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

+ CS(COMM) 1387/2025, I.A. 32277/2025, I.A. 32278/2025, I.A. 32279/2025 & I.A. 32280/2025

JOY CREATORS LLP

.....Plaintiff

Through: Mr. Hemant Daswani, Ms. Saumya Bajpai, Mr. Kunal Prakash and Ms. Pranjali, Advocates.

versus

INDUS HEALTH CARE

.....Defendant

Through:

CORAM:

HON'BLE MR. JUSTICE TEJAS KARIA

ORDER

22.12.2025

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I.A. No. 32279/2025 (Exemption from pre-institution Mediation)

1. This is an Application filed by the Plaintiff seeking exemption from instituting pre-litigation Mediation under Section 12A of the Commercial Courts Act, 2015.
2. 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.
3. The Application stands disposed of.

I.A. No. 32280/2025 (Exemption from advance service to the Defendant)

4. 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 Defendant.

5. Mr. Hemant Daswani, the learned Counsel for the Plaintiff, submitted that there is a real and imminent likelihood that the Defendant may take immediate steps to dispose of, conceal or suppress its infringing business operations and digital footprints bearing the deceptively similar Trade Mark.

6. In view of the fact that the Plaintiffs have sought an urgent *ex-parte ad-interim* injunction along with the appointment of the Local Commissioner, the exemption from advance service to the Defendant is granted.

7. The Application is disposed of.

CS (COMM) 1387/2025

8. Let the Plaint be registered as a Suit.

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

10. The Summons shall state that the Written Statement shall be filed by the Defendant within 30 days from the date of the receipt of Summons. Along with the Written Statement, the Defendant shall also file an Affidavit of Admission / Denial of the documents of the Plaintiff, without which the Written Statement shall not be taken on record.

11. Liberty is granted to the Plaintiff to file Replication, if any, within 30 days from the receipt of the Written Statement. Along with the Replication filed by the Plaintiff, an Affidavit of Admission / Denial of the documents of Defendant be filed by the Plaintiff, without which the Replication shall not be taken on record.

12. 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

CS(COMM) 1387/2025

Page 2 of 14



list of reliance, which shall also be filed with the pleadings.

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

14. List before the learned Joint Registrar on 24.02.2026 for completion of service and pleadings.

I.A. No. 32277/2025 (U/O XXXIX Rule 1 & 2 of CPC)

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

16. The present Suit has been filed for permanent injunction for infringement of copyright, infringement of trade marks, passing off, unfair competition, rendition of accounts, delivery up, damages, etc.

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

17.1. The Plaintiff is engaged in manufacturing and marketing range of cosmetic and personal care products namely creams, lotions, scrubs, face washes, gels, hair care products, etc. (**“Plaintiff’s Products”**) in India.

17.2. The Plaintiffs business activities trace back to the year 1988 when on 23.08.1988, ‘Joy Creators’ (**“Firm”**) was formed as a sole proprietorship firm by Late Mr. Ram Autar Gupta as the proprietor. In the year 1988, the Firm started manufacturing and marketing cosmetics and personal care products under the Mark ‘JOY’.

17.3. In the year 1996, the Firm launched products namely cosmetic creams and lotions under the Mark ‘Honey and Almonds’ cream in India. The Plaintiff’s predecessors have filed several applications before the Registrar of Trade Marks comprising of



various getup / trade dress designed by the Plaintiff's predecessors, details of some of which are as below:

Reg. No.	Date	Mark	Status
1224383	14.08.2003	Joy Honey & Almonds Cold Cream	Registered
2004507	05.08.2010	Honey & Almonds	Registered
2397686	17.09.2012	Honey & Almonds	Registered
2397687	17.09.2012	Joy Honey & Almonds	Registered

17.4. The Plaintiff's Marks 'Honey & Almonds' and 'Pure Aloe'



("Subject Marks") and Trade Dress ' ,



, and ' ,

("Subject Trade Dress") of the Plaintiff's Products are



indigenously designed by the Plaintiff.

- 17.5. In addition, the Plaintiff is also the registered owner of the artistic work under copyright registration bearing No. A-125557/2018 in respect of Subject Trade Dress of the Plaintiff's Product 'Honey & Almonds Nourishing Skin Cream'. In order to safeguard statutory rights, the Plaintiff has also obtained registration for the Mark 'Joy Pure Aloe' (Label) from the Registrar of Trade Marks under registration No. 1712760 dated 21.07.2008 which as of today is registered in the name of the Plaintiff.
- 17.6. From the date of adoption, the Plaintiff has continuously and uninterruptedly used the Subject Marks and the Subject Trade Dress in the course of trade and business and has, by virtue of such exclusive first use, the Plaintiff has acquired common law proprietary rights. The rigorous and innovative marketing of the Plaintiff's Products bearing the Subject Marks and the Subject Trade Dress has made the Plaintiff's Products popular both in India as well as in several countries abroad.
- 17.7. The Plaintiff's Products are also available to the consumers through the organized retail trade channels apart from a presence in the general trade. As a result of extensive and continuous use of the Subject Marks and Subject Trade Dress and over a wide geographical area coupled with vast promotion and publicity, the Subject Marks and Subject Trade Dress enjoy considerable reputation and goodwill in the market acquiring secondary meaning and serves as source identifier of the



Plaintiff's Products and have also come to be associated exclusively with the Plaintiff and none else.

17.8. On / about 26.11.2024, in the course of business, the Plaintiff came across cosmetic lotions and creams of the Defendant being sold by the Defendant through online e-commerce portal, www.amazon.in under the Marks 'ARCHI ALMOND HONEY CARE' in cream segment under the identical getup / Trade Dress as that of the Subject Trade Dress.

17.9. While the Plaintiff was ascertaining the details of the Defendant, the Plaintiff commissioned an enquiry and also came across cosmetic preparations being sold online by the Defendant through its own e-commerce portal, <https://archiherbals.com/>, under the Marks 'ARCHI ALMOND HONEY CARE' and 'ARCHI ALOE CARE' ("**Impugned Marks**") in lotion and cream segment, and under a deceptively similar getups / Trade Dress to that of the Subject Trade Dress. The Trade Dress used by the Defendant in the course of the above alleged activities ("**Impugned Trade Dress**") is reproduced below:-



17.10. Apart from infringing / passing off the Defendant's products bearing the Impugned Marks and the Impugned Trade Dress (**"Impugned Products"**), the alleged actions of the Defendant also result in infringement of the Plaintiff's copyright in the artistic work in the Subject Trade Dress. The adoption of the Impugned Trade Dress is devoid of any ounce of creativity or efforts and the Defendant can offer no justifiable explanation as to the adoption of the Impugned Trade Dress which is



deceptively similar and / or identical to the Subject Trade Dress. Therefore, the Plaintiff has a *prima facie* case in its favour and balance of convenience is also in favour of the Plaintiff. The Defendant is making a deliberate and *mala fide* attempt to cash upon the goodwill of the Plaintiff. The Impugned Trade Dress is likely to cause confusion amongst the customers and thereby inflicting upon the Plaintiff grave loss and irreparable injury.

18. The material placed on record shows that the Plaintiff is the prior adopter and continuous user of the Subject Marks and the Subject Trade Dress. The long-standing market presence, wide availability of the Plaintiff's Products bearing the Subject Marks and the Subject Trade Dress have resulted in the acquisition of considerable goodwill and reputation amongst consumers and members of the trade.

19. The Impugned Trade Dress bearing the Impugned Marks reproduces the essential features of the Subject Trade Dress, including the overall layout, colour scheme, placement of elements and visual presentation and is likely to result in confusion and association in the minds of consumers of average intelligence and imperfect recollection.

20. Having considered the material placed on record and the submissions made by the learned Counsel for the Plaintiff, a *prima facie* case is made out in favour of the Plaintiff. The adoption and use of the Impugned Marks and the Impugned Trade Dress, being deceptively similar to the Subject Marks and the Subject Trade Dress respectively, are likely to cause confusion and misrepresentation. The balance of convenience lies in favour of the Plaintiff, as the continued manufacture, marketing and sale of the Impugned Products



is likely to dilute the Plaintiff's goodwill and reputation and the Plaintiff is likely to suffer irreparable injury if the Defendant is not restrained from the alleged activities.

21. Accordingly, till the next date of hearing, the Defendant, its partners / directors, associated entities, directors, wholesalers, distributors or proprietors, as the case may be, its principals, employees, agents or anyone acting for or on its behalf are restrained from manufacturing marketing and / or selling cosmetic preparations including but not limited to creams and lotions bearing the Impugned Marks 'ARCHI ALMOND HONEY CARE'



and 'ARCHI ALOE CARE' and the Impugned Trade Dress ' ,



‘ , and ‘ , or any other mark, trade dress identical and / or deceptively similar to the Subject Marks 'Honey &



Almonds’ and ‘Pure Aloe’, Subject Trade Dress ‘



’ and ‘ , respectively.

22. 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.

23. List before this Court on 20.04.2026.

I.A. No. 32278/2025 (for Appointment of Local Commissioner)

24. 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. 32277/2025 under Order XXXIX Rule 1 and 2 of the



CPC.

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

Sr. No.	Particulars	Name of Local Commissioner
1.	25-A, Sector A, Sanwer Road, Industrial Area, Indore – 452015	Ms. Nupoor Maharaj, Advocate [Mobile No.- 7087939697]

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

- i) The learned Local Commissioner shall visit the premises of the Defendant as per the above table, to inspect and seize any Impugned Products, fully or semi-manufactured Impugned Products of the Defendant bearing the Impugned Mark 'ARCHI ALMOND HONEY CARE' and 'ARCHI ALOE CARE' and the Impugned Trade Dress





the Subject Trade Dress, respectively.

ii) If knowledge is acquired of any other premises than the aforesaid premises, where the Impugned Products 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 Impugned Products or any other documents, wrapper etc. so that it can be ensured that no fresh manufacturing of the Impugned Products can take place;

iv) The learned Local Commissioner shall also obtain the details as to since when the Impugned Products are being used by the Defendant 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 Defendant, and take photocopy and / or record of all such transactions that pertain to the Impugned Products, if any. The Defendant 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 Impugned Products including packaging materials, advertising, promotional materials, pamphlets, brochures, boxes, videos, hoardings, banners, signage, cartons and other material bearing the Impugned Trade Dress shall be released to the Defendant 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 Impugned 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 Commissions, 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 Defendant, except for the purposes of the execution of the Commission. The Commission shall be executed in a peaceful manner.

27. 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.



28. 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 Commissions.

29. The fees of the learned Local Commissioner is fixed at ₹2,00,000/- (Rupees Two Lakhs only) each 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.

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

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

32. 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.

33. The Application stands disposed of.

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

TEJAS KARIA, J

DECEMBER 22, 2025

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