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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CM(M)-IPD 8/2025

KHILENDER GUPTA TRADING AS
BOBBY ENTERPRISES

.....Petitioner

Through: Mr. Ankit Jain, Senior Advocate with
Mr. Shantnu Aggarwal & Ms. Sakshi
Garg, Advocates.

versus

HIND FOOD PRODUCT & ORS.

.....Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

% 25.03.2025

CM 61/2025 (exemption from filing originals, translated and certified copies of the document)

1. Allowed, subject to just exceptions.
2. Accordingly, the application is disposed of.

CM 62/2025 (exemption from filing clear, paginated, proper margins and true typed copies of documents)

3. Allowed, subject to just exceptions.
4. Accordingly, the application is disposed of.

CM 63/2025 (seeking permission to file lengthy synopsis)

5. For the reasons stated in the application, the petitioner is granted liberty to file lengthy synopsis.
6. The application is disposed of.

CM 64/2025 (exemption from advance service to the respondents)



7. Since the respondents/ defendants in the suit are yet to be served and the petitioner/plaintiff is seeking appointment of a Local Commissioner, the petitioner is granted exemption from effecting advance service on the respondents.

8. The application is disposed of.

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9. The present petition has been filed under Article 227 of the Constitution of India seeking setting aside of the impugned order dated 17th March, 2025, passed by the District Judge (Commercial), Shahdara District, Karkardooma Courts, Delhi in CS(COMM) No. 26/2025, whereby the Commercial Court had issued a court notice to a third party i.e. Mr. Rakesh Kumar.

10. Mr. Ankit Jain, Senior Counsel appearing on behalf of the petitioner submits that the said suit was filed in January, 2025 and was listed before the Commercial Court on 13th January, 2025, along with an application seeking *ex-parte* ad interim injunction against the defendants/ respondents as well as appointment of a Local Commissioner to visit the premises of the defendants/ respondents to seize and make an inventory of the infringing products.

11. It is submitted that there have been six dates of hearing in the suit and till date no effective orders in the aforesaid applications have been passed.

12. In the impugned order, while making a reference to another legal proceedings between the petitioner/plaintiff and a third party regarding the mark which is the subject matter of the present suit, court notice had been issued to Mr. Rakesh Kumar, who is a party against whom the petitioner is involved in the other litigations.

13. I am informed that the matter was listed before the Commercial Court today and since the court notice could not be served on Mr. Rakesh Kumar, a



fresh notice has been ordered, which is returnable for 21st April, 2025.

14. I am in agreement with the submissions of the petitioner that there was no occasion for the Commercial Court to issue a court notice to a third party i.e. Mr. Rakesh Kumar, at this stage. In the suit before the Commercial Court, admittedly, no cause of action has been pleaded against Mr. Rakesh Kumar, nor has any relief been claimed against him by the petitioner.

15. The cause of action for filing the present suit was only against the respondents, who are the defendants in the suit and who are allegedly infringing the registered trademark of the petitioner.

16. In view of the above, the impugned order is unsustainable and is set aside.

17. Considerable time has elapsed since the present suit along with applications for seeking *ex-parte ad* interim injunction and appointment of a Local Commissioner were filed, in which urgent reliefs are sought. Accordingly, the Commercial Court shall consider and pass an order in the aforesaid two applications filed on behalf of the petitioner/ plaintiff on the next date of hearing.

18. The suit along with the aforesaid two applications shall be listed before the Commercial Court on 7th April, 2025.

19. The petition is disposed of.

AMIT BANSAL, J

MARCH 25, 2025

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