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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 1275/2025**
DANONE ASIA PACIFIC HOLDINGS PTE LTDPlaintiff
Through: **Mr. V.S. Krishna & Mr. M.S. Bharath,**
Advocates.
versus

M/S MCBREX LIFESCIENCES AND ANRDefendants
Through:

CORAM:
HON'BLE MR. JUSTICE TEJAS KARIA
ORDER
% **28.11.2025**

I.A. 29789/2025 (Exemption)

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

I.A. 29786/2025 (Exemption from pre-institution Mediation)

3. This is an Application filed by the Plaintiff seeking exemption from instituting pre-litigation Mediation under Section 12A of the Commercial Courts Act, 2015.
4. 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.
5. The Application stands disposed of.

I.A. 29788/2025 (Exemption from Advance Service)

6. This is an Application filed by the Plaintiff under Rule 22 of the Delhi High Court Intellectual Property Division Rules, 2022 and Section 151 of the

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Code of Civil Procedure, 1908 (“CPC”), seeking exemption from advance service to the Defendants.

7. Mr. V.S. Krishna, 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 its infringing business operations and digital footprints bearing the deceptively similar Trade Mark.

8. 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.

9. The Application is disposed of.

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10. Let the Plaint be registered as a Suit.

11. Issue Summons. Let the Summons be served to the Defendants through all permissible modes upon filing of the Process Fee.

12. 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 an Affidavit of Admission / Denial of the documents of the Plaintiff, without which the Written Statement(s) shall not be taken on record.

13. 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, an Affidavit of Admission / Denial of the documents of Defendants be filed by the Plaintiff, without which the Replication(s) shall not be taken on record.

14. 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.

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

16. List before the learned Joint Registrar on 21.01.2026 for completion of service and pleadings.

I.A. 29785/2025 (U/O XXXIX Rules 1 & 2 of CPC)

17. Issue Notice. Notice be served through all permissible modes upon filing of the Process Fees.

18. The present Suit has been filed for permanent injunction restraining



infringement of the Trade Marks, 'PROTINEX', 'Protinex

' and 'Protinex' ("Plaintiff's Marks"), Copyright infringement, passing off, dilution, unfair competition and seeking rendition of accounts / damages, delivery up, etc.

19. The learned Counsel for the Plaintiff made the following submissions:

19.1. The Plaintiff is a part of the Danone Group of Companies which have their origins from the year 1896. Currently, the Danone Group of Companies conducts business in over 120 countries and is considered one of the world's foremost players in the specialized nutrition market as well as in the dairy and plant-based products market, with an established presence in the market for packaged water as well.



19.2. The Mark 'PROTINEX' has been commercially used in India by the Plaintiff and its predecessors since 1957. The Plaintiff's products under the Plaintiff's Marks are scientifically formulated and contains substantial amount of protein as compared to leading health drinks and helps fulfil the nutritional gap in Indian diet and helps provide the protein. The Plaintiff offers an extensive range of products under the Plaintiff's Marks with unique tailored variants, for consumers of different age groups and people with different physiological conditions.

19.3. The Plaintiff takes great care to ensure that its products are manufactured as per the highest standards of quality and hygiene, so that the strong positive association of the Plaintiff's Marks with high quality standards is not diluted in any manner. This is also in line with the Plaintiff's commitment to ensure good health through food. The products under the Plaintiff's Marks have enjoyed the trust of several generations of people in India and have been the highest prescribed products by doctors in the category. The Plaintiff's products capture 27% of the relevant market. In the Financial Year ("FY") 2023-24, The Plaintiff earned a revenue of ₹3,058.51 Million selling products under the Plaintiff's Marks.

19.4. The Plaintiff has obtained various registrations for the Plaintiff's Marks. The details of the registrations of the Plaintiff's Marks are as under:



S. No.	Trademark	Application	Class	Date of Application	Status	Valid upto
1.	PROTINEX (word)	178482	05	15.02.1957	Registered	15.02.2026
2.	PROTINEX	275091	30	20.09.1971	Registered	20.09.2026
3.	(word)	1274688	29	24.03.2004	Registered	24.03.2034
4.	PROTINEX	1467423	29	06.07.2006	Registered	06.07.2026
5.	(word)	1467424	30	06.07.2006	Registered	06.07.2026
6.	PROTINEX	1472293	02	24.07.2006	Registered	24.07.2026
7.	(word)	1472292	30	24.07.2006	Registered	24.07.2026
8.	PROTINEX BYTES (word)	3577275	05&30	23.06.2017	Registered	23.06.2027
9.		5684347	05	16.11.2022	Registered	16.11.2032
10.		5684345	05	16.11.2022	Registered	16.11.2032
11.		5684346	05	16.11.2022	Pending Registratio n	-
12.		5684348	05	16.11.2022	Registered	16.11.2032



19.5. The Plaintiff has also applied for copyright of the unique style, distinctive colour scheme and get up of the ‘PROTINEX’ labels and has obtained registrations under the Copyright Act, 1957. The details of Copyright registrations of the Plaintiff are as under:

S. No.	ROC No.	Title of Work
1.	A-90138/2011	MAMA PROTINEX
2.	A-90139/2011	PROTINEX HIGH PROTEIN SUPPLEMENT -VANILLA
3.	A-90140/2011	PROTINEX HIGH PROTEIN SUPPLEMENT -ORIGINAL
4.	A-90141/2011	PROTINEX DIABETIC PROTEIN SUPPLEMENT -DIABE

19.6. During a routine internet search in the last week of September 2025, the Plaintiff came across the products bearing the Marks, ‘PROTIBREX’ and ‘PROTINOX’ (“**Impugned Marks**”) for manufacture and sale of Protein Powder (“**Infringing Product**”) on Defendant No. 1’s website, <https://www.mcbrexlife.co.in/search.html?ss=PROTEIN+POWDER> (“**Defendant No. 1’s Website**”). On perusal of Defendant No. 1’s Website, it was revealed that the Infringing Products were manufactured by Defendant No. 2. Defendant No. 2 is operating from the same premises as Defendant No. 1 and the Defendants are related entities having the same partners.

19.7. In order to ascertain the nature and extent of the dishonest use of the Impugned Marks by the Defendants, the Plaintiff conducted an investigation at the address provided on Defendant No. 1’s Website, which revealed that Defendant No. 1 is engaged in the supply of



various pharmaceuticals products like dry syrup, injections, medicines, capsules, tablets and protein powder etc. since 2018. Defendant No. 1 mainly supply medicines in Delhi and Haryana and that it mainly supplies protein powders in Haryana and Chandigarh.

20. Having considered the submissions advanced by the learned Counsel for the Plaintiff, the pleadings and the documents on record it is clear that the Plaintiff is the registered proprietor of the Plaintiff's Marks. The Plaintiff has been able to establish long and continuous use of the Plaintiff's Marks with respect to Protein Powder. The Plaintiff has demonstrated the goodwill and reputation acquired by the Plaintiff's Marks. The Plaintiff's turnover for FY 2023-24 was ₹3,058.51 million. The Defendants' use of the Impugned Marks is *prima facie* dishonest and nothing but an attempt to ride the goodwill and reputation of the Plaintiff's Marks so as to cause confusion in the market.

21. This is a case of triple identity where the Plaintiff's Marks and the Impugned Marks are 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 Mark 'PROTINEX' is entitled to protection.

22. Accordingly, the Plaintiff has made out a *prima facie* case for grant of an *ex-parte ad-interim* injunction. Balance of convenience is in favour of the Plaintiff and against the Defendants. Irreparable injury would be caused to the Plaintiff if an *ex-parte ad-interim* injunction is not granted.

23. In view of the above, till the next date of hearing, the Defendants, their directors, proprietors, partners, associates, assigns or assignees in interest, heirs, successors or successors in interest, permitted assigns, sister concerns or group companies, distributors, dealers, wholesalers, retailers, stockiest,



agents and all others acting for and on their behalf are restrained from using, soliciting, providing services and advertising in any manner including on the internet and e-commerce platform, directly or indirectly dealing in protein powders under the Impugned Marks, 'PROTIBREX' and 'PROTINOX' and / or any other Mark which is identical or deceptively similar to the Plaintiff's



Marks, 'PROTINEX', ' ', ' ', and ' ' so as to cause infringement and / or passing off of the Plaintiff's Marks.

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

25. List before this Court on 23.03.2026.

I.A. 29787/2025 (for Appointment of Local Commissioner)

26. The present Application has been filed by the Plaintiff under Order XXVI Rule 9 read with Section 151 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. 29785/2025 under Order XXXIX Rule 1 & 2 of the CPC.

27. Accordingly, in order to ensure that the injunction is fully complied with, it is deemed appropriate to appoint Local Commissioner to visit the Defendants' premises at the following address:



Sr. No.	Particulars	Name of Local Commissioner
1.	Plot No. 302, Second Floor, Phase 2, Industrial Area, Industrial Area Phase 2, Panchkula- 134113, Haryana, India	Ms. Nivriti Seth, Advocate (Mobile No. 9811083421)

28. The mandate of the learned Local Commissioner is as under:

i) The learned Local Commissioner shall visit the premises of the Defendants as per the above table, to inspect and seize any Infringing Products, either in fully or semi-manufactured condition bearing the Impugned Marks ‘PROTIBREX’ and ‘PROTINOX’ or packaging which is identical or deceptively similar to the Plaintiff’s Marks



‘PROTINEX’, ‘’, ‘’ and ‘’.

ii) If knowledge is acquired of any other premises than the aforesaid premises, where the Infringing Goods with the Impugned Trade Marks could be stored or services can be provided from, the learned Local Commissioner is free to record the same and then visit the other premises and conduct a seizure there as well;

iii) The learned 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 Infringing Products 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 learned 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 learned 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 Infringing Products, 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 Products under the Impugned Trade Marks 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 learned Local Commissioner is also permitted to break open the locks, with police help, if access to the premises where the Infringing Products have been stocked / manufactured, is denied to the Commissioner;

viii) Upon being requested, the concerned Station House Officer



(SHO) shall render necessary cooperation for execution of the Commission, as per this Order;

ix) The learned Local Commissioner is permitted to take photographs and record videos 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 learned Local Commissioner;

x) The learned 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.

29. Either the learned Counsel for the Plaintiff or the learned Local Commissioner is directed to collect the certified copy of this Order from the Registry (Dispatch Branch) before the execution of the Commission.

30. The learned Local Commissioner shall carry the certified copy of this Order for execution of the Commission and a copy of the same shall be served upon the Defendants by the learned Local Commissioner at the time of the execution of the Commission.

31. The fees of the learned Local Commissioner is fixed at ₹2,00,000/- (Rupees Two Lakhs 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 learned Local Commissioner named hereinabove.

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

33. Compliance of Order XXXIX Rule 3 of CPC shall be done within two



weeks after the execution of the Commission.

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

35. The Application stands disposed of.

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

TEJAS KARIA, J

NOVEMBER 28, 2025/ 'A'