



\$~44

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

+ **CS(COMM) 719/2025**

HERO INVESTCORP PRIVATE LIMITED & ANR.....Plaintiffs

Through: Ms. Aastha Sharma and Ms. Jahanvi
Sharma, Advocates.

versus

ASHOK KUMAR (UNKNOWN)

.....Defendant

Through: None.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

%

22.07.2025

I.A. 17233/2025 (for pre-institution mediation)

1. This application is filed on behalf of the Plaintiffs under Section 12-A of the Commercial Courts Act, 2015 seeking exemption from Pre-Institution Mediation.

2. Having regard to the facts of the present case wherein urgent relief is prayed for and in light of the judgment of Supreme Court in *Yamini Manohar v. T.K.D. Keerthi*, (2024) 5 SCC 815, as also Division Bench of this Court in *Chandra Kishore Chaurasia v. RA Perfumery Works Private Ltd.*, 2022 SCC OnLine Del 3529, exemption is granted to the Plaintiffs from Pre-Institution Mediation.

3. Application is allowed and disposed of.

I.A. 17232/2025 (exemption from advance service)

4. On account of the urgent relief prayed for by the Plaintiffs which



needs hearing today, Plaintiffs are exempted from serving advance notice on the Defendant.

5. Application is allowed and disposed of.

I.A. 17231/2025 (u/O XI Rule 1 (4) of Commercial Courts Act, 2015 r/w Section 151 CPC)

6. This application is filed on behalf of the Plaintiffs seeking to place on record additional documents within 30 days.

7. Plaintiffs, if they wish to file additional documents at a later stage, shall do so strictly in accordance with provisions of the Commercial Courts Act, 2015.

8. Application is allowed and disposed of.

CS(COMM) 719/2025

9. Let plaint be registered as a suit.

10. Upon filing of process fee, issue summons to the Defendant through all permissible modes, returnable before the learned Joint Registrar on 08.10.2025.

11. Written statement shall be filed by the Defendant within 30 days from the receipt of summons along with affidavit of admission/denial of the documents filed by the Plaintiffs.

12. It is open to the Plaintiffs to file replication within 30 days from receipt of the written statement along with affidavit of admission/denial of documents filed by the Defendant.

13. If any of the parties wish to seek inspection of any documents, the same be done in accordance with Delhi High Court (Original Side) Rules, 2018.



14. The Joint Registrar shall carry out admission/denial of documents and marking of exhibits.

I.A. 17229/2025 (u/O XXXIX Rules 1 and 2 r/w Section 151 of CPC)

15. This application is filed on behalf of the Plaintiffs under Order XXXIX Rules 1 and 2 read with Section 151 of CPC for grant of *ex-parte ad-interim* injunction.

16. Issue notice to the Defendant, through all permissible modes, returnable on 25.09.2025 before Court.

17. As stated in the plaint, Plaintiffs are group companies and Plaintiff No. 2 is engaged in manufacturing and sale of motorcycles, scooters and their parts and accessories under the trademark 'HERO' since 09.04.1985. Plaintiffs also use label and device marks



for the said diverse range of products.

18. It is brought forth in the plaint that the Hero Group was established in early 1950s when four Munjal brothers shifted to Ludhiana and started manufacturing bicycle components. On 13.06.1966, protection of the trademark 'HERO' was extended to scooters, motorcycles and spare parts. Plaintiff No. 2 was originally incorporated as a Joint Venture Company on 19.01.1984 with 26% equity holding by the Indian Hero Group, 26% equity holding by Honda Motor Co. Ltd. of Japan and remaining equity amongst the public. The Joint Venture was dissolved in July, 2011 and Plaintiff No. 2 underwent a name change to Hero MotoCorp Limited due to change in shareholdings.



19. It is stated in the plaint that Plaintiff No. 2 was registered proprietor of trademarks 'HERO HONDA' and 'HERO HONDA' (stylized with logo) in Class 12 in India till May, 2014. However, after dissolution of the Joint Venture and change in Company's name, it transited to the use of the following trademarks:-

Trademark	Class	TM Application No.	Date of Registration	Valid upto
HERO (word mark)	4	2205777	15.09.2011	15.09.2031
HERO (word mark)	12	235780	13.06.1966	13.06.2028
HERO (word mark)	12	659053	16.03.1995	16.03.2032
 (H device)	9, 12, 16, 25, 35, 36, 37, 4, 42 and 99	2191293	16.08.2011	16.08.2031
Hero (Device Mark)	9, 12, 16, 25, 35, 36, 37, 41	2191294	16.08.2011	16.08.2031
	42 and 99			
Hero (Device Mark)	4	2314273	12.04.2012	12.04.2032
 (H device)	4	2314274	12.04.2012	16.08.2031

20. It is further stated that the registrations of the marks have been renewed from time to time in favour of Plaintiff No. 1 and are subsisting and



valid as detailed in paragraph 35 of the plaint. A Licence Agreement was executed between Plaintiff No. 1 (its predecessor) and Plaintiff No. 2 (its predecessor) to use Plaintiff No. 1's trademark 'HERO' and Plaintiff No. 2 uses these trademarks being a Hero Group Company, by virtue of authorization letters dated 28.08.2018 and 10.05.2022. It is also stated that Plaintiffs are proprietor of copyright in the artistic works vested in the logo and 'HERO' mark, which bear unique and fanciful styles and is an 'original artistic work' within the meaning of Section 2(c) of the Copyright Act, 1957 ('1957 Act') as follows:-



21. It is stated that Plaintiff No. 2 sells auto spare parts to be used in its two wheelers in a unique packaging consisting of colour combinations of red and white. Packaging prominently displays the trademark 'HERO' and its 'H' logo, which is an original and novel creation of the Plaintiffs as under:-



22. It is stated that the mark 'HERO' has been advertised extensively by the Plaintiffs through print and electronic media and advertisement expenses incurred by the Plaintiffs and the predecessors have increased to Rs. 382.60 crores in 2010-11 from Rs. 0.04 crores in 1984-85 in respect of Hero Honda Motors Limited and from Rs. 366.09 crores in 2011-12 to Rs. 360.28 crores for six months in 2022-23 in respect of Hero MotoCorp Limited. The sales revenues have also multiplied manifold as detailed in paragraph 30 of the plaint. The mark 'HERO' of Plaintiff No. 1 is associated with sports goods, sports cars, sports events and sports persons and Plaintiff No. 2 has in the past sponsored major cricket tournaments in association with ICC, including Cricket World Cup and Champions Trophy. Mark 'HERO' has been associated with IPL as a sponsor of Mumbai Indians Team and has also endorsed hockey and golf sporting events, amongst others.

23. It is averred that Plaintiff No. 1 has always been diligent in protecting and enforcing its valuable intellectual property rights in the mark 'HERO'



through plethora of registrations across the globe and has also initiated proceedings for inclusion of the mark in the list of well-known trademarks. Plaintiff No. 1 has successfully opposed applications for registration of trademark 'HERO' for pain balms and screws, respectively.

24. Plaintiffs aver that during the periodical market survey carried out by investigator of Plaintiff No. 2 in July, 2025 in Karol Bagh, Delhi, it was learnt that Defendant is engaged in stocking, selling, distributing and offering for sale spare parts, including but not limited to Shoe Comp. Brakes, Cable Comp., Clutches, etc., bearing marks 'HERO'/'



, which are identical and/or deceptively and confusingly similar to Plaintiffs' registered 'HERO' marks. On 04.07.2025, the investigator purchased sample products and on inspection, the said marks were clearly visible. On closer examination, it was revealed that Defendant has printed erratic and arbitrary details on the label, including a purported manufacturing date of 03/2024 along with product code, net quantity etc., in an attempt to represent the counterfeit products as genuine products of the Plaintiffs.

25. Learned counsel for the Plaintiffs submits that use of trademark 'HERO' by the Defendant, which is visually and structurally identical to Plaintiffs' trademark 'HERO' tantamounts to infringement under Section 29 of Trademarks Act, 1999 as also infringement of the copyright of the Plaintiffs vested in the 'original artistic work'. It is urged that Defendant is using an identical mark for identical goods and trade channels being identical with consumers being common, there is every likelihood of



confusion and since the products sold by the Defendant are substandard, the enviable and formidable reputation of the Plaintiffs is being adversely impacted. For ease of reference, comparative of Plaintiffs and Defendant's product is extracted hereunder:-

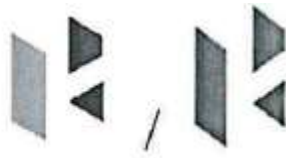
Plaintiffs' original product	Defendant's impugned product



26. Having heard counsel for the Plaintiffs and on perusal of the documents on record, including comparison of the rival products, I am of the view that Plaintiffs have made out a *prima facie* case for grant of *ex parte ad interim* injunction. Balance of convenience lies in favour of the Plaintiffs and irreparable injury will be caused to the Plaintiffs if the injunction is not granted.

27. Accordingly, till the next date of hearing, Defendant, his associates and agents, directors, officers, employees, distributors, franchisee, representatives, assigns and anyone associated with him are restrained from stocking, selling, distributing and offering for sale Shoe Comp Brake, Cable Comp Clutch, Packaging Material or any other product bearing the marks

“HERO”, Hero/ Hero and  and/or any other mark deceptively and confusingly similar to registered trademarks

“HERO”, Hero/ Hero and  , amounting to infringement and/or selling the said products in the packaging material identical and/or deceptively or confusingly similar to the packaging of the Plaintiffs.

28. Plaintiffs shall comply with the provisions of Order XXXIX Rule 3 CPC within a period of two weeks from the date of execution of the local commission.



I.A. 17230/2025 (u/O XXVI Rule 9 r/w Section 151 of CPC)

29. This application is filed on behalf of the Plaintiffs seeking appointment of a Local Commissioner.

30. Upon hearing, the application is allowed.

31. Accordingly, Mr. Kritarth Upadhyay, Advocate (Mobile No. 9026894805) is appointed as Local Commissioner, who shall visit the premises of the Defendant at the following address:-

‘Building No. T-2466,
Subhash Mohalla, Faiz Road, Karol Bagh,
Delhi-110005’

32. Local Commissioner shall visit the aforesaid premises and search and seize and take into custody all infringing products, finished or unfinished packaging material, promotion material etc. bearing the trademarks of the Plaintiffs or any other mark deceptively similar thereto and make an inventory of the same. The material so seized shall be handed over on *superdari* to the Defendant upon an undertaking being furnished that the Defendant shall produce the same, as and when required by the Court. Local Commissioner will also inspect the books of accounts including records such as cash books, stock registers, ledgers etc. relating to sale of offending goods.

33. Local Commissioner along with the representative of the Plaintiffs and/or counsel shall be permitted to enter the aforesaid premises by the Defendant. Photographs/videos of the execution of the Commission shall be taken by the Local Commissioner. In case of any obstruction in execution of the commission, Local Commissioner will be at liberty to take assistance of SHO of the concerned police station, who on being



contacted shall render assistance and cooperation. In case the premises are found locked, Local Commissioner will be at liberty to break open the locks.

34. Plaintiffs shall serve a copy of this order upon the Defendant along with paper book of the suit at the time of execution of the proceedings.

35. Fee of the Local Commissioner is fixed at Rs. 1.50 lakh in addition to miscellaneous out-of-pocket expenses, which shall be paid in advance by the Plaintiffs.

36. Report will be filed by the Local Commissioner within two weeks from the date of execution of the commission and the Registry shall be informed of the execution of the commission and the filing of the report only after which summons will be issued to the Defendant.

37. This order will not be uploaded on the website of this Court till execution of the Commission by the Local Commissioner.

38. Application is disposed of.

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

JYOTI SINGH, J

JULY 22, 2025/YA