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

\+ CS(COMM) 452/2023 & I.A. 12297/2023 I.A. 24051/2023 I.A. 13329/2025

PUROSIS INTERNATIONAL LLP AND ORS .....Plaintiffs

Through: Mr. Madhav Anand, Mr. Kunal Khanna, Mr. K. Bhasin, Mr. Yashveer Singh, Advs. for

versus

MARUTHI AQUA SYSTEMS AND ORS .....Defendants

Through: Mr. Umesh Mishra, Mr. Aakash Bhambri and Ms. Yashodhara Raina, Advocate for D-2

CORAM:
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

O R D E R

% 30.10.2025

CS(COMM) 452/2023

Decree *qua* defendant no. 2

1. Learned counsel for defendant no. 2 states that defendant no. 2 has no objection if the suit is decreed against defendant no. 2 in terms of prayer clause 52(A) of the plaint, which reads as under: -

> "A. Pass a decree of permanent injunction restraining the Defendants, its C&F agents, dealers, distributors, retailers, representatives agents, assignees or anyone acting on their behalf in any manner from manufacturing, promoting, marketing, selling (including on online platforms) water purifier / water purifier cabinet in any manner that is identical or similar to Plaintiff No. 1's suit design that results in infringement of the registered design no. 355571-001 of the Plaintiff No. 1."

2. Mr. Madhav Anand, learned counsel for the plaintiffs state that since

defendant no. 2 has not contested the relief of permanent injunction, he has instructions to not press for the remaining reliefs sought at prayer clauses 52(B), (C), (D), and (E) of the plaint against defendant no. 2.

3. In view of the aforesaid submissions of the plaintiffs and defendant no. 2, the suit is hereby decreed vis-à-vis defendant no. 2 in terms of prayer clause 52(A) of the plaint. The remaining reliefs vis-à-vis defendant no. 2 are disposed of, as not pressed.

Decree *qua* defendant nos. 1, 3, 4, and 5

<u>I.A. 13329/2025</u>

4. This is an application under Order XIII-A Rules 3 and 6(1)(A) read with Section 151 of the Code of Civil Procedure, 1908 ['CPC'], filed by the plaintiffs seeking summary judgment for a decree of permanent injunction in terms of prayer clause 52(A) and legal costs of prosecuting this suit against the defendants.

5. Mr. Madhav Anand, learned counsel for the plaintiffs state that since reliefs sought *qua* defendant no. 2 have already been decreed by this Court, the present application remains only against defendant nos. 1, 3, 4 and 5.

5.1. He states that defendants nos. 1, 3, 4 and 5 have already been proceeded *ex-parte* and their respective right(s) to file written statement have also been closed by the Court. He states that thus, the contents of the plaint are deemed to be admitted as not being denied by the said defendants.

5.2. He contends that the question arising for consideration in the present suit is solely based on the documentary evidence, which is already on record and therefore, the present suit is liable to be decided against the said defendants by way of summary judgment.

5.3. He states that the plaintiffs are not pressing for reliefs of delivery, recall of all stocks of the infringing products, damages or rendition of accounts vis-à-vis prayer clauses 52(B), (C) and (D) of the plaint against defendant nos. 1, 3, 4 and 5.

He states that the plaintiffs are only praying that suit may be decreed vis-à-vis the said defendants for relief of permanent injunction in terms of prayer clause 52(A) of the plaint along with actual legal costs which includes the compensation for amounts paid by the plaintiffs with respect to fees of LCs of Rs. 3 lakhs, Court fees of Rs. 2 lakhs and professional fees of the advocates.

Findings and Analysis

6. This Court has heard the learned counsel for the plaintiffs and perused the record.

7. It is a matter of record that summons were duly served upon defendant nos. 3 and 4 on 28.10.2023 and upon defendant no. 1 on 27.10.2023 through speed post. In this regard, the plaintiff's affidavit(s) of service dated 01.11.2023, 13.02.2024 are filed on record. However, since the said defendants despite being served with summons, failed to file their written statement, their right to file the same was closed vide order dated 05.03.2024. Thereafter, since defendant nos. 3 and 4 did not appear before this Court, they were proceeded *ex-part*e vide order dated 13.08.2024. Similarly, defendant no. 1 was also proceeded *ex-parte* on 18.03.2025.

8. It is a matter of record that defendant no. 5 entered appearance on 02.11.2023 and was supplied with complete paper-book of the suit on 15.01.2024. The local commission was executed at the location of Defendant no. 5 on 17.07.2023 and he was served with the injunction order and the paper book by the Local Commissioner as well. Defendant no. 5 last

appeared on 05.03.2024 and thereafter, since the said defendant failed to enter appearance and to file its written statement; vide order dated 13.08.2024, the said defendant was proceeded *ex-parte* and its right to file the written statement was also closed.

9. The plaint has been duly verified and is supported by the affidavit(s) of the plaintiffs as well the Statement of Truth. As noted above, no written statement has been filed by defendant nos. 1, 3, 4, and 5; therefore, all the averments made in the plaint against the said defendants asserting infringement of plaintiffs registered design for its water purifier/water purifier cabinet remained unrebutted and are deemed to be admitted.

Furthermore, no affidavit of admission/denial of the documents filed by the plaintiffs, has been filed by the said defendants. Accordingly, the documents filed by the plaintiffs are deemed to have been admitted by the defendants as per Rule 4 of Chapter VII of the Delhi High Court (Original Side) Rules, 2018.

10. In these facts, this Court proceeds to examine the averments made in the plaint and the evidence that has come on record in pursuance to the local commission(s) executed at the premises of defendant nos. 1 and 5 in pursuance of the order dated 12.07.2023, to assess whether a decree of permanent injunction as prayed for should be granted against the defendants.

11. In the plaint, the plaintiffs have set out its case as follows: -

(i) The plaintiffs are engaged in the business of manufacturing and selling of water purification products.

(ii) 'PUROSIS PUROAQUA'- a water purifier cabinet body was conceptualised by plaintiff no. 1 during the course of its business and keeping in view its novel features, a design application no. 355571-001 dated 27.12.2021 was filed which was granted registration on 23.02.2022 [‘suit design’].

(iii) Products under plaintiff no. 1’s suit design are available at major e-commerce platforms, the details of which are available at paragraph no. 17 of the plaint. The details of plaintiff no. 1’s overall annual sales figures and advertisement expenses are provided at paragraph no. 19 of the plaint.

(iv) It is stated that plaintiffs learnt on 04.04.2023 that defendant nos. 1, 3, 4, and 5 are offering for sale, water purifier cabinets bearing the mark ‘ICONIC’, which are closely similar to the plaintiff no. 1’s suit design. It is stated that the infringing product has not only dishonestly copied the overall appearance but also all the unique features of plaintiff no. 1’s suit design, thereby causing infringement of the suit design.

(v) It is contended that plaintiff no. 1 has acquired statutory rights under the Design Act, 2000 to claim exclusivity over the suit design bearing registration no. 355571-001 and to also prevent others from pirating the said design.

(vi) The comparison table of the infringing product bearing the mark ‘ICONIC’ and the plaintiff no. 1’s suit design is provided at paragraph no. 35 of the plaint.

(vii) It is stated that if defendant nos. 1, 3, 4, and 5 are allowed to sell the infringing product, containing identical suit design of plaintiff no. 1, it would result in confusion in respect of origin of the goods. This in turn shall not only be prejudicial to plaintiff no. 1’s interest but to public interest as well.

12. The Court vide interim order dated 12.07.2023 after recording its prima facie observations with respect to infringement of the suit design vis-a -vis the infringing product 'ICONIC' granted an interim injunction in favour of the plaintiffs and against the defendants. The Court also appointed Local Commissioners ['LCs'] to visit the premises of defendant nos. 1, 2 and 5 for inspection and seizure of infringing products.

13. Subsequently, report dated 18.08.2023 was filed by the LC *qua* defendant no. 1 and report dated 17.07.2023 was filed by the LC *qua* defendant no. 5, which disclose the following facts:-

13.1. Defendant no. 1 submitted before the LC that he is a technician who procures the infringing product from suppliers-*M/s Rain Drop Water Purifiers*, and *M/s Unique Enterprise,* both located in Bangalore. The LC was led to the godown-cum-shop of *M/s Unique Enterprise*, which assembles the different parts of the water filter for the sale of infringing product under the trade name 'ICONIC'. The LC report records that seven [7] boxes of the infringed cabinets were seized from the shop of *M/s Unique Enterprises*. The on-the-spot proceedings is duly signed by Mr. Rakesh M.H., the proprietor of defendant no. 1.

13.2. Defendant no. 5 admitted before the LC to selling 30-40 pieces of the infringing water purifier cabinets bearing the mark 'ICONIC'. The on-the-spot proceedings dated 17.07.2023 is duly signed by Mr. Arvind Magar, the proprietor of defendant no. 5.

14. Neither defendant no. 1 nor defendant no. 5 have filed any objections to the aforesaid local commission reports. At this stage it would be apposite to refer to the judgment passed by the Co-ordinate Bench of this Court in

Aero Club v. M/s Sahara Belts[1], wherein the Court held that in cases wherein report filed by the Local Commissioner has not been challenged by any party, the said report can be treated as evidence in the suit. The relevant paragraph of the said judgment is as under: -

> "19. On the aspect of damages, the Court has perused the record and the Local Commissioner's report. It is also the settled position in law that the Local Commissioner's report can be read in evidence in terms of the provisions of Order XXVI Rule 10 (2) CPC, 1908 where it is not challenged by any party.
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> …
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> 20. In view of Order 26 Rule 10(2) CPC, 1908 and the judgment discussed above, the settled legal position that emerges is that the report of the Local Commissioner can be treated as evidence in the suit where it is not challenged by any party. <u>In the present case, the photographs of the counterfeit products which are placed on record and the inventory which has been prepared, is also not denied by the Defendant either in the pleadings or in its reply. Accordingly, the report of the Local Commissioner and the contents therein can be relied upon by the Court as evidence to assess the damages, as the same stands unchallenged</u>."

[Emphasis Supplied]

15. The LCs in their respective reports have placed on record facts that prove that defendants nos. 1 and 5 were dealing in infringing products amounting to violation of the statutory rights of the plaintiffs. Since, defendant nos. 1 and 5 have not filed any objections to the reports filed by the LCs, the said reports form part of the unrebutted evidence available on record to decide the assertions in the plaint.

16. The averments made in the plaint and documents filed on record shows that plaintiff no. 1 is the proprietor of the registered design bearing no. 355571-001 dated 23.02.2022 with respect to 'PUROSIS PUROAQUA'- water purifier cabinet ['suit design'] in its favour. The

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[1] 2023:DHC:8423

details of the same are provided at paragraph no. 11 of the plaint. The comparison table of the infringing product bearing the mark ICONIC and the plaintiff no. 1's suit design is provided at paragraph no. 35 of the plaint and upon perusing the same it is evident that the infringing water purifier cabinet offered for sale by defendants is deceptively identical to the plaintiff no. 1' suit design.

17. It is stated in the plaint that defendant nos. 3 and 4 are offering the infringing products for sale. The role of defendant nos. 1 and 5 in selling the infringing products already stands established by the local commission reports.

18. The fact that defendant nos. 1, 3, 4, and 5, have elected not to contest the present suit makes it evident that the said defendants have accepted the interim injunction order dated 12.07.2023 passed by this Court. There is no opposition from the said defendants against the said injunction orders. While defendant nos. 1 and 5 admitted to selling the infringing goods before the LCs, defendant nos. 3 and 4 have elected not to participate in these proceedings at all.

This Court finds no ground or material to take a view different from the prima facie view expressed in the injunction order dated 12.07.2023 with respect to the infringement of the suit design by the infringing product bearing the mark 'ICONIC'. This Court is also of the opinion that if the defendants are permitted to trade the impugned products, which bear a striking resemblance to the suit design of plaintiff no. 1, it would inevitably create confusion among the consumers regarding the origin of the goods. Such confusion would not only undermine the interests of plaintiff no. 1 but would also adversely affect the public interest at large. Moreover, the aforesaid illegal action of the said defendants constitutes a clear violation of the statutory rights of plaintiff no. 1 in relation to its registered suit design. Accordingly, the plaintiff has made out a case for grant of a decree of permanent injunction.

19. In **Su-Kam Power Systems Ltd. v. Kunwer Sachdev**[2], a Co-ordinate Bench of this Court in the context of commercial suits has observed that summary judgment ought to be passed in case, where the defendant lacks a real prospect of defending the claim. In this case, infact defendant nos. 1, 3, 4, and 5 have after being served elected to not to defend their case and therefore this Court is satisfied that the plaintiffs need not be put through the costs and rigours of trial. The relevant portion of the aforesaid judgment reads as under: -

> "90. To reiterate, the intent behind incorporating the summary judgment procedure in the Commercial Court Act, 2015 is to ensure disposal of commercial disputes in a time-bound manner. In fact, the applicability of Order XIIIA, CPC to commercial disputes, demonstrates that the trial is no longer the default procedure/norm.
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> 91. <u>Rule 3 of Order XIIIA, CPC, as applicable to commercial disputes, empowers the Court to grant a summary judgement against the defendant where the Court considers that the defendant has no real prospects of successfully defending the claim and there is no other compelling reason why the claim should not be disposed of before recording of oral evidence. The expression "real" directs the Court to examine whether there is a "realistic" as opposed to "fanciful</u>" <u>prospects of success. This Court is of the view that the expression "no genuine issue requiring a trial" in Ontario Rules of Civil Procedure and "no other compelling reason…..for trial" in Commercial Courts Act can be read mutatis mutandis. Consequently, Order XIIIA, CPC would be attracted if the Court, while hearing such an application, can make the necessary finding of fact, apply the law to the facts and the same is a proportionate, more expeditious and less expensive means of achieving a fair and just result</u>.

[2] 2019 SCC OnLine Del 10764

92. Accordingly, unlike ordinary suits, Courts need not hold trial in commercial suits, even if there are disputed questions of fact as held by the Canadian Supreme Court in Robert Hryniak (supra), in the event, the Court comes to the conclusion that the defendant lacks a real prospect of successfully defending the claim."

[Emphasis Supplied]

20. It would also be relevant to refer to the dicta of **Satya Infrastructure Ltd. & Ors**. **v**. **Satya Infra & Estates Pvt. Ltd.**[3], wherein the Co-ordinate Bench of this Court held as under: -

"**4.** The next question which arises is whether this Court should consider the application for interim relief and direct the plaintiffs to lead ex parte evidence. The counsel for the plaintiffs states that the plaintiffs are willing to give up the reliefs of delivery, of rendition of accounts and of recovery of damages, if the suit for the relief of injunction alone were to be heard today.

5. I am of the opinion that no purpose will be served in such cases by directing the plaintiffs to lead ex parte evidence in the form of affidavit by way of examination-in chief and which invariably is a repetition of the contents of the plaint. The plaint otherwise, as per the amended CPC, besides being verified, is also supported by affidavits of the plaintiffs. I fail to fathom any reason for according any additional sanctity to the affidavit by way of examination-in-chief than to the affidavit in support of the plaint or to any exhibit marks being put on the documents which have been filed by the plaintiffs and are already on record. I have therefore heard the counsel for the plaintiffs on merits qua the relief of injunction."

21. In view of the aforesaid facts and settled law, this Court is of the view that no purpose would be served if the plaintiffs are directed to lead *ex-parte* evidence by way of filing an affidavit of examination-in-chief and the plaintiffs are entitled to a summary judgment. The present suit is a fit case, where a summary judgment in terms of Order XIII-A of CPC can be passed in favour of the plaintiffs and against defendant nos. 1, 3, 4, and 5. Thus, the

[3] 2013 SCC OnLine Del 508

plaintiffs are held entitled to relief of permanent injunction as claimed in the plaint. Accordingly, a decree of permanent injunction is passed in favour of the plaintiffs and against defendant nos. 1, 3, 4, and 5 in terms of prayer clause 52(A) of the plaint. The interim injunction dated 12.07.2023 [made absolute hereinabove] shall merge into the decree.

22. Learned counsel for the plaintiffs submits that the plaintiffs are not pressing the reliefs sought vis-à-vis prayer clauses 52(B), (C) and (D) of the plaint. The said statement of the plaintiffs is taken on record and the prayer clauses 52(B), (C) and (D) of the plaint are disposed of as not pressed.

23. Learned counsel for the plaintiffs submit that however, the plaintiffs have suffered substantial litigation costs while contesting the present suit and despite issuance of summons and interim restraining directions passed against the defendants; defendant nos. 1, 3, 4 and 5 have been negligent and have not appeared before this Court. He states that in these circumstances, the plaintiffs are entitled to compensation of legal costs by defendant nos. 1, 3, 4, and 5.

24. Insofar as the reliefs of costs sought in prayer clauses 52(E) of the plaint *qua* the legal costs of the suit are concerned, it would be apposite to refer to the judgment passed by the Supreme Court in **Uflex Ltd. v. State of T.N.[4].** wherein the Supreme Court has set forth the principles to be considered by Courts while granting relief of costs in commercial litigation. Even though the proceedings in the said matter had arisen from a writ proceeding under Article 226 of the Constitution of India but the nature of the proceeding therein was a commercial dispute.

25. Applying the aforenoted principles set forth by the Supreme Court in

[4] (2022) 1 SCC 165 [Paragraph Nos. 53 to 59]

Uflex Ltd. v. State of T.N. (supra) as well as having perused the averments in the plaint, the findings returned by the LCs in their respective reports and the conduct of defendant nos. 1 and 5, this Court is satisfied that the actions of the said defendants' in selling the infringing goods bearing the mark 'ICONIC' and not appearing before this Court despite being served, are not bonafide and invites award of costs.

26. Accordingly, plaintiffs are held entitled to legal costs amounting to Rs. 3 lakhs (Three lakhs) each to be paid by defendant nos. 1 and 5 respectively, within a period of four [4] weeks.

27. With respect to defendant nos. 3 and 4, this Court finds upon perusal of the documents that plaintiffs have placed on record WhatsApp images where the said defendants were offering infringing goods for sale. However, since no Local Commission was executed, there is no proof of the extent of sales undertaken by them. The conduct of defendant nos. 3 and 4 in not joining the proceedings despite service however, shows their culpability. A party cannot be rewarded for refusing to respond to Court's summons. The plaintiffs have been compelled to prosecute the proceedings vis-à-vis the said defendants. Accordingly, cost of Rs. 2 lakhs (Two lakhs) each are being awarded vis-à-vis the said defendant nos. 3 and 4.

28. With the aforesaid directions, this suit along with pending applications (if any) stands decreed vis-à-vis the prayer clause 52(A) for permanent injunction *qua* defendant nos. 1, 3, 4 and 5. Defendant nos. 1 and 5 are held liable to pay legal costs of Rs. 3 lakhs each respectively to the plaintiffs and defendant nos. 3 and 4 are held liable to pay legal costs of Rs. 2 lakhs each to the plaintiffs.

29. Let the decree sheet be drawn up in terms on this order.

30. All future dates stand cancelled.

MANMEET PRITAM SINGH ARORA, J

OCTOBER 30, 2025/hp/MG