



\$~26

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M)-IPD 45/2025, CM 262/2025 & CM 263/2025**

BIKANERVALA & ANR.

.....Petitioners

Through: Mr. Rahul Vidhani & Mr. Saurabh
Kumar, Advs.

versus

SH. SATYA NARAYAN & ORS.

.....Respondents

Through: None.

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

%

20.11.2025

1. The present petition has been filed challenging the order dated 31.10.2025 passed by the Trial Court in the Contempt Petition no. 8/23, whereby an application filed by the petitioner under Order XI Rule 6 of CPC as amended by Commercial Courts Act, 2015, for taking on record the pen-drive was dismissed.

2. The learned counsel for the Petitioners sets up the Petitioners' case as under:

2.1. The Petitioners filed a suit being CS (COMM) No. 2232/2019 for permanent injunction restraining the Respondents for using the trade mark and artwork of BIKANER CORNERWALA which is identical/ deceptively similar to the trade mark and artwork BIKANERVALA which is pending adjudication before the Trial Court.



2.2. It is stated that an interim injunction order was passed in the said suit on 11.02.2020 against the Respondents, and the Respondents thereafter filed a review petition against the said order on 13.02.2020.

2.3. It is stated that the Trial Court vide order dated 13.02.2020 till the review was pending, permitted the Respondents to use the words "Bikaner Cornerwala" or "Bikaner Corner Wala" on their products and clarified that the injunction shall continue to operate on the distinctive and artistic label of the Petitioner having JHALAR device.

2.4. It is stated that full effect was given to the injunction vide order dated 09.05.2023, whereby the Respondents were further restrained from using the trademarks 'BIKANER CORNERWALA' or 'BIKANER CORNER WALA'.

2.5. It is stated that the Petitioners conducted an investigation of the premises of the Respondents at Rani Bagh on 24.03.2023 and at Paschim Vihar Shop on 11.04.2023 and shot videos where it was revealed that the Respondents were using the JHALAR device of the Petitioners in violation of the injunction orders dated 11.02.2020 and 13.02.2020.

2.6. It is stated that the Petitioners filed the Contempt Petition no. 8/2023 against the Respondents for violating the orders dated 11.02.2020 and 13.02.2020 and mentioned in the petition the google drive link of the videos shot by the investigators, along with the affidavit of the investigator.

2.7. It is stated that the Petitioners on 04.03.2025 filed an application under Order XI Rule 6 CPC as amended by the Commercial Courts Act, 2015 read with Section 151 of the CPC, 1908 seeking to place on record a pen drive containing the aforesaid video recordings, and along with the application an affidavit was filed by the counsel for the Plaintiff affirming that the said videos were downloaded by him from the google link shared by



the investigators. It is stated that the said application was dismissed by the Ld. Trial Court vide order dated 24.07.2025 on the ground that as per Order XI Rule 6(3) of the Commercial Courts Act, the affidavit must be given by a party to the proceeding and not by the counsel.

2.8. It is stated that the Petitioner on 25.08.2025 again filed a fresh application seeking to place on record the pen-drive containing the aforesaid videos which was supported by an affidavit of the authorised representative of the petitioners, and the same was again dismissed by the Trial Court vide order dated 31.10.2025 (Impugned Order).

3. Learned counsel for the petitioners' states that the Trial Court in the impugned order has dismissed the said application on an erroneous fact that the videos sought to be placed on record in a pen drive have been downloaded by the plaintiff from the google drive link on 20.08.2025.

3.1. He states that, however, the correct fact is that the videos have been downloaded by the petitioner on its local drive on 13.04.2023 and copied on to the pen drive on 20.08.2025.

3.2. He states that these videos are relevant for showing the Court the contumacious conduct of the respondents who carried on using the JHALAR device of the petitioners despite the injunction order dated 11.02.2020 and 13.02.2020 passed against them.

3.3. He states that though these videos may not be relevant for determination of the merits of the plaint vis-à-vis trademark infringement. However, these videos are relevant for deciding the issue of contempt.

Court's Findings

4. This Court has heard the learned counsel for the petitioners and perused the impugned order dated 31.10.2025. The relevant portion of the



said order reads as under: -

“10. As per the plaintiffs' the video recording was done at the shops of the defendants at Rani Bagh and Paschim Vihar on 24.3.2023 and 11.4.2023 respectively by Anil Kumar, the investigator, employed by the plaintiff, who uploaded the same on google drive cloud from where the same was downloaded by the AR of the plaintiff. Thus, the original video recordings were always in possession or control of the plaintiffs, still they claim that the video recordings were downloaded from the google drive link. The plaintiffs evidence in the present case has been concluded, but the said investigator Anil Kumar has not been examined as a witness.

11. As reflected from order dated 24.7.2025 passed by this court, after accessing the URL (Uniform Resource Locator) https://drive.google.com/file/d/1-7x3u4VpIsC5CZOE7RsHbt8wQ_PnYWL4/view?usp=drivesdk of the google drive given in the application under Order XXXIX Rule 2A of CPC it is found that no electronic record had been stored on the cloud on the said date. Even at the time of hearing on the present application on 10.10.2025 the said google drive link were not functional. However, in the present application, in paragraph No. 12, and also in the affidavit accompanying the same, it has been stated and deposed that the videos captured by investigator on 24.3.2023 and 11.4.2023 were downloaded in the pen drive on 20.8.2025 by using the computer. At some other place in the same paragraphs contrary stand has been taken to the effect that the videos were downloaded on 13.4.2023. In the considered view of the court when at the time of passing of order dated 24.7.2025 nothing was found stored in the google cloud on the URL mentioned by the applicants in their application, it was highly improbable for the applicants to download such videos in the pen drive on 20.8.2025. Further, as already indicated, the original video recordings are in possession of the plaintiffs, but neither the same have been sought to be filed nor the person concerned who captured the same has been examined as a witness during the plaintiffs' evidence. In these circumstances, it cannot be believed that the videos in question were download in the pen drive by the AR of the applicants as asserted in the application.

12. In view of above discussion, the application Order XI Rule 6 of the Commercial Courts Act, 2015 (sic) read with section 151 of CPC made on behalf of the plaintiffs for filing the electronic evidence contained in the pen drive is found without merit and the same is dismissed.”

.....

(Emphasis supplied)



5. In the considered opinion of this Court, the order rejecting the application filed by the petitioner under Order XI Rule 6 CPC as amended by the Commercial Courts Act, 2015 falls within the jurisdiction of the Trial Court and this Court does not find any reason to exercise its extraordinary jurisdiction to interfere in the discretion exercised by the Trial Court for not permitting to take the videos on record, after appreciating the facts placed before it.

6. This Court notes that these videos are not relevant to the plaintiff's case for deciding the issue on merits of the suit and the plaintiff has already concluded its evidence in the suit and has elected not to rely upon these videos for the issues arising for consideration on merits in the suit.

7. The plaintiff/petitioner is relying upon these videos for adjudication of the contempt petition. The issue whether defendant/respondent committed contempt or not is a matter between the Court and the defendant. The issue of contempt will be decided by the Trial Court on the basis of the evidence filed with the contempt petition and this Court finds no ground to interfere with the discretion exercised by the Trial Court in dismissing the application.

8. Accordingly, the present petition stands dismissed. Pending applications if any stand disposed of.

MANMEET PRITAM SINGH ARORA, J

NOVEMBER 20, 2025/ng/aj