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

+ **CS(COMM) 1415/2025 & I.As. 32627-31/2025**

TORRENT PHARMACEUTICALS LTD.

.....Plaintiff

Through: Mr. Sachin Gupta, Ms. Prashansa Singh, Ms. Mahima Chanchalani, Ms. Diksha Tekriwal and Mr. Rohit Pradhan, Advocates

versus

M/S. MAK ENTERPRISES & ANR.

.Defendants

Through: None

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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23.12.2025

I.A. 32627/2025 (seeking exemption from pre-institution mediation)

1. This is an application filed under Section 12A of the Commercial Courts Act, 2015 read with Section 151 of the Code of Civil Procedure, ('CPC') seeking exemption from instituting pre-litigation mediation.
2. Having regard to the fact that the present suit contemplates urgent interim relief and in light of the judgement of the Supreme Court in **Yamini Manohar v. T.K.D. Keerthi**¹, exemption from the requirement of pre-institution mediation is granted to the plaintiff.
3. Accordingly, the application stands disposed of.

I.A. 32628/2025 (for exemption)

4. This is an application filed under Section 151 of CPC seeking

¹ (2024) 5 SCC 815



exemption from filing clearer copies of documents.

5. Subject to the Plaintiff filing clearer copies of documents within a period of 30 days from today, exemption is granted for the present, failing which, the plaintiff will not be entitled to rely upon these documents.

6. The application is disposed of.

I.A. 32629/2025 (seeking exemption from advance service)

7. This is an application filed under Section 151 of CPC on behalf of the plaintiff seeking exemption from service to the defendants.

8. In view of the fact that the plaintiff has sought an ex-parte ad-interim injunction along with the appointment of a Local Commissioner, the exemption from effecting advance service upon the defendants is granted.

9. Accordingly, the application stands disposed of.

CS(COMM) 1415/2025

10. Let the plaint be registered as a suit.

11. Summons be issued to defendants by all permissible modes on filing of process fee. Affidavit of service be filed within two (2) weeks.

12. The summons shall indicate that the written statement(s) must be filed within thirty (30) days from the date of receipt of the summons. The defendants shall also file affidavit(s) of admission/denial of the documents filed by the plaintiff, failing which the written statement(s) shall not be taken on record.

13. The plaintiff is at liberty to file replication thereto within thirty (30) days after filing of the written statement(s). The replication shall be accompanied by affidavit of admission/denial in respect of the documents filed by defendants, failing which the replication shall not be taken on record.



14. It is made clear that any unjustified denial of documents may lead to an order of costs against the concerned party.

15. Any party seeking inspection of documents may do so in accordance with the Delhi High Court (Original Side) Rules, 2018.

16. List before the learned Joint Registrar (J) on **16.02.2026**.

17. List before Court on **22.05.2026**.

I.A. 32631/2025 (Under Order XXXIX Rule 1 and 2 CPC)

18. The present suit has been filed seeking an ad interim injunction restraining the defendants from trade mark infringement, passing off.

19. Learned Counsel for the Plaintiff sets up the Plaintiff's case as follows:

19.1. The Plaintiff, namely, Torrent Pharmaceuticals Ltd., is the flagship company of the Torrent Group, which is one of the leading pharmaceutical companies in India.

19.2. The Plaintiff commenced the use of the trade mark SHELCAL in the year 1996. SHELCAL is a combination drug comprising Calcium Carbonate and is primarily used for calcium and vitamin D3 supplements and is sold in the form of the tablets. The Plaintiff has been manufacturing and marketing its SHELCAL calcium tablets as an over-the-counter ['OTC'] product.

19.3. The Plaintiff is the registered proprietor of the SHELCAL and SHELCAL formative marks, including SHELCAL-HD and SHELCAL HD 12. The details of the registration are given at paragraph 10 of the plaint

19.4. The sales figure for the products sold under the trademark SHELCAL and SHELCAL formative marks for the financial year 2024-2025 is Rs 759 crores, as mentioned in paragraph 12 of the plaint.



Overview of the Defendants:

19.5. Defendant No. 1, namely Mis. Mak Enterprises, is the marketer of the products under the impugned mark whereas the Defendant No. 2, namely M/s. Creative Nutritions is the manufacturer of the products under the impugned mark.

Overview of Infringement

19.6. In October, Plaintiff learnt that the Defendants have unethically and unlawfully adopted the impugned mark SHALKAL HD 12, which also contains Calcium Carbonate and is a calcium supplement. The Defendant's product is therefore identical in nature to the Plaintiff's product and is sold through the same trade channel.

19.7. It is stated that the Plaintiff contacted Defendant No. 2 and purchased the impugned products over WhatsApp and paid through UPI on 09.10.25. The Defendant's product under the impugned mark was delivered at New Delhi on 12.10.25, but without any invoice.

19.8. Upon comparison of the rival products, it was observed that the Defendants have cleverly replaced the letter "E and "C" in Plaintiff's mark SHELCAL with "A" and "K"; and added a suffix HD 12 to arrive at **SHALKAL HD 12**. However, the rival mark ultimately remains visually, structurally, and phonetically similar to the Plaintiff's mark SHELCAL.

19.9. It is stated that the defendants' adoption of **SHALKAL HD 12** is inherently dishonest, intended to confuse consumers and associate themselves with the Plaintiff's established reputation.

Case Analysis:

20. This Court has heard the learned counsel for the plaintiff and perused the record.



21. The plaintiff is the registered proprietor of the trademark SHELCAL and SHELCAL formative marks and has been using the same since the year 1996. The plaintiff also holds registration for the formative mark SHELCAL HD 12.

22. The defendants' adoption of the impugned mark 'SHALKAL' for the calcium supplement, being in the same business of pharmaceuticals, selling the medicine with the same pharmaceutical composition as that of the plaintiff, is prima facie not bona fide. This Courts prima facie finds merit in the submission of the Defendant that by merely putting the letter 'A' and 'K' in place of 'E' and 'C', to arrive at the defendants' marks 'SHALKAL' fails to distinguish the defendants' impugned mark from the plaintiff's 'SHELCAL'.

The addition of the suffix HD 12 in the Defendants' mark can only be understood as indicating the strength or dosage of the medicine which is a common descriptive element used in pharmaceutical nomenclature and does not distinguish the mark in any manner. However, in the plaint, the plaintiff has at paragraph 10 enlisted registration of its mark SHELCAL HD 12 and on this count also the defendant's rival mark is deceptively similar.

23. The rival marks 'SHELCAL' vs 'SHALKAL' in question are deceptively similar. As noted above, the drug composition of the plaintiff's product and the defendants' product is the same i.e., both are calcium supplements. This Court is satisfied that due to the deceptively similar marks and identical goods, there shall be confusion and deception in the minds of the consumers and chemists since both the marks are deceptively similar to each other.

24. In the considered opinion of this Court, the plaintiff has been able to



make out a *prima facie* case in its favour. The balance of convenience is also in favour of the plaintiffs and against the defendants. As it is a pharmaceutical product, the plaintiff and the general public are likely to suffer grave irreparable harm in case an ex parte ad-interim injunction is not granted.

25. Accordingly, till the next date of hearing the Defendants, their partners, proprietors, as the case may be, their assignee in business, their officers, employees, dealers, associates, affiliates, sister/group companies, licensees, franchisee, manufacturers, distributors, servants, stockists, retailers, super-stockists, e-commerce and warehouse aggregators, wholesalers, custodians, agents, chemists, importers, exporters, predecessors, successors and all those persons claiming through and/or under them or acting on their behalf or connected with the them in their business are restrained from trading, marketing, manufacturing, selling, offering for sale, advertising, promoting, distributing, exporting, importing, exhibiting, directly or indirectly dealing in medicinal and pharmaceutical products, and in relation to any like/allied/cognate goods or services using the impugned mark SHALKAL / SHALKAL- HD 12, and/or any other trade mark as may be deceptively similar to the Plaintiff's trade mark SHELCAL and its various formative marks, amounting to infringement of its registered trade mark and passing off of the Defendant's goods and business for those of the Plaintiff.

26. Upon steps being taken, issue notice to the defendants through all modes. Reply to be filed within a period of four (4) weeks from the receipt of notice. Rejoinder thereto, if any, be filed within four (4) weeks thereafter.



27. In view of the fact that the Plaintiffs have sought appointment of a Local Commissioner to seize the infringing product, the very purpose of the grant of ex-parte ad interim injunction would be defeated if the Defendants are given notices contemplated in Order XXXIX Rule 3 of CPC prior to the execution of the commission. Hence, it is directed that the Plaintiffs shall serve notice under Order XXXIX Rule 3 of CPC at the time of execution of the Local Commission which shall not be later than three (3) weeks from today.

28. List before the learned Joint Registrar (J) on **16.02.2026**.

29. List before Court on **22.05.2026**.

I.A. 32630/2025 (for appointment of Local Commissioner)

30. This is an application filed under Order XXVI Rule 9 read with Section 151 of CPC, for the appointment of the Local Commissioner.

31. In order to ensure that the injunction is fully complied with and to preserve the evidence of infringement, this Court deems it appropriate to appoint one (1) Local Commissioner, the appointment is confined thereto:

S.No.	ADDRESS	PARTICULARS
1.	M/s. Creative Nutritions, Address: 24-112/4, L.N. Colony IDA Uppal, Hyderabad-39	Mr. Varun Agrawal, Advocate E. No. D/20427/2025 M. No. 9873068419

32. The mandate of the Local Commissioner is as under: -

- The Local Commissioner shall visit the premises of the Defendant as mentioned above, to inspect and seize the infringing products of the Defendants bearing the registered trademark of the Plaintiff.
- The Local Commissioner is permitted to seize the products bearing the impugned mark at the above premises and if knowledge is



acquired of any other premises where the products could be stored, the Local Commissioner is free to record the same and then visit the other premises and conduct a seizure there as well.

- iii. The Local Commissioner shall also inspect and seize any products/materials including pamphlets, brochures, stickers, packaging materials, dyes or blocks used for preparing the manufacturing materials, display boards, sign boards, advertising material, dyes or blocks, unfinished, packed, unpacked products bearing the impugned mark or any other documents, wrapper etc. so that it can be ensured that no fresh manufacturing of the infringing products bearing the impugned mark can take place.
- iv. The Local Commissioner shall also obtain the details as to since when products bearing the impugned mark are being used by the Defendants and obtain copies of the accounts, if the same is found to be sold in market.
- v. The 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 a 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 products bearing the impugned mark, in fully manufactured or unfinished condition, including packaging materials, advertising, promotional materials, pamphlets,



brochures, boxes, videos, hoardings, brochures, banners, cartons and other material bearing the impugned mark or the marks, which are similar to the Plaintiff's trademark, shall be released to the Defendants on *Superdari*. The monetary value of the stock shall also be ascertained.

- vii. Upon being requested, the concerned jurisdictional police authorities, the Commissioner of Police/Superintendent of Police and/or the Station House Officer ('SHO'), shall render necessary cooperation for execution of the commissions, as per this order.
 - viii. The Local Commissioner is also permitted to break open the locks, with the help of the local police, if access to the premises, is denied to the Commissioners.
 - ix. The Local Commissioner is permitted to take photographs and videography of the proceedings of the commission, if it is deemed appropriate. Two (2) representatives of the Plaintiffs, which may include a lawyer, are permitted to accompany the Local Commissioner.
 - x. The 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.
 - xi. On such further seizure of infringing products, the Defendants or each one of them in respect of whom the seizure has been effected, shall be served with a complete set of Court documents forthwith.
33. The order passed today shall not be uploaded for a period of three (3) weeks to enable the execution of the commissions.



34. The Local Commission shall be executed within three (3) weeks. The report of the Local Commissioner shall be filed within three (3) weeks thereafter.
35. The fee of the local commissioners is fixed at Rs 2,50,000/-, excluding the out-of-pocket expenses, travel expenses, accommodation etc., which is to be borne by the plaintiffs.
36. In terms of the foregoing, the present application stands disposed of.
37. Either the learned counsel for the plaintiff or the learned Local Commissioner is directed to collect a certified copy of this order from the Registry (Dispatch Branch) before the execution of the Commission.
38. The 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. In addition, a copy of the complete paper book shall be served by the Local Commissioner upon the Defendants at the time of execution of commissions.
40. Copy of this order to be given *dasti* under the signatures of the Court Master.

MANMEET PRITAM SINGH ARORA, J

DECEMBER 23, 2025/rhc/AJ