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

+ **CS(COMM) 798/2025**

RED BULL AG

.....Plaintiff

Through: Mr. Anirudh Bakhru, Mr. Naqeeb
Nawab, Ms. Sejal Tayal & Ms.
Apurva Bhutani, Advocates.

versus

**M/S BHAVNAGARI HERBAL PHARMACY
& ORS.**

.....Defendants

Through:

**CORAM:
HON'BLE MR. JUSTICE TEJAS KARIA**

ORDER

% **05.08.2025**

I.A. 18915/2025 (Exemption from filing clear copies, English translated copies of documents)

1. Exemption is allowed, subject to all just exceptions.
2. The Application stands disposed of.

I.A. No. 18914/2025 (Exemption from advance service to the Defendants)

3. This is an Application filed by the Plaintiff under Section 151 of the Code of Civil Procedure, 1908 (“CPC”), seeking exemption from advance service to the Defendants.
4. Mr. Anirudh Bakhru, learned Counsel for the Plaintiff, submitted that there is a real and imminent likelihood that the Defendants may take immediate steps to dispose of, conceal or suppress their infringing business



operations and digital footprints bearing the deceptively similar Trade Mark.

5. In view of the fact that the Plaintiff has sought an urgent *ex-parte ad-interim* injunction along with the appointment of the Local Commissioner, the exemption from advance service to the Defendants is granted.

6. The Application stands disposed of.

I.A. 18911/2025 (O-XI R-1(4) of the Code of Civil Procedure, 1908)

7. The present Application has been filed on behalf of the Plaintiff under Order XI Rule 1(4) of the CPC as applicable to Commercial Suits under the Commercial Courts Act, 2015 (“CC Act”) seeking leave to place on record additional documents.

8. The Plaintiff is permitted to file additional documents in accordance with the provisions of the CC Act and the Delhi High Court (Original Side) Rules, 2018.

9. Accordingly, the Application stands disposed of.

I.A. No. 18913/2025 (Exemption from pre-institution Mediation)

10. This is an Application filed by the Plaintiff seeking exemption from instituting pre-litigation Mediation under Section 12A of the CC Act.

11. As the present matter 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.

12. The Application stands disposed of.

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13. Let the Plaint be registered as a Suit.

14. Issue Summons to the Defendants through all permissible modes upon filing of the Process Fee.



15. The Summons shall state that the Written Statement(s) shall be filed by the Defendants within 30 days from the date of the receipt of Summons. Along with the Written Statement(s), the Defendants shall also file Affidavit(s) of Admission / Denial of the documents of the Plaintiff, without which the Written Statement(s) shall not be taken on record.

16. Liberty is granted to the Plaintiff to file Replication(s), if any, within 30 days from the receipt of the Written Statement(s). Along with the Replication(s) filed by the Plaintiff, Affidavit(s) of Admission / Denial of the documents of Defendants be filed by the Plaintiff, without which the Replication(s) shall not be taken on record.

17. In case any Party is placing reliance on a document, which is not in their power and possession, its details and source shall be mentioned in the list of reliance, which shall also be filed with the pleadings.

18. If any of the Parties wish to seek inspection of any documents, the same shall be sought and given within the prescribed timelines.

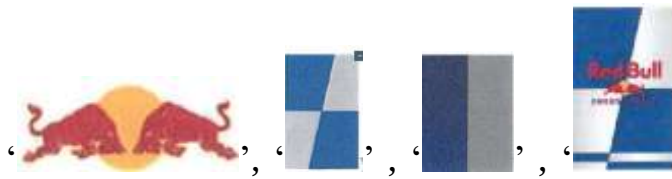
19. List before the Joint Registrar on 13.10.2025 for completion of service and pleadings.

I.A. No. 18910/2025 (U/O XXXIX Rule 1 & 2 of CPC)

20. Issue Notice through all permissible modes upon filing of the Process Fees.

21. The Plaintiff has filed the present Suit seeking relief of permanent injunction restraining the Defendants from infringing the Trade Marks of the

Plaintiff, i.e., Red Bull, RED, BULL, ‘  ’, ‘  ’, ‘  ’, ‘  ’, ‘  ’, ‘  ’, ‘  ’,



‘Red Bull Marks’), passing off their goods and services as that of the Plaintiff, along with other ancillary reliefs.

22. The learned Counsel for the Plaintiff submitted that the Red Bull GmbH is a company organized and incorporated under the laws of Austria. Red Bull Asia FZE, is a wholly owned subsidiary of Red Bull GmbH and is responsible for the marketing and operations of the Red Bull Energy Drink product throughout Asian and Indian sub-continent countries including India. The Plaintiff operates and conducts its business in India, *inter alia*, through its wholly owned subsidiary Red Bull India Pvt. Ltd.

23. The learned Counsel for the Plaintiff submitted that the Red Bull Energy drink was first launched in 1986 and since then, the global distribution of the Plaintiff's goods has grown exponentially, with the Red Bull Energy Drink being distributed and sold in 174 countries, including India. The Red Bull Energy Drink was first launched in India in the year 2000. The Plaintiff's products have been available in India prior to the launch in India in the year 2000 through imports, and the Plaintiff has held a trans-border reputation and goodwill in India ever since its launch in 1986.

24. The learned Counsel for the Plaintiff submitted that the Red Bull Marks are now attached to, and well-known for, energy drinks, sporting and cultural events, e-sports / online gaming events, merchandising and memorabilia, clothing, shoes, the Formula 1 Red Bull Racing team, motorsports in general, football teams, record labels, TV channels, magazines and publishing, the Red Bull Media House etc.



25. The learned Counsel for the Plaintiff submitted that the Red Bull Marks are registered in approximately 206 Jurisdictions worldwide. The Plaintiff holds over 40 Trade Mark registrations for its Red Bull Marks in India. The details of the prominent Trade Mark Registrations of the Plaintiff in India are set out in Paragraph No. 18 of the Plaint which are reproduced hereinunder:

S. No.	Trademark	Reg. No.	Appl. Date	Cl.
1.	RED BULL	780143	28/11/1997	32
2.		1925032	19/02/2010	32
3.		1203997	04/06/2003	32
4.		1203994	04/06/2003	32



5.		IRDI- 3270378	26/01/2015	25, 28, 32, 41, 43
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26. The learned Counsel for the Plaintiff submitted that the Plaintiff's Trade Marks 'RED BULL' and the 'Double Bull' Device are recorded as well-known Marks in the list of well-known Marks maintained by the Trade

Marks Registry. Further, the Single Bull Device  or , has been declared as a well-known Trade Mark by this Court in the judgment of **Red Bull AG v. C. Eswari**, 2018 SCC OnLine Del 13145.

27. The learned Counsel for the Plaintiff submitted that the Plaintiff is also registered as the owner of numerous domain names incorporating the term 'RED BULL', under the generic top-level domain '.com'. Red Bull's website www.redbull.com, which was registered on 01.05.1998, displays its various products and / or activities under the Red Bull Marks, and this website is easily accessible by consumers and the general public all over the world, including in India. The Plaintiff is the registered owner of the domain name www.redbull.in, in India, which caters to the Indian public specifically, and the Red Bull Marks prominently feature on the Indian website.

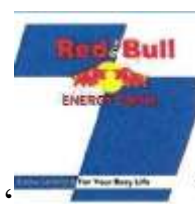
28. The learned Counsel for the Plaintiff submitted that the Plaintiff is the unchallenged market leader for energy drinks. The unit sales of the Plaintiff have seen exponential growth since its inception and have continued to increase sales in the past few years as well. The details of the Serving Unit

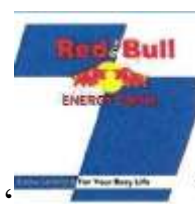


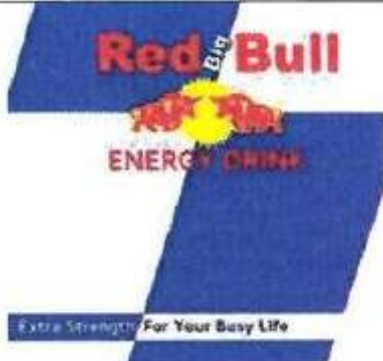
Sales of the Plaintiff from the years 2020 to 2024 are set out in Paragraph No. 29 of the Plaint which are set out as under:

Unit Sales	Worldwide	Asia	India
2020	7,909,506,272	524,604,467	85,182,024
2021	9,842,314,993	658,261,619	130,657,509
2022	11,637,105,481	792,590,380	187,180,388
2023	12,192,918.890	823,845,386	178,023,929
2024	12,715,089,890	863,080,431	203,553,352

29. The learned Counsel for the Plaintiff submitted that around January 2025 during a routine check on the Trade Marks Registry database, the Plaintiff came across a Trade Mark Application bearing No. 6802309



(“**Impugned Application**”) for the label, i.e., ‘’, (“**Impugned Label**”) in Class 32 in the name of Defendant No.1. The details of the Impugned Label is set out hereinunder:

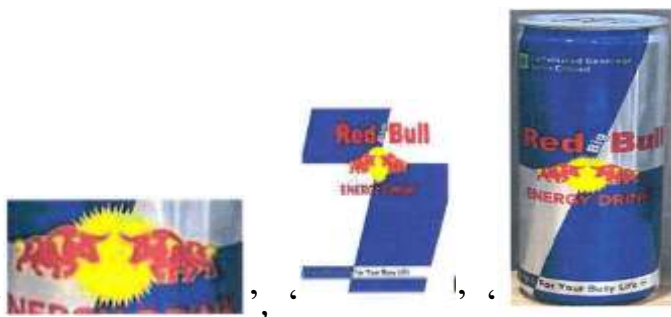
Application No.	Mark	Application Date	User Date
6802309		13/01/2025	Proposed to be used
[CLASS : 32]			



Soft Drinks, Aerated Water, Fruit Juices, Vegetable Juices, Syrups, Drinking Water, Packed in Bottle and Tins included in Class-32

30. The learned Counsel for the Plaintiff submitted that in order to protect its rights in the Red Bull Marks, the Plaintiff filed a representation dated 22.01.2025 before the Trade Marks Registry requesting the Impugned Application to not be accepted. The Plaintiff issued a Cease and Desist Notice dated 19.02.2025 (“**Cease and Desist Notice**”) to Defendant No. 1 to immediately withdraw the Impugned Application and to cease all use (if any) of the Impugned Label. The Plaintiff did not receive a response to the Cease and Desist Notice from Defendant No. 1 and, accordingly, sent a Reminder Letter dated 12.03.2025 (“**Reminder Letter**”) to Defendant No. 1. The Defendant No.1 sent Reply dated 13.03.2025 to the Reminder Letter and refused to comply with the requisitions set out in the Cease and Desist Notice.

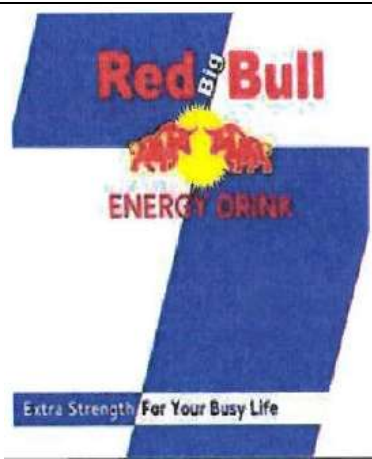
31. The learned Counsel for the Plaintiff submitted that the Plaintiff further issued a response dated 03.04.2025 to the Reply of the Defendant No. 1 dated 13.03.2025, giving a final opportunity to Defendant No. 1 to comply with the requisitions in the Cease and Desist Notice. Upon the failure of Defendant No. 1 to comply with the requisitions under the Cease and Desist Notice, the Plaintiff launched an investigation into the activities of Defendant No. 1. During the investigation, it was revealed that Defendant No. 1 was listing its products on a third-party e-commerce platform, IndiaMart with the Marks ‘Red Big Bull’, ‘’,



‘’, ‘’, ‘’ (“Impugned Marks”). The Plaintiff’s representative procured a sample purchased from IndiaMart on 12.06.2025, which revealed that the products of Defendant No. 1 are being marketed by Defendant No. 2 and the products are being distributed by Defendant No. 3 in its capacity as the Authorized Distributor of Defendant No. 1. A comparative table of the Plaintiff’s Red Bull Marks and the Impugned Marks is reproduced hereinunder:

Particulars	Plaintiff’s Red Bull Marks	Defendants’ Impugned Marks
Mark	Red Bull / 	Red Big Bull / 
Product		



Label		
Device of the Bull		

32. The learned Counsel for the Plaintiff submitted that the Trade Marks are identical, phonetically similar and the products are also identical. Substantial amount has also been spent on advertisements and promotion by the Plaintiff in India.

33. Having considered the submissions advanced by the learned Counsel for the Plaintiff, the pleadings and the documents on record, *prima facie*, there are hardly any visible differences and / or changes noticeable to the naked eye of an average person with imperfect recollection belonging to the trade and / or to the general public as the products of the Defendants are identically similar to those of the Plaintiff.

34. This is a case of triple identity where the Trade Mark is identical, the product category is identical and the trade channel as also the consumer base is identical. The Plaintiff being the prior user, adopter and the registered owner of the Trade Mark 'RED BULL' is entitled to protection. The identity



in the Trade Mark is so close that the two products are indistinguishable.

35. Accordingly, the Plaintiff has made out a *prima facie* case for grant of an *ex-parte ad-interim* injunction. The Defendants, their proprietors or partners, servants, agents, affiliates, associates, stockists are restrained from manufacturing, selling, offering for sale, retailing, distributing, importing, exporting any product under the Impugned Trade Marks, i.e., ‘Red Big Bull’, ‘

Bull’, ‘’, the device ‘’, the label ‘’,



and the trade dress, ‘’, or any other Mark which is identical or deceptively similar to the Red Bull Marks of the Plaintiff, i.e., ‘Red Bull’,

‘RED’, ‘BULL’, ‘’, ‘’, ‘’, ‘’,

‘’, ‘’, ‘’, ‘’, ‘’, ‘’,

‘’,



36. Let the Reply to the present Application be filed within four weeks after service of pleadings and documents. Rejoinder thereto, if any, be filed before the next date of hearing.

37. List before this Court on 19.11.2025.

I.A. No. 18912/2025 (Appointment of Local Commissioner)

38. The present Application has been filed by the Plaintiff under Order XXVI Rule 9 read with Order XXXIX Rule 7 of the CPC, seeking appointment of a Local Commissioner. The Court has considered the merits of the Plaintiff's case and has granted an *ex-parte ad-interim* injunction as recorded above in I.A. 18910/2025 under Order XXXIX Rule 1 & 2 of the CPC.

39. Accordingly, in order to ensure that the injunction is fully complied with, it is deemed appropriate to appoint Local Commissioner to visit Defendant No. 3's premises at the following addresses:

Sr. No.	Particulars	Name of Local Commissioner
1.	"Shop No. 28, Om Palace, Pasodra Patiya, Navagam, Kamrej, Surat" And "Plot No-B/223, Surya Darshan Silent City Tal-Kamrej, Kamrej, Surat"	Mr. Harshal Kshirsagar, Advocate [Mobile No.+91 9665533908]

40. The mandate of the Local Commissioner is as under:

- i) The Local Commissioner shall visit the premises of Defendant No. 3 at the addresses mentioned in the above table, to inspect and



seize any infringing products, fully or semi-manufactured infringing products of Defendant No. 3 bearing the Impugned Trade Marks ‘Red

Big Bull’, , the device , the label

, and the trade dress, , or any other Mark or packaging which is identical or deceptively similar to the Plaintiff’s

Red Bull Marks, i.e., ‘Red Bull’, ‘RED’, ‘BULL’, ,
, , , , ,
, , , , .

ii) The Local Commissioner is permitted to seize the infringing products at the above premises and if knowledge is acquired of any other premises where the products could be stored, the Local Commissioner is free to record the same and then visit the other premises and conduct a seizure there as well;



- iii) The 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 infringing products can take place;
- iv) The Local Commissioner shall also obtain the details as to since when infringing goods or products are being used by the Defendants under the Impugned Trade Marks and obtain copies of the accounts if the same is found to be sold in market;
- v) The Local Commissioner shall obtain accounts including ledgers, stock registers, invoice books, receipt books, cash books, purchase and sale records and any other books of record or commercial transactions kept at the premises of the Defendants, and take photocopy and / or record of all such transactions that pertain to impugned goods, if any. The Defendants shall cooperate and give passwords to the computers and the files containing the accounts, if the same is stored on the computer or a specific software;
- vi) After preparation of the inventory, the infringing goods under the Impugned Trade Marks in fully manufactured or unfinished condition, including packaging materials, advertising, promotional materials, pamphlets, brochures, boxes, videos, hoardings, banners, signage, cartons and other material bearing the Impugned Trade Marks and packaging which are similar to the Plaintiff's Trade Mark



shall be released to the Defendants on *superdari*. The monetary value of the stock shall also be ascertained;

vii) The 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;

viii) Upon being requested, the concerned Commissioner of Police / Superintendent of Police in Surat, Gujarat shall render necessary cooperation for execution of the Commission, as per this Order;

ix) The Local Commissioner is permitted to take photographs and videograph 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 Local Commissioner;

x) The Local Commissioner, while executing the Commission, shall ensure that there is no disruption to the business of the Defendants, except for the purposes of the execution of the Commission. The Commission shall be executed in a peaceful manner.

41. Copy of this Order be provided to the Local Commissioner. The Order passed shall be communicated by the Local Commissioner to Defendant No. 3. Copy of the Order and complete paper book shall be served by the Local Commissioner upon Defendant No. 3 at the time of execution of the Commission.

42. The fees of the Local Commissioner is fixed at ₹2,00,000/- (Rupees Two Lakh Only) excluding out of pocket expenses, travel, lodging, etc. All



the aforesaid expenses shall be borne by the Plaintiff and paid in advance to the Local Commissioner named hereinabove.

43. The Commission shall be executed on 11.08.2025, and the report of the Local Commissioner shall be filed within a period of two weeks thereafter.

44. Compliance of Order XXXIX Rule 3 of CPC shall be done within two weeks after the execution of the Commission.

45. It is directed that this Order shall be uploaded on the Court's website after the execution of the Commission are completed, to enable effective execution thereof.

46. List before this Court on 19.11.2025.

47. Order *dasti* under the signature of the Court Master.

TEJAS KARIA, J

AUGUST 5, 2025

ap