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

I.A. 49637/2024 and 49638/2024

In

+ **CS(COMM) 1062/2024**

**KENT RO SYSTEMS LTD AND ANR**

.....Plaintiffs

Through: Ms. Rajeshwari H. and Mr.  
Deepanshu Nagar, Advocates.

versus

**JITENDAR RATHI AND ORS**

.....Defendants

Through: None.

**CORAM:**

**HON'BLE MR. JUSTICE AMIT BANSAL**

**ORDER**

**23.12.2024**

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**I.A. 49638/2024 (seeking exemption from advance service on the defendant no.4)**

1. The plaintiffs seek appointment of Local Commissioner on an urgent basis to seize moulds and dies used for manufacturing infringing products at the premises of the defendant no.4. It is submitted that there is a probability that the defendant no.4 may remove the aforesaid moulds and dies if the defendant no.4 is given advance service of the present application.

2. Therefore, in the peculiar facts and circumstances of this case, exemption from effecting advance service of application being I.A. 49637/2024 upon the defendant no.4 is granted.

3. The application is disposed of.

**I.A. 49637/2024 (under Order XXVI Rule 9 r/w Order XXXIX Rule 9 of**



**CPC)**

4. This Court had granted an *ex parte ad interim* injunction *vide* order dated 2<sup>nd</sup> December, 2024 in favour of the plaintiffs and had appointed four Local Commissioners for four different locations.

5. The commission was conducted on all the locations on 11<sup>th</sup> December, 2024. During the execution of the commission at Sonipat, it was found that the defendant no.4 had several dies/moulds which were used to manufacture the infringing products. The said moulds/dies could not be seized by the Local Commissioner as it was not possible to remove and check all of them and also the moulds/dies were heavy and securely closed.

6. In this regard, reference may be made to the on-the-spot proceedings prepared by the earlier Local Commissioner. Paragraphs 12 and 13 of the same are set out below:

*“12. Upon further inquiry regarding the ‘die’ which has been used to manufacture the infringing seized products, the defendants’ representative denied to hand over any ‘die’. They further tried to mislead the commission that they only manufacture screenings, however as per my inspection the factory was making RO cover as well the tank.*

*13. That since there are number of dies and that too are very heavy to lift, it was unfeasible to inspect them.”*

7. Accordingly, the present application has been filed by the plaintiffs seeking appointment of another Local Commissioner to visit the aforesaid premises for seizing the moulds/dies.

8. Ms. Rajeshwari, counsel appearing on behalf of the plaintiffs submits that the plaintiffs shall depute technical personnel who are in a position to open the secured mould/dies which were used for manufacture of the infringing products so that they can be seized.



9. Accordingly, Ms. Tejaswi M., Advocate (Mobile No. +91-9542791019) is appointed as Local Commissioner to visit the premises of the defendant no.4 situated at:

*“276/32/17/2, Malikpur Road, Daturi, Sonipat,  
Haryana – 131039”*

10. The following directions are passed in this regard:

- i. The Local Commissioner, along with a technical personnel of the plaintiffs and their counsel, shall be permitted to enter upon the premises of the defendant no. 4 mentioned above or any other location/premises that may be identified during the course of commission, in order to conduct the search and seizure.
- ii. The Local Commissioner shall conduct a search at the defendant no. 4's premises and seize the infringing moulds/dies.
- iii. After seizing infringing moulds/dies, the same shall be inventoried, sealed and signed by the Local Commissioner, in the presence of the parties, and released on *superdari* to the defendant no. 4 on its undertaking to produce the same as and when further directions are issued in this regard.
- iv. 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 moulds/dies.
- v. Defendant no.4 shall assist in execution of the commission by identifying the infringing moulds/dies. The defendant no.4 shall also provide assistance of their cranes for un-securing infringing



- moulds/dies and also provide technical assistance to open and inspect the dies/moulds to avoid any damage to the dies/moulds.
- vi. In case, the aforesaid premises of the defendant no. 4 or any part thereof is found locked, the Local Commissioner is permitted to break open the locks and doors for execution of the commission.
- vii. 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 commissioners, if and when sought.
- viii. The Local Commissioner shall have the liberty to take photographs and/or videos of the moulds/dies seized.
11. The Local Commissioner shall file her report within two (2) weeks of executing the commission, along with photographs taken and photocopies of the books of account, stock and the inventory procured pursuant thereto.
12. The fees of the Local Commissioner, to be borne by the plaintiffs, is fixed at Rs.1,25,000/-. The plaintiffs shall also bear expenses for travel, lodging and other miscellaneous out-of-pocket expenses for the execution of the commission.
13. The application stands disposed of in the above terms.
14. The order passed today shall not be uploaded for a period of two (2) weeks from today.
15. *Dasti* under signatures of the Court Master.

**AMIT BANSAL, J**

**DECEMBER 23, 2024**

*Vivek/-*