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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 1062/2024**

KENT RO SYSTEMS LTD AND ANR.Plaintiffs
Through: **Mr. Kumar Chitranshu and Ms. Nikita Seth, Advocates**

versus

JITENDAR RATHI AND ORSDefendants
Through: **Mr. Vidit Garg, Advocate for D-4**

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **23.09.2025**

I.A. 18599/2025 (for early hearing)

1. This is an application filed under Section 151 of the Code of Civil Procedure, 1908 ('CPC') for early hearing of I.A. No. 12441/2025 and I.A. No. 7194/2025 along with the supporting affidavit.

2. Since the matter is on Board, the application is disposed of.

I.A. 7194/2025 (Under Order XXXIX Rule 2A CPC)

3. This application has been filed by the plaintiff under Order XXXIX Rule 2A CPC, alleging disobedience of the order dated 02.12.2024 and order dated 23.12.2024 by defendant no. 4.

4. Learned counsel for the plaintiff refers to the first Local Commissioner's report filed in pursuance to the inspection dated 11.12.2024 and more specifically to paragraph nos. 9, 13 and 14 to demonstrate the obstruction created by defendant no. 4 and its counsel in execution of the local commission, which reads as under: -

“9. That although the presence of the counsel for defendant No. 4 was not required, however, Mr. Vidit Garg, counsel for defendant No.4 reached the premises at around 3 PM and furiously demanded to see what all photos were taken by the undersigned. Although an attempt was made by



the undersigned to pacify him and the same time apprising him of the purpose of commission referring to the order dated 02.12.2024 of this Hon'ble Court, the said counsel kept interrupting the undersigned stating that no infringing goods are being manufactured/stored at the premises. In fact, he even tried to heckle the counsels for the plaintiff. This entire fiasco led to delay of almost two hours in execution of the commission.

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13. Upon further search of the manufacturing area, it was found that several die/moulds are being used for manufacturing of the infringed and seized RO water purifier units, as stated aforesaid. On specific enquiry, as to which die / moulds has been used in manufacture of Royal Diamond and Aqua Power brand RO, the officials of the defendant denied presence of any such die/moulds. They further tried to mislead this commission that they only manufacture screenings, however the inspection clearly reveals that complete RO cabinets, as well as RO cabinet parts such as front body cover, body cover / tray, and water tank are also being manufactured at the premises.

14. That since there were a number of die/moulds being used in manufacturing the infringing goods of the plaintiff as well as RO water purifier units of various brands, which weight in several kilograms, without the co-operation of the defendant and assistance of the technician expert in die unit, it was not feasible to carry out search and inspection of die at the premises. Since inspection and sealing of so many die units was not feasible, hence photographs of the same were taken, so that the same can be produced before this Hon'ble Court as and when directed."

5. He states that in pursuance to the said inspection, approximately 400 infringing products were seized by the Local Commissioner and handed over on *superdari* to the defendant no. 4.

6. He states, however, the Local Commissioner also had to seize the moulds used by the defendant no. 4 for manufacturing the infringing products.

7. However, since there was no cooperation extended by the defendant no. 4 during the local commission dated 11.12.2024, a second Local Commission was directed by the Court vide order dated 23.12.2024. The relevant portion of the order reads as under: -



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.**

8. He states that in pursuance to the said order dated 23.12.2024, second local commission was executed on 30.12.2024. He states that however, on 30.12.2024 as well defendant no. 4 did not cooperate with the Local Commissioner.

9. He states that although 350 moulds were available at the factory premises of the defendant no. 4; the authorized representative of the defendant no. 4 failed to identify the relevant mould, which was used for manufacturing the infringing goods. He refers to the on-the-spot proceedings drawn up by the Local Commissioner and filed along with the present application as Document no. D. The relevant portions read as under: -

“when asked to identify the moulds/dies used for producing the infringing products, Mr. Rakesh Singh stated that the premises contained over 350 moulds and that he lacked the technical expertise to assist in opening them. Despite my reminder that the Court order required assistance in identifying the moulds used to make infringing products, Mr. Rakesh showed us moulds unrelated to the infringing



products. Upon further enquiry, Mr. Rakesh reiterated his limited knowledge and stated that the relevant moulds were not on the premises as per his understanding and hence products were not manufactured in the premises. He also mentioned the absence of a technical expert and that none are employed at the plant.

Another individual, Mr. Rakesh Sharma (Manager, Defendant No. 4) stated that the moulds for the infringing products had been scrapped many years ago, and the infringing goods found on the premises had been lying unused since then.

It was observed that certain moulds codes such as “RO-04” and “RO-100”, which appeared to match the codes associated with the products manufactured at the plant. When enquired about the code associated with the infringing products or moulds used in its manufacture, defendant no. 4 was unable to provide the same. The plaintiff’s technical expert could also not identify the moulds concerned as the same were in a secure pack and the defendant side failed to assist in identifying the concerned moulds. The plaintiff party found some more infringing products part (around 10-20) present at the premises, however, there was no code that could help identify the mould/dier.

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The defendant provided defective answers and distraction, despite appearing cooperative in terms of providing bills or answering calls. They denied the existence of moulds producing the infringing goods, citing purchase from previous owners and the scrapping of such moulds. No technical expert was available on the defendant side to assist in identifying the infringing moulds/dies. Certain moulds with codes matching products identifiers were observed but not the moulds relating to infringed products or parts. The defendants could not provide immediate documentation in relation to moulds/dies and requested time to furnish records of purchase or manufacture. **Further, the infringing parts of the concerned design which were found in premises raises considerable doubt that if there are were manufacturing anew after the previous commission was conducted.**

As per the plaintiff’s technical expert opinion, the infringed parts are new and manufactured within one month. Mr. Rakesh Singh, production head of the defendant No. 4 states that there are no moulds present in the premises which manufacture the infringed products. Therefore, the source of the infringing goods remains unclear although the defendant representatives appeared cooperative in allowing entry and access to premises and providing explanations.”

(Emphasis supplied)

10. He states that despite two (2) local commissions being appointed by the Court on 11.12.2024 and 30.12.2024, due to defendant no. 4’s non-cooperation, the moulds have not been produced for inspection and therefore, they could not be seized.



11. In response, learned counsel for the defendant no. 4 states that defendant no. 4 is unable to make a statement with respect to the location of the moulds used for manufacturing the 400 seized goods, which are lying in its superdari. The submission of defendant no. 4 that the infringing goods (approximately 400 in nos.) were left behind by the erstwhile owner when the factory premises were purchased by defendant no. 4 and have not been manufactured by defendant no. 4 appears to be an implausible submission. The factory premises were purchased by defendant no. 4 in 2018; local commission was executed in 2024 (6 years later); it is highly improbable that 400 pieces would be lying around occupying valuable real estate space. Moreover, on 23.12.2024, the defendant no. 4 undertook before the Court to offer inspection of the moulds as recorded at paragraph 10 (v) of the said order. No submission to the effect that defendant no. 4 does not have the moulds was raised during the said hearing. These submissions are therefore clearly an afterthought.

12. The conduct of defendant no. 4 as reported during the local commission executed on 11.12.2024 and the report for the 30.12.2024, shows that defendant no. 4 is obstructing the implementation of the order dated 02.12.2024 and 23.12.2024.

13. This Court, therefore, prima facie finds that defendant no. 4 are in wilful disobedience of the orders dated 02.12.2024 and 23.12.2024.

14. In order to enable defendant no. 4 to purge its contempt, the defendant no. 4 are given one last opportunity to comply with the direction at paragraph no. 10 (v) of the order dated 23.12.2024.

15. The plaintiff along with its expert will visit the premises of the defendant no. 4 on 06.10.2025 at 11:30 A.M.



On the said date, the defendant will produce before the expert of the plaintiff the infringing moulds and dies used for production of the seized 400 products. It will provide the assistance of cranes as already directed at paragraph 10 (v) of the order dated 23.12.2024.

The concerned SHO of local Police Station will give assistance to the plaintiff and its expert.

16. In the meantime, defendant no. 4 is directed to file their affidavit of assets including movable and immovable and bank statements. It shall include the bank statement.

17. This Court takes note that after the order was dictated, learned counsel for the defendant sought opportunity to suggest the date on which inspection can be held. However, the counsel did not revert. This conduct of the counsel is also reflected of the consistent obstructions being created by the defendant and its counsel, in this matter.

18. The defendant no. 4 is put to notice that if it does not cooperate with the plaintiff on 06.10.2025, this Court will consider issuing directions for sealing its manufacturing unit.

19. List for reporting compliance on **14.10.2025**.

20. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J
SEPTEMBER 23, 2025/rhc/IB