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

% *Date of decision: 14th July, 2025*

+ CM(M)-IPD 29/2025 & CM APPL. 40150/2025

VIJAY

.....Petitioner

Through: Mr. Abhijit Mishra, Advocate.

versus

HAVELLS INDIA LIMITED

.....Respondent

Through: Mr. Divyansh Jain and Ms. Akansha Gupta, Advocates.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

AMIT BANSAL, J. (Oral)

1. The present petition has been filed under Article 227 of the Constitution of India impugning the order dated 5th June, 2025 passed by the District Judge (Commercial), Shahdara District in Civil Suit (Commercial) no.294/2024.
2. By way of the impugned order, the interlocutory application under Order XXVI Rule 10 of the Code of Civil Procedure, 1908 (CPC) filed on behalf of the petitioner, who is the defendant in the aforementioned suit, seeking examination of the Local Commissioners appointed in the suit was dismissed.
3. Briefly stated, the facts relevant for the adjudication of the present petition are as under:-



- i. A commercial suit being CS(COMM) 294/2024 was filed by the respondent/plaintiff against the petitioner/defendant seeking permanent injunction restraining the defendant from infringing the trademark of the plaintiff.
- ii. *Vide* order dated 27th May, 2024, an *ex parte* ad interim injunction was granted in favour of the respondent/plaintiff and against the petitioner/defendant restraining the petitioner/defendant from using the trademark/trade name 'HAVELLS'. *Vide* the said order, Local Commissioners were also appointed to visit the premises of the defendants. The relevant portion of the said order is set out below:-

*“13. Accordingly, this Court appoints **Sh. Chitragupt Dagar, Advocate, Enrolment No.D/2614/2018, Mobile No. 7011849102** and **Sh. Kunal Kumar, Advocate, Enrolment No.D/3636/2020, Mobile No. 9958676776, 7669995766** as the Local Commissioners, to visit the following premises of the defendants:*

<i>Sr. No.</i>	<i>Name of the Local Commissioner</i>	<i>Premises</i>
<i>1.</i>	<i>Sh. Chitragupt Dagar, Advocate (Mobile No.7011849102)</i>	<i>Ashok Kumar At: House No. 4/1888, Rama Block, Gali No.3, Shahdara, Delhi-110032</i>
<i>2.</i>	<i>Sh. Kunal Kumar, Advocate (Mobile No.9958676776)</i>	<i>Ashok Kumar At: Mahavir Block, Opposite Gali No.10, Shahdara, Delhi-110032</i>

14. The commission will be executed in the following terms:

a. The learned local commissioners shall visit the premises of the defendant and inventorise and take into custody all goods bearing the marks registered as trademarks in the plaintiff's favour. They shall also inventorise and take into custody all equipment, ink and other materials which may be



used for printing or affixing the infringing marks on any goods. Packing material, used for packing goods bearing the infringing marks shall also be inventorised and taken into custody.

b. Consequent on inventorisation, the goods shall be handed over under superdari to the defendant, subject to the strict condition that they shall not be dealt with in any fashion whatsoever without the leave of this Court.

c. The commission shall be executed peacefully without unnecessarily disturbing the legitimate business activities of the defendant. The defendant/occupiers of the aforesaid premises are also directed to cooperate with the execution of the commission.

d. During the course of the execution of the commission, should the learned Local Commissioners come to learn of any other premises where similar infringing goods are present, the commission would be executed in the terms stated in this order at such other premises as well.

e. The learned local commissioners would be at liberty to effect forced ingress into any premises, should it become necessary for execution of the commission.

f. The learned local commissioners are also at liberty to seek the assistance of the jurisdictional police authorities, should it become necessary to do so. In that event, this order shall operate as a direction to the SIHO of the jurisdictional Police Station to provide all such assistance as is necessary for execution of the commission.

g. The proceedings of the commission shall be videographed at the expense of the plaintiff, so as to assure the Court that there has been no impediment in execution of the commission.

h. Consequent on execution of the commission, the plaintiff shall be entitled to depute one representative to accompany each of the learned local commissioners during the execution of the commission.

i. Consequent on execution of the commission, the learned local commissioners shall file their reports with the Registry of this Court within a period of one week

j. The time for compliance with Order 39 Rule 3 of the CPC shall stand reckoned from the date of filing of such reports by the learned local commissioners. The plaintiff shall be at liberty to comply with the said provision within a week thereof.

k. The commission shall be executed on the date and time to be fixed by the parties on consultation with the learned local commissioners. Each of the local commissioners shall be entitled to a fee of Rs. 90,000/- each apart



from transport to and fro as well as lodging in case it becomes necessary to do so.

1. Fee of the commission shall be payable in advance of the execution of the commission.

15. Let this order be not uploaded on the website of this Court till the commissions are executed and reports in that regard are filed by the learned local commissioners.

16. Party is directed, not to share this order, picture of proceedings carry out under this order be clicked without permission of the Court. Copy of plaint alongwith annexure and copy of this order be furnished to the defendants by the plaintiff. The search and seize be carried out on date and time be fixed by the plaintiff within next four weeks.

17. Summons of the suit and notice of the application under Order 39 Rule 1 and 2 CPC be served upon the defendants by the plaintiff in the presence of Local Commissioners.”

4. Pursuant to the aforesaid order, the Local Commissioners raided the aforesaid two properties of the defendants on 1st June, 2024.
5. On 17th June, 2024, yet another property allegedly belonging to the petitioner/defendant being *House No. 4/1887, Rama Block, Gali No.3, Shahdara, Delhi-110032* was also raided by the Local Commissioners and certain infringing goods were found therein.
6. The Local Commissioners filed their reports before the Commercial Court in respect of the raids conducted by them.
7. The petitioner/defendant filed his objections against the reports of the Local Commissioners.
8. *Vide* order dated 7th March, 2025, the following issue was framed by the Commercial Court:-

“(a) Whether the search and seizure raid / proceedings were carried out on 01.06.2024 and 17.06.2024 by the plaintiff were illegal, resulted in



trespassing and in violation of Court's order dated 27.05.2024? (OPD)”

9. An application was filed on behalf of the petitioner/defendant under Order XVI Rule 1 and 6, CPC for summoning *inter alia* one of the Local Commissioners, Mr. Kunal Kumar. The said application was dismissed by the Commercial Court *vide* detailed order dated 31st May, 2025. The relevant extracts from the said order are set out below:-

*“19. The Court, vide order dated 27.05.2024, appointed **Mr. Chitra Gupt Dagar, Advocate** to inspect the premises at H. No.4/1888, Rama Block, Gali No. 3, Shahdara, Delhi-110032 and **Mr. Kunal Kumar, Advocate** to inspect the premises at Mahavir Block, Opposite Gali No. 10, Shahdara, Delhi-110032 and conduct search and seizure proceedings, as mentioned in Para No. 14 of the said order.*

20. Pursuant to the said order, Mr. Chitra Gupt Dagar, Ld. Local Commissioner visited the premises at H. No. 4/1888, Rama Block, Gali No. 3, Shahdara, Delhi-110032 and two other premises identified during the process of inspection. However, no counterfeit products were found there. It is relevant to note that Local Commissioner allowed Mr. Kunal Kumar another Local Commissioner to accompany him during the inspection of the premises at H. No.4/1888, Rama Block, Gali No. 3, Shahdara, Delhi-110032.

21. On 17.06.2024 at 05.30 p.m., Mr. Kunal Kumar, Ld. Local Commissioner inspected the premises at H. No. 4/1887, Rama Block, Gali No. 3, Shahdara, Delhi-110032 and seized packaging boxes, printing plates containing the plaintiff's trademark in the presence of the defendant, namely, Mr. Vijay Kumar. The relevant photographs of the seized products are depicted at Page No. 17-38 of his report. At 05.50 p.m., he inspected the premises at H. No. 4/1888, Rama Block, Gali No. 3, Shahdara, Delhi-110032 and recovered packaging boxes from there. He inspected the premises at H. No. 4/1622, Mahavir Block, Bhola Nath Nagar, Shahdara, Delhi-110032 and recovered packaging boxes.”

[Emphasis supplied]

10. Subsequently, another application was filed on behalf of the petitioner/defendant under Order XXVI Rule 10 of the CPC seeking leave to



examine the two Local Commissioners appointed by the Court. The said application has been dismissed by the impugned order dated 5th June, 2025. The Commercial Court has given reasons for dismissal of the said application which are detailed in paragraph 3 of the impugned order. The said paragraph is set out below:-

*“3. The said application deserves outright dismissal for the reasons. **First**, the name of Mr. Chitra Gupt Dagar, Ld. Local Commissioner was not mentioned in the list of witnesses. **Second**, the grounds furnished for summoning of Ld. Local Commissioners as witnesses are already addressed by this Court, vide order dated 31.05.2025. **Third**, the application is in the nature of a review application without disclosing any manifest error in the said order. **Fourth**, there is no worthy objection to reports of Ld. Local Commissioners touching any of the matters referred to them or as to their reports. **Fifth**, there is no reason for this Court to dissatisfy with the proceedings or reports submitted by Ld. Local Commissioners.”*

11. Counsel for the petitioner/defendant submits that in order to prove the aforesaid issue framed by the Commercial Court *vide* order dated 7th March, 2025, it is necessary for him to examine the two Local Commissioners. He also submits that the Local Commissioners have clearly travelled beyond the mandate given to them by the aforesaid orders and therefore, it would prejudice the case of the petitioner/defendant if he is not allowed to cross-examine the same. He further submits that the grounds taken by him in paragraph 3 of his application under Order XXVI Rule 10 of the CPC have been completely ignored by the Commercial Court.

12. *Per contra*, counsel appearing on behalf of the respondent/plaintiff submits that the petitioner/defendant is a counterfeiter and was selling counterfeits of the products of the respondent/plaintiff. Pursuant to the raid conducted by the Local Commissioners, a large amount of recoveries were



made from the premises of the petitioner/defendant. He further submits that the application under Order XXVI Rule 10 of the CPC was filed by the petitioner/defendant only to delay the proceedings in the suit.

13. Counsel for the respondent/plaintiff further submits that the raid was conducted by the Local Commissioners at the neighbouring premises, i.e., *House No. 4/1887, Rama Block, Gali No.3, Shahdara, Delhi-110032*, pursuant to the liberty granted by the Commercial Court *vide* order dated 27th March, 2024.

14. I have heard the counsels for the parties.

15. There cannot be any cavil with the proposition that, in terms of Order XXVI Rule 10 of the CPC, the Court has the discretion to summon the Local Commissioner appointed in a case for him to be examined. However, the aforesaid discretion has to be exercised by the Court in a judicious manner. It cannot be that the Court has to allow the examination of a Local Commissioner in every case at the behest of the applicant. Therefore, the issue to be examined in the present case is whether the petitioner/defendant has made out a case for the examination of the Local Commissioners.

16. The Commercial Court has held in the impugned order that on the basis of the objections filed to the Local Commissioners' reports, the petitioner/defendant has failed to justify examination of the Local Commissioners. It has also been stated that the various grounds raised by the petitioner/defendant have already been dealt with in the earlier order dated 31st May, 2025 passed by the Commercial Court in relation to the earlier application filed by the petitioner/defendant for summoning of one of the Local Commissioners as a witness.



17. The first objection raised by the petitioner was that the Local Commissioners raided the premises which they were not authorised to raid.

18. A reading of paragraph 14 (d) of the order dated 27th May, 2024 makes it abundantly clear that the Local Commissioners had the liberty to visit any other premises which came to their knowledge during the execution of the commission where infringing goods could be found. Pursuant to the aforesaid liberty, the Local Commissioners decided to raid *House No. 4/1887, Rama Block, Gali No.3, Shahdara, Delhi-110032* which came to their knowledge during the execution of the commission and, in fact, seized various infringing goods such as packaging boxes, printing plates containing the respondent/plaintiff's trademark.

19. Therefore, there is no merit in the objection taken by the petitioner/defendant that the Local Commissioners could not have raided other properties.

20. The second objection taken by the petitioner/defendant is that one of the Local Commissioners, i.e. Mr. Kunal Kumar was not requested by the respondent/plaintiff to conduct the raid on the aforesaid premises and consequently, he has not signed the Report for the said raid. Thus, the raid was *prima facie* illegal.

21. As noted in paragraph 20 of the order dated 31st May, 2025, which is set out above, Mr. Kunal Kumar only accompanied the other Local Commissioner, i.e. Mr. Chitra Gupt Dagar at the behest of Mr. Dagar. Therefore, the aforesaid objection taken by the petitioner/defendant is also devoid of any merit.

22. Another objection taken by the petitioner/defendant is that the



petitioner/defendant was not served with the summons of the civil suit at the time of execution of the commission. It is also stated that the respondent/plaintiff did not comply with the provisions of Order XXXIX Rule 3 of the CPC.

23. Even assuming that the aforesaid objections are valid, the responsibility of fulfilling the aforesaid compliances were that of the plaintiff and not the Local Commissioners.

24. Having perused the objections taken to the reports of the Local Commissioners, I am in agreement with the finding of the Commercial Court that there is nothing in the aforesaid objections which would require the Local Commissioners to be examined in person.

25. In my view, there is no merit in the present petition and the same is dismissed.

26. Consequently, the pending application stands disposed of.

**AMIT BANSAL
(JUDGE)**

JULY 14, 2025

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