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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 1374/2025**
MANKIND PHARMA LIMITEDPlaintiff

Through: Mr. Gopal Jain, Senior Advocate with
Mr. Ankur Sangal, Mr. Ankit Arvind,
Ms. Nidhi Pathak and Mr. Rishabh
Rao, Advocates.

versus

THE INDIAN RESEARCH AND SUPPLY CO.
& ANR.Defendants

Through:

CORAM:
HON'BLE MR. JUSTICE TEJAS KARIA

ORDER
19.12.2025

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I.A. No. 31993/2025 (Exemption)

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

I.A. No. 31991/2025 (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. 31994/2025 (Exemption from advance service to the Defendants)

6. 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.

7. Mr. Gopal Jain, learned Senior 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.

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.

CS (COMM) 1374/2025

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 Affidavit(s) 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, 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.



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 23.02.2026 for completion of service and pleadings.

I.A. No. 31992/2025 (O-XI R-1(4) of the Code of Civil Procedure, 1908)

17. The present Application has been filed on behalf of the Plaintiff under Order XI Rule 1(4) of the CPC as applicable to the CC Act seeking leave to place on record additional documents.

18. 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.

19. Accordingly, the Application stands disposed of.

I.A. 31989/2025 (U/O XXXIX Rule 1 & 2 of CPC)

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

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

22. The learned Senior Counsel for the Plaintiff made the following submissions:

22.1. The Plaintiff is a public limited company and is the fourth largest pharmaceutical company of India and is engaged in the manufacturing and supply of medicinal, pharmaceutical,



consumer healthcare and wellness products across India and globally. The plaintiff has the sales turnover of approximately ₹9264 Crores for the Financial Year (“FY”) 2023-24 and is the number one prescription drug company in India by volumes.

22.2. The Mark ‘CALCIMUST’ was adopted by the Plaintiff in the year 2007 for pharmaceutical, medical preparation and veterinary preparations. The Plaintiff has extensively using the Mark ‘MANKIND’S CALCIMUST’ / ‘CALCIMUST’ since the year 2007. The Plaintiff also adopted the Trade Dress, ‘



’ (“**Plaintiff’s Trade Dress**”) for the product under the Mark ‘CALCIMUST’ for liquid feed supplement for use in livestock in the year 2013. The Plaintiff’s Trade Dress comprises a white bottle with a prominent long neck, with a label featuring an elegant brown and white colour scheme including elements like a stylized cow device centrally positioned at the bottom, immediately above a sequence of yellow and red horizontal lines. The original Artistic Work in respect of the Plaintiff’s Trade Dress was conceived, designed,



and created as per the directions of the Plaintiff, for and on behalf of the Plaintiff after having received a valuable consideration. Consequently, the Plaintiff is the owner of the copyrights subsisting in the Plaintiff's Trade Dress.

22.3. Owing to the long, continuous and extensive use of the Plaintiff's product under the Plaintiff's Trade Dress, it has also garnered immense goodwill and reputation. The goodwill and reputation specifically for the Plaintiff's Trade Dress under the Mark 'CALCIMUST' GEL can be seen from the following:

Year	Sales Turnover in INR (in Crores)
2013-14	3.79
2014-15	5.43
2015-16	6.92
2016-17	5.43
2017-18	6.92
2018-19	10.66
2019-20	15.51
2020-21	17.82
2021-22	22.09
2022-23	49.18
2023-24	65.37
2024-25	81.96

22.4. The Plaintiff's Trade Dress has become a source identifier of the Plaintiff's products and any third-party using a deceptively similar Trade Dress as that of the Plaintiff's Trade Dress, will cause confusion and deception in the market and amongst the consumers and trade channels. Therefore, use of any Trade



Dress, which is identical or similar to the Plaintiff's Trade Dress, in respect of the same, similar, allied, cognate or any other goods, would amount to infringement of Copyright in the Plaintiff's Trade Dress.

22.5. Defendant No. 1, *The Indian Research & Supply Co.*, is a proprietorship firm engaged in manufacturing, supplying and trading of animal feed and animal feed supplements. Defendant No. 2 is the proprietor of Defendant No. 1.

22.6. On 12.12.2025, the Plaintiff came across the product of the Defendants, under the Mark 'CALCIUM GEL' wherein the



Defendants have adopted the Trade Dress, '



' (**"Impugned Trade Dress"**) for sale / manufacture of liquid feed supplement for use in livestock (**"Infringing Product"**), which is highly deceptively similar to



the Plaintiff's Trade Dress for liquid feed supplement for use in livestock. Therefore, the Defendants are using the Impugned Trade Dress for dealing with products identical to the Plaintiff's product under the Plaintiff's Trade Dress. A comparative representation of the Plaintiff's Trade Dress and the Impugned Trade Dress is as under:

Plaintiff's Trade Dress	Defendants' Trade Dress
	



Points of Similarity

- The shape and outlines of the packaging are identical.
- The shape and contour of the bottles are identical.
- Colour combination of the packaging is identical i.e. the upper portion is white, and the lower portion is a dark reddish-brown.
- Both the products are labelled as a “GEL” and written in identical manner and colour.
- Both products bear strikingly similar names—“Calcimust” and “Calcium” (represented as a trade mark) written in an identical style and colour.



- The bottles feature a long, ribbed neck with a dark cap.
- The main body of the label is a dark maroon/ brown colour with a white bottle.
- The font on the label is identical.
- Device of cow at the centre of the packaging.
- Same product being sold under the Impugned Trade Dress.

22.7. The Defendants are using the Impugned Trade Dress for product identical as those Plaintiff. Such use of the deceptively similar Impugned Trade Dress for identical product, is likely to cause confusion and deception in the market. The Plaintiff is the owner of Copyright in the Plaintiff's Trade Dress, the manufacturing, sale and marketing of any product by the Defendants, which bears the Impugned Trade Dress, amounts to infringement of Copyright in the Plaintiff's Trade Dress.

22.8. The Plaintiff has no control, access or supervision over the mode of development, manufacturing process and the chemical composition used by the Defendants for developing and selling their goods under the Impugned Trade Dress. Any deficiency in the quality of goods sold by the Defendants, will directly and adversely affect and cause irreparable prejudice, damage and injury to the goodwill and reputation that exists in the Plaintiff's Trade Dress. Such damage to the goodwill and reputation of the Plaintiff's Trade Dress, unless injuncted immediately, will be irreparable in nature.

23. 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 owner of the Copyright in the Plaintiff's Trade Dress. The Plaintiff has been able to establish long and continuous use of the Plaintiff's Trade Dress with respect to liquid feed supplement for use in livestock. The Plaintiff has demonstrated the goodwill and reputation acquired by the Plaintiff's product under the Plaintiff's Trade Dress. The Plaintiff's turnover for FY 2023-24 was ₹9264 crores. The Plaintiff has also earned a revenue of ₹81.96 crores in the FY 2024-25 selling the product under the Plaintiff's Trade Dress. The Defendants' use of the Impugned Trade Dress is *prima facie* dishonest and nothing but an attempt to ride the goodwill and reputation of the Plaintiff's Trade Dress so as to cause confusion in the market.

24. 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 Trade Dress which is deceptively similar to the Plaintiff's Trade Dress.

25. This is a case of triple identity where the Plaintiff's Trade Dress and the Impugned Trade Dress are identical, the product category is identical and the trade channel as also the consumer base is identical. The Plaintiff being the prior user and adopter of the Plaintiff's Trade Dress are entitled to protection.



26. 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.

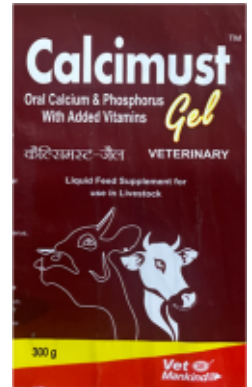
27. Accordingly, till the next date of hearing, the Defendants, their directors, proprietors, partners, associates, assigns or assignees in interest, heirs, successors or successors in interest, permitted assigns, sister concerns or group companies, distributors, dealers, wholesalers, retailers, stockiest, 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 liquid feed



supplement for use in livestock under the Impugned Trade Dress, ‘



’ and / or any other Trade Dress which is identical and /



or deceptively similar to the Plaintiff's Trade Dress, ‘



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

28. 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.

29. List before this Court on 24.04.2026.

I.A. 31990/2025(for Appointment of Local Commissioner)

30. 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. 31989/2025 under Order XXXIX Rule 1 & 2 of the CPC.

31. 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:

S. No.	Particulars	Name of Local Commissioner
1.	THE INDIAN RESEARCH & SUPPLY CO.: PLOT NO-46 AND KHASRA NO-772 BHOLA ROAD, OPPOSITE TRIMURTI FARM HOUSE, J.D. ENCLAVE VILLAGE KHADOLI, MEERUT, UTTAR PRADESH, 250005	Mr. Mehul Sharma, Advocate [Contact No.: +917984840691]

32. 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 Trade Dress, ' or



packaging which is identical or deceptively similar to the Plaintiff's



Trade Dress, ‘

- ii) If knowledge is acquired of any other premises than the aforesaid premises, where the Infringing Product with the Impugned Trade Dress 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 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 under the Impugned Trade Dress 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 Trade Dress including packaging materials, advertising, promotional materials, pamphlets, brochures, boxes, videos, hoardings, banners, signage, cartons and other material bearing the Impugned Trade Dress and packaging which are similar to the Plaintiff's 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 Product 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.

33. 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.

34. 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.

35. 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.

36. 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.

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

38. 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.

39. The Application stands disposed of.



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

TEJAS KARIA, J

DECEMBER 19, 2025

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