the contention of the appellant in the aforesaid case that the word 'CENTURY' is common to trade was rejected.

35. Similarly, the Division Bench of this Court, in ***Apaar Homez Mart Pvt Ltd v. M/s. Century World***, dismissed the appeal wherein the appellant/defendant was using the mark 'SEPAL CENTURY'. The Court noted that the word 'CENTURY' is neither descriptive nor has any nexus with the trade of modular kitchen, hardware, etc.

36. Based on the averments made in the plaint, the plaintiff has established its statutory and common law rights over the marks

CP CENTURY , CWPL CENTURY ,  and  .

37. In view of the above, a *prima-facie* case of infringement and passing off is made out on behalf of the plaintiff in its favour. Clearly, an attempt has been made by the defendant to create an impression that the impugned products under the impugned marks offered by his are associated with those of the plaintiff.

38. Balance of convenience is in favour of the plaintiff and against the defendant. Irreparable loss, harm and injury would be caused to the plaintiff if the defendant continues to use the impugned marks. Prejudice would also be caused to the public as the impugned products are likely to cause



confusion in the market.

39. Consequently, till the next date of hearing, the defendant, his proprietors, partners, associates, sister concerns, dealers, distributors, servants, agents, assigns and representatives and all others acting for and on its behalf are restrained from manufacturing, selling, offering for sale, advertising, directly or indirectly dealing in products bearing the impugned

marks HYZIK CENTURY/ **HYZIK CENTURY** /



and/ or any other mark identical with or similar to the plaintiff's aforesaid CP CENTURY and CWPL CENTURY in relation to goods included in classes 6 and 21.

40. Issue Notice.

41. Notice be issued to the defendant through all permissible modes, including e-mail.

42. Reply be filed within four (4) weeks.

43. Rejoinder thereto, if any, be filed within two (2) weeks thereafter.

44. In view of the fact that the plaintiff has sought appointment of a Local Commissioner to seize the infringing products, 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 plaintiff shall serve notice under Order XXXIX Rule 3 of the CPC at the time of execution of the commission which shall not be later than two (2) weeks from today. The affidavit in terms of Order XXXIX



Rule 3 of the CPC shall be filed within one (1) week of the execution of the commission.

45. List before the Joint Registrar on 15th September, 2025 for completion of service and pleadings.

46. List before the Court on 10th November, 2025.

I.A. 15965/2025 (u/O-XXVI Rule 9 of the CPC)

47. The present application has been filed under Order XXVI Rule 9 of the CPC seeking appointment of a Local Commissioner to visit and inspect the premises of the defendants, make an inventory of all products, labels, packaging/ promotional material, etc. bearing the impugned marks (hereinafter 'infringing material') and effect seizure of the same.

48. In view of what is stated above, the plaintiff has made out a case for appointment of a Local Commissioner.

49. Accordingly, Ms. Sheenu Priya, Advocate (Mobile No. +91 8376982005) is appointed as Local Commissioner to visit the premises of the defendant situated at:

*Khasra No. 575/2, Firni Road,
Mundka Village, New Delhi- 110041*

50. The following directions are passed in this regard:

- a. The Local Commissioner, along with a representative of the plaintiff and its 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.
- b. The Local Commissioner shall conduct a search at the defendant's aforesaid premises and seize the infringing material.



- c. The Local Commissioner shall make an inventory of all the infringing material.
 - d. After seizing infringing material, the same shall be sealed and signed by the Local Commissioner, in the presence of the parties, and released on *superdari* to the defendant on his undertaking to produce the same as and when further directions are issued in this regard.
 - e. 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 material.
 - f. The defendant and his representatives are directed to provide full assistance to the Local Commissioner for executing the present commission.
 - g. In case, the aforesaid premises of the defendant or any part thereof are found locked, the Local Commissioner is permitted to break open the locks and doors for execution of the commission.
 - h. 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.
 - i. 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 material to be filed along with the Report.
51. The Local Commissioner shall file her Report within two (2) weeks of executing the commission, along with photographs/ videos taken and



photocopies of the books of account and stock and the inventory procured pursuant thereto.

52. The fees of the Local Commissioner, to be borne by the plaintiff, is fixed at Rs. 1,00,000/-. The plaintiff 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.

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

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

55. *Dasti.*

AMIT BANSAL, J

JULY 10, 2025

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