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

+ **CS(COMM) 1323/2025**
HERO MOTOCORP LIMITED

.....Plaintiff

Through: Mr. Anirudh Bakhru, Mr. Rahul Chaudhry, Ms. Vashundra Bakhru, Mr. Sumit Wadhwa and Mr. Hitesh Malik, Advocates.

versus

MR. RAJ KUMAR MISHRA AND ORS

.....Defendants

Through:

CORAM:

HON'BLE MR. JUSTICE TEJAS KARIA

ORDER

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11.12.2025

I.A. No. 31013/2025 & 31014/2025 (Exemptions)

1. Exemptions are allowed, subject to all just exceptions.
2. The Application stands disposed of.

I.A. No. 31011/2025 (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 ("CC Act").
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. No. 31017/2025 (to mask the identities of the Parties)

6. The Plaintiff apprehends failure of the Local Commission if the identities of the Defendants are revealed and has requested masking of identities of the Parties till the filing of the report of the Local Commissioner in compliance with the Practice Direction No.139/Rules/DHC dated 27.05.2025.

7. The liberty is granted, subject to all just exceptions.

8. The Application is disposed of.

I.A. No. 31015/2025 (Exemption from advance service to the Defendants)

9. 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.

10. 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 Bottle Design and Label.

11. 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.

12. The Application is disposed of.

I.A. No. 31016/2025 (Extension of time to file Court Fees)

13. The present Application has been filed by the Plaintiff under Section 149 read with Section 151 of the CPC, seeking exemption from payment of Court Fees at the time of the filing of the Suit.

14. Considering the submissions made in the present Application, time of



two weeks is granted to deposit the Court Fees.

15. The Application stands disposed of.

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16. Let the Plaint be registered as a Suit.

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

18. 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.

19. 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.

20. 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.

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

22. List before the learned Joint Registrar on 04.02.2026 for completion of service and pleadings.

I.A. No. 31012/2025 (O-XI R-1(4) of the Code of Civil Procedure, 1908)

23. 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



CC Act seeking leave to place on record additional documents.

24. 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.

25. Accordingly, the Application stands disposed of.

I.A. No. 31009/2025 (U/O XXXIX Rule 1 & 2 of CPC)

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

27. The present Suit has been filed for permanent injunction restraining infringement of Copyright, Design, passing off, dilution, unfair competition for rendition of accounts/damages, delivery up, etc.

28. The learned Counsel for the Plaintiff has made the following submissions:

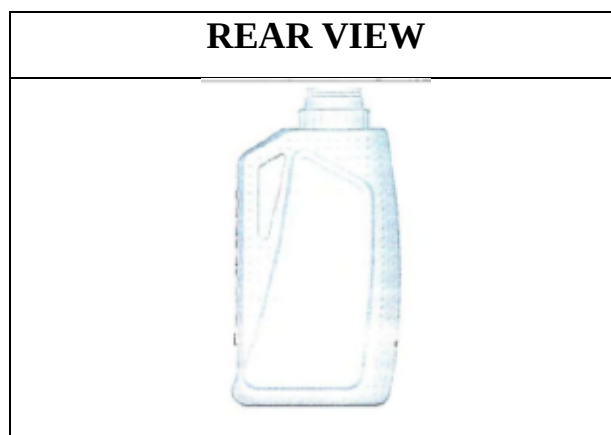
28.1 The Plaintiff is engaged in the business of manufacturing and selling of motorcycles, scooters, their parts and accessories under the Mark 'HERO' since 09.04.1985. The Plaintiff, in the year 2000, developed a bike engine oil and the same is being sold by the Plaintiff under the

Trade Marks, 'HERO', '

28.2 The Plaintiff's product is being sold in a distinctive bottle, which comprises of a unique shape and configuration, the distinctive combination of a golden bottle with a black cap and is available in one colour only. For this bottle design the Plaintiff has two design registrations in Class 09-01 under Registration Nos. 311300, and



311301, both dated 25.10.2018 (“**Plaintiff’s Bottle Designs**”). The net turnover of the Plaintiff’s product for the Financial Year (“**FY**”) 2024-2025 was ₹831 crores. The registrations for the Plaintiff’s Bottle Designs are valid and subsisting till 25.10.2028 and can be renewed for a further term of five years till 25.10.2032. The details of the registration of Plaintiff’s Bottle Designs are as under:



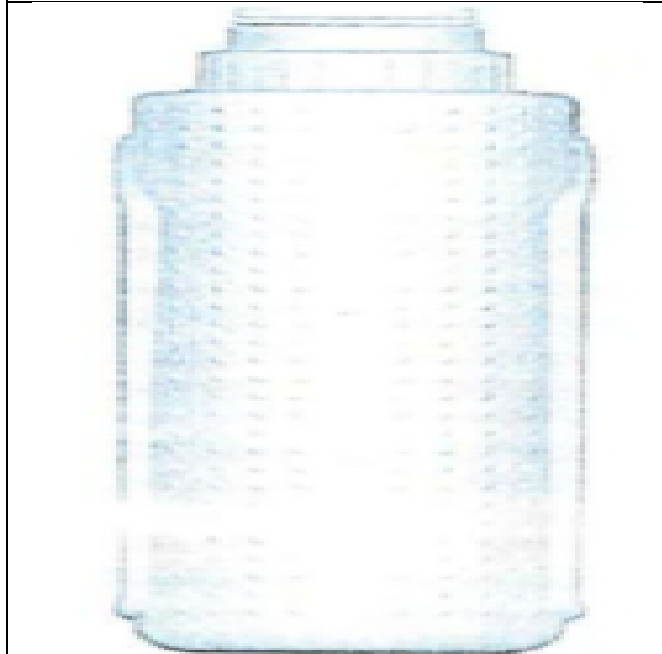


DESIGN REG. NO: 311300

LEFT VIEW



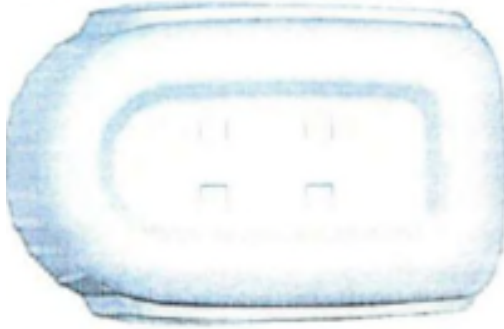
RIGHT VIEW





DESIGN REG. NO: 311300

TOP VIEW



BOTTOM VIEW



PERSPECTIVE VIEW





DESIGN REG. NO.311301

FRONT VIEW



REAR VIEW



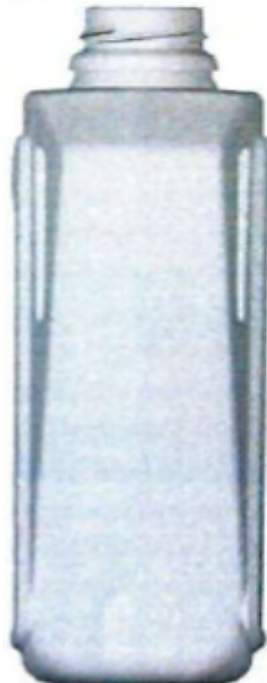


DESIGN REG. NO.311301

LEFT VIEW



RIGHT VIEW





DESIGN REG. NO.311301

TOP VIEW



BOTTOM VIEW



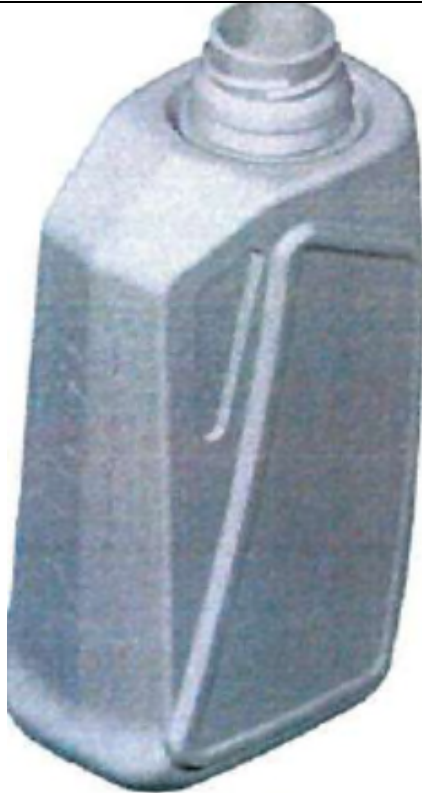
REAR RIGHT VIEW





DESIGN REG. NO. 311301

REAR LEFT VIEW



FRONT RIGHT VIEW





DESIGN REG. NO. 311301

FRONT LEFT VIEW



Front



Back



28.3 The label used by the Plaintiff, ‘
 (“**Plaintiff’s Label**”) on the Plaintiff’s products under the Plaintiff’s
 Bottle Designs is an original artistic work created for and on behalf of



the Plaintiff having a particular layout and representation. The Plaintiff's Label has been in use by the Plaintiff, who is the owner of the Copyright in the Artistic Work. A representation of the Plaintiff's product under the Plaintiff's Bottle Designs and the Plaintiff's Label is as under:



28.4 In or around second week of November 2025, the Plaintiff came across the engine oil of the Defendants (**"Infringing Product"**)



which is sold in a bottle design ‘



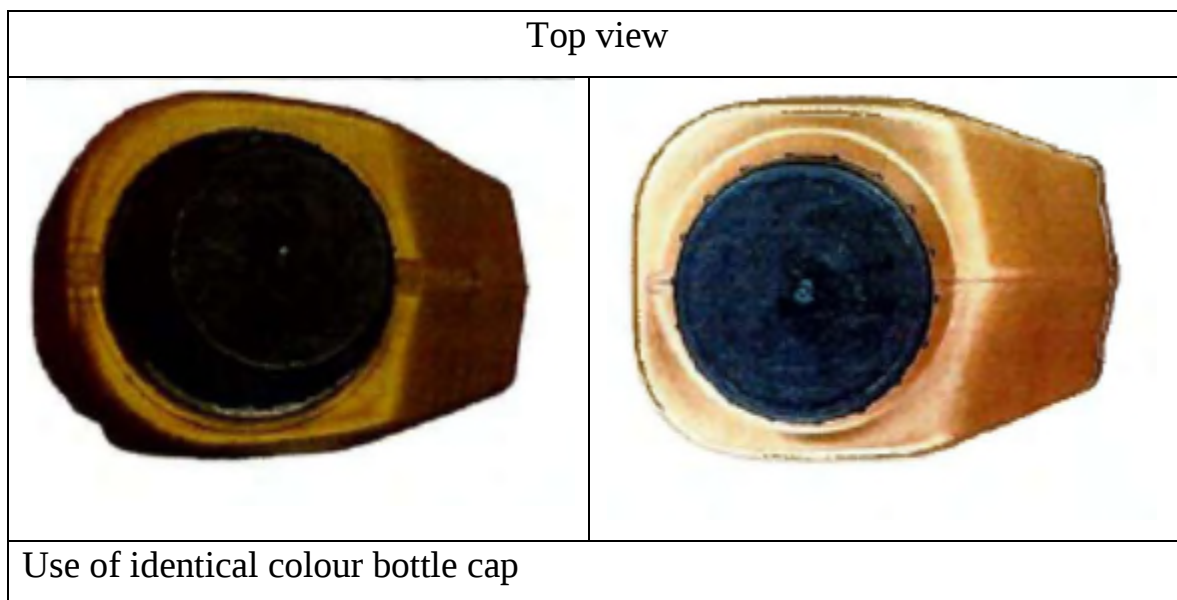
(“**Impugned Bottle Design**”) and label, ‘
(“**Impugned Label**”) which are nearly identical to the Plaintiff’s
Bottle Designs and the Plaintiff’s Label.

- 28.5 Upon learning about the Infringing Product, the Plaintiff carried out an investigation into the activities of the Defendants and it was revealed that Defendant No. 1 is manufacturing, marketing, and supplying the Infringing Product across 12 states in India, including Delhi NCR. Once an order is placed to Defendant No. 1, the Infringing Product is thereafter sold by Defendant No. 3, which also operates from the warehouse of Defendant No. 1.
- 28.6 A comparison of the Plaintiff’s product with Infringing Product shows that the look and feel of the Infringing Product is such that an unwary customer with an imperfect recollection is likely to get confused as to the source of the product. Defendant No. 1 is selling an identical product, under the Impugned Bottle Design and the Impugned Label. A comparative table of the Plaintiff’s product and the Infringing Product is as under:



Plaintiff's product	Infringing Product
Front view	
	
a. Similar cut and style label. b. Similar triangular edging on the right side of the bottle. c. “4TPLUS+MOTORCYCLE ENGINE OIL” written in the same colour and stylized font. d. Use of same product description. e. Similar graphic design of oil and pistons. f. Use of similar colour scheme throughout the bale.	

Rear view	
	
Use of identical bottle shape, dotted pattern, similar colour combination and identical placement of labels.	



29. Having considered the submissions advanced by the learned Counsel for the Plaintiff, the pleadings and the documents on record, a *prima facie* case has been made out by the Plaintiff as the alleged acts attributed to the Defendants are likely to cause confusion in the course of trade of the Plaintiff, such that the consumers may associate the Infringing Product with the Plaintiff, leading to erosion of consumer trust and dilution of the goodwill and reputation of the Plaintiff amongst the members of the trade and public. Thus, the balance of convenience lies in favour of the Plaintiff. Irreparable injury would be caused to the Plaintiff if an *ex-parte ad-interim* injunction is not granted to the Plaintiff. The Plaintiff has demonstrated the goodwill and reputation acquired by the Plaintiff's product under the Plaintiff's Bottle Designs and the Plaintiff's Label. The Plaintiff's turnover for the Plaintiff's product under the Plaintiff's Bottle Designs and the Plaintiff's Label for the



FY 2024-25 was ₹821 crores.

30. The Defendants are not only riding on the immense and valuable goodwill and reputation enjoyed by the Plaintiff but is also attempting to show some association or nexus with the Plaintiff, where none exists. There is a strong likelihood that unwary consumers will be duped into buying the Infringing Product by believing them to be originating from the Plaintiff, which is detrimental to not only the reputation and goodwill of the Plaintiff, but is also detrimental to the consumers as they are being deceived into buying inferior quality products of the Defendants. The Defendants have adopted the Impugned Bottle Design, which is identical to the Plaintiff's Bottle Designs and has adopted the Impugned Label which is deceptively similar to the Plaintiff's Label.

31. Accordingly, till the next date of hearing, the Defendants, their proprietors, partners, directors, principal officers, associates, affiliates, licensees, distributors, dealers, stockists, retailers, servants, agents, and all others acting on their behalf are restrained from manufacturing, selling, advertising, offering for sale, retailing, distributing, importing, exporting, either directly or indirectly, and either online or offline, dealing in any



product under the Impugned Bottle Design, ‘



' and / or the Impugned Label, ' or any other Bottle Design or Label which are identical and / or deceptively similar to the Plaintiff's Bottle Designs, registered under Class 09-01 under Registration



Nos. 311300 and 311301, and / or the Plaintiff's Label ' so as to cause infringement of the Plaintiff's Bottle Designs or the Artistic Work of the Plaintiff's Label.

32. 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.

33. List before this Court on 27.03.2026.

I.A. No. 31010/2025 (for Appointment of Local Commissioner)

34. 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. No. 31009/2025 under Order XXXIX Rules 1 & 2 of the CPC.

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

Sr. No.	Particulars	Name of the Local Commissioner
1.	(i) Mr. Raj Kumar Mishra Trading as M/s Mako Lubricants & Traders: 5B/C83, Vrindavan Colony Telibagh Lucknow - 226010 (ii) Mr. Akhilesh Pandey and Mr. Raj Kumar Mishra Partners at M/s Mahadev Traders: 5B/C83, Vrindavan Colony Telibagh Lucknow - 226010	Ms. Bhawana Sharma, Advocate Mobile No.: [+91 8800396164]

36. 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 Product, either in fully or semi-manufactured condition, under the Impugned Bottle Design and the Impugned Label, Infringing Product



of the Defendants in the Impugned Bottle Design, ‘



’ and / or the Impugned Label, ‘

is identical or deceptively similar to the Plaintiff’s Bottle Designs, registered under Class 09-01 under Registration Nos. 311300 and



311301 and / or the Plaintiff’s Label ‘

ii) If knowledge is acquired of any other premises than the aforesaid premises, where the goods with the Impugned Bottle Design



and the Impugned Label 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, caps, moulds and machines, unfinished, packed, unpacked Infringing Product or any other documents, wrapper etc. so that it can be ensured that no fresh manufacturing of the Infringing Product can take place;

iv) The learned Local Commissioner shall also obtain the details as to since when Infringing Product is being used by the Defendants with the Impugned Bottle Design and the Impugned Label 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 Product, 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 Product under the Impugned Bottle Design and the Impugned Label including packaging materials, advertising, promotional materials, pamphlets,



brochures, boxes, videos, hoardings, banners, signage, cartons and other material bearing the Impugned Bottle Design and the Impugned Label and packaging which are similar to the Plaintiff's Bottle Designs and the Plaintiff's Label 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 Product is being 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.

37. 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.



38. 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 Defendant by the learned Local Commissioner at the time of the execution of the Commission.

39. The fees of the learned Local Commissioner is fixed at ₹2,50,000/- (Rupees Two Lakhs and Fifty Thousand 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.

40. 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.

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

42. 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.

43. The Application stands disposed of.

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

TEJAS KARIA, J

DECEMBER 11, 2025

AK/ap