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

+ **CS(COMM) 1037/2025**

INDOSPIRIT BEVERAGES PRIVATE LIMITED Plaintiff

Through: Mr. Ankur Sangal, Mr. Aditya Ganju,
Mr. Ankit Arvind, Ms. Shilpi Sinha,
Ms. Priyanka Jaiswal, Mr. Samanyu
Sethi and Mr. Sahil Safdar,
Advocates.

versus

GOOGLE LLC & ANR. Defendants

Through: Mr. Aditya Gupta, Advocate for D1.

CORAM:

HON'BLE MR. JUSTICE TEJAS KARIA

ORDER

% **06.10.2025**

I.A. 24296/2025(Exemption)

1. Exemption is allowed, subject to all just exceptions.
2. The Application stands disposed of.

I.A. 24294/2025(Exemption from pre-institution Mediation)

3. This is an Application filed by the Plaintiff seeking exemption from instituting pre-litigation Mediation under Section 12A of the Commercial Courts Act, 2015 (“CC Act”).
4. As the present matter contemplates urgent interim relief, in light of the judgment of the Supreme Court in *Yamini Manohar v. T.K.D. Krithi*, 2023 SCC OnLine SC 1382, exemption from the requirement of pre-institution Mediation is granted.
5. The Application stands disposed of.

CS(COMM) 1037/2025

Page 1 of 18

I.A. 24297/2025(Extension of time to file Court Fees)

6. The present Application has been filed by the Plaintiff under Section 149 read with Section 151 of the Code of Civil Procedure, 1908 (“CPC”), seeking exemption from payment of Court Fees at the time of the filing of the Suit.

7. Considering the submissions made in the present Application, time of two weeks is granted to file the Court Fees.

8. The Application stands disposed of.

CS(COMM) 1037/2025

9. Let the Plaint be registered as a Suit.

10. Issue Summons. The learned Counsel for Defendant No. 1 accepts Summons for Defendant No. 1.

11. Let the Summons be served on Defendant No. 2 through all permissible modes upon filing of the Process Fee.

12. The Summons shall state that the Written Statement(s) shall be filed by the Defendants within 30 days from the date of the receipt of Summons. Along with the Written Statement(s), the Defendants shall also file an Affidavit of Admission / Denial of the documents of the Plaintiff, without which the Written Statement(s) shall not be taken on record.

13. Liberty is granted to the Plaintiff to file Replication(s), if any, within 30 days from the receipt of the Written Statement(s). Along with the Replication(s) filed by the Plaintiff, an Affidavit of Admission / Denial of the documents of Defendants be filed by the Plaintiffs, without which the Replication(s) shall not be taken on record.

14. In case any Party is placing reliance on a document, which is not in their power and possession, its details and source shall be mentioned in the list of reliance, which shall also be filed with the pleadings.

15. If any of the Parties wish to seek inspection of any documents, the same shall be sought and given within the prescribed timelines.

16. List before the learned Joint Registrar on 25.11.2025 for completion of service and pleadings.

I.A. 24295/2025(Additional Documents)

17. The present Application has been filed on behalf of the Plaintiff under Order XI Rule 1(4) of the CPC as applicable to Commercial Suits under the CC Act, seeking leave to place on record additional documents.

18. The Plaintiffs are permitted to file additional documents in accordance with the provisions of the CC Act and the Delhi High Court (Original Side) Rules, 2018.

19. Accordingly, the Application stands disposed of.

I.A. 24293/2025(U/O XXXIX Rule 1 and 2 of CPC)

20. Issue Notice. The learned Counsel for Defendant No. 1 accepts Notice for Defendant No. 1.

21. Let Notice be served on Defendant No. 2 through all permissible modes upon filing of the Process Fees.





22. The Plaintiff has filed the above Suit for permanent injunction restraining the Defendants from trade mark infringement, disparagement, unfair trade practice, and damages etc.

23. The learned Counsel for the Plaintiff made the following submissions:

- 23.1. The Plaintiff is engaged in the production, distribution, and marketing of a wide range of premium alcoholic products catering to domestic markets as well as international market. The Plaintiff is amongst the leading manufacturers of superior quality alcoholic beverages in India.
- 23.2. The Plaintiff has made significant investments in research, development, and quality assurance to maintain the highest standards of manufacturing and compliance with statutory and international norms. The Plaintiff's manufacturing units are certified and are regularly audited by national regulatory authorities like the Food Safety and Standards Authority of India ("FSSAI") and comply with stringent quality control protocols ensuring superior product quality and consumer safety.
- 23.3. The Plaintiff has cultivated a reputation and goodwill in the market by virtue of its extensive sales and distribution network supported by consistent consumer demand. The Plaintiff has also made substantial investments towards brand building and market penetration through innovative marketing campaigns and collaborations with prominent celebrities, influencers and brand ambassadors. The Plaintiff's efforts and leadership in the alcoholic beverage industry have been acknowledged and awarded by various industry bodies and trade organizations at national and international levels.

- 23.4. In the year 2016, the Plaintiff developed and launched the Product 'BROCODE', which is a carbonated wine-in-a-pint format alcoholic beverage targeting the new-age consumer with a distinct and innovative flavor profile. Following the market research and product development, the Plaintiff adopted the Trade Mark / Brand Name 'BROCODE' as a distinctive brand identifier for its product, under which it is marketed and sold.
- 23.5. The Plaintiff's Product 'BROCODE' is an expertly and skilfully formulated alcoholic beverage comprising of a unique blend of high-quality ingredients selected to deliver a superior taste experience that appeals to contemporary consumers. The Plaintiff ensures that the Product 'BROCODE' complies with all regulatory standards governing beverage composition, safety, and quality in India.
- 23.6. The Plaintiff has also complied with all applicable statutory regulations and licensing requirements prior to the commercial launch of 'BROCODE', and continues to comply with the said requirements, ensuring that the Product 'BROCODE' meets all safety, health, and quality standards mandated under Indian laws regulating alcoholic beverages. Since its market introduction, the Plaintiff's Product 'BROCODE' has been met with positive reception and growing consumer demand, bolstered by the Plaintiff's strategic promotion and distribution strategies.
- 23.7. The Plaintiff's Product 'BROCODE' has secured various trade



mark registration in Class 32 and 33 which is the trade mark classification for alcoholic and non-alcoholic beverages, the details of the said registrations for the Mark 'BROCODE' are described below:



S. No.	Trade Mark	Application No.	Class	Date of Application/ Registration	Status
1.	BROCODE	3149410	32	03/01/2016	Registered
2.		3678242	32	14/11/2017	Registered
3.		3678247	32	14/11/2017	Registered
4.		3678245	33	14/11/2017	Registered
5.		3678246	33	14/11/2017	Registered

23.8. The Plaintiff has the sole and exclusive right in and over the Trade Mark / Brand Name 'BROCODE' and that any unauthorised use by third parties dilutes the goodwill and distinctiveness that the Trade Mark / Brand Name 'BROCODE' has built over the years thereby amounting to trade mark disparagement, causing significant harm to the Plaintiff's reputation and consumer trust in the market.

23.9. Defendant No. 1 is the owner and operator of the social media platform YouTube.

- 23.10. Defendant No. 2, operates a YouTube channel under the name ‘Sipp_Smart’ with a URL https://www.youtube.com/@Sipp_Smart and an Instagram page under the name ‘sipp_smart’ with a URL https://www.instagram.com/sipp_smart/, where Defendant No. 2 uploads videos and shares content that reflects Defendant No. 2’s claimed expertise in alcohol and mixology. On the said YouTube channel, Defendant No. 2 has published a video containing disparaging content against the Plaintiff.
- 23.11. On 17.09.2025, the Plaintiff’s received an email through which the Plaintiff was informed about the said disparaging, and defamatory video titled ‘B Code Exposed!!’, posted by Defendant No. 2, against the Plaintiff’s Product ‘BROCODE’ available at <https://www.instagram.com/p/DJDvq6kOwWB/>. The Plaintiff also came across the above-mentioned video being uploaded on Defendant No. 2’s YouTube channel, available at <https://www.youtube.com/shorts/R44LARAfs4w>. (“**Impugned Video**”).
- 23.12. Defendant No. 2 in the Impugned Video asserted that the Plaintiff’s Product ‘BROCODE’ is ‘poisonous’, ‘deadly’ and ‘not fit for consumption’. Story Board of the Impugned Video is reproduced below:

	<p>B-code is a new trending drink in the market. I'm not using the full name due to legal complications. You must have already understood which drink I'm referring to.</p>
	<p>I have one thing to say about this drink. Avoid it as much as possible. If you want to drink it at any cost, then it's your choice. The reason I'm asking you to avoid it is because there are some major concerns with this drink. The concerns are about the ingredients of the drink. B-code has different types of beverages with different ingredients. These ingredients have been divided into three sets.</p>

	<p>The first set has wine, water, sugar, and byproducts from the distillation of ethyl alcohol. The second set has grape wine, grape spirit, water, and sugar. Here, grape spirit is brandy. Brandy is the only spirit made with grapes. Grapes are not used to make any other spirit. So, in the second set of ingredients, they are literally serving a cocktail and not just wine.</p>
	<p>My major concern is with the third set of ingredients. The third set contains ethyl alcohol, grape juice, water, sugar, and carbonation. The ingredients clearly say that ethyl alcohol is directly mixed in grape juice and water is added to dilute the drink. Ethyl alcohol must be generated from the wine fermentation process. But if ethyl alcohol is directly mixed in grape juice, it can be deadly. If you drink it, your health will be at risk.</p>



Okay, let's keep the ingredients aside. One of the main concerns is the alcohol percentage. A 330 ml bottle has 15% of alcohol in it, which is deadly. It is not advisable to drink it in the current climatic conditions. **If you drink it for one month, you will be hospitalized with alcohol poisoning.** It's good to drink, but you should know what you are drinking. Don't drink everything that's available. Drink good and stay healthy. Cheers

From the above-mentioned transcript of the Impugned Video, it is evident that the brand referred to as 'B-CODE', is the Plaintiff's brand 'BROCODE' with a few alphabets removed. The comment section of the Impugned Video shows multiple viewers identifying the product in the Impugned Video as 'BROCODE' thereby confirming its association being drawn by the audience.

- 23.13. Defendant No. 2 through the Impugned Video is spreading the following disparaging messages to the consumers against the Plaintiff's Product BROCODE's consumption:
- Defendant No. 2 at the very outset of the Impugned Video states that 'B-code is a new trending drink in the market. I'm

not using the full name due to legal complications. You must have already understood which drink I'm referring to.' Defendant No. 2's statement makes it abundantly clear that the speaker is targeting the Plaintiff's Product 'BROCODE' while attempting to camouflage the same by not using its complete name.

- b. Defendant No. 2 in the Impugned video thereafter disparages the Plaintiff's Product 'BROCODE' by directly advising viewers to avoid its consumption, stating: 'I have one thing to say about this drink. Avoid it as much as possible. If you want to drink it at any cost, then it's your choice.' Such a categorical exhortation against the Plaintiff's Product 'BROCODE' amounts to a direct denigration on Plaintiff's reputation and goodwill.
- c. Defendant No. 2 in the Impugned Video thereafter disparages the Plaintiff's Product 'BROCODE' by claiming that in the Plaintiff's Product 'BROCODE', 'ethyl alcohol is directly mixed in grape juice and water is added to dilute the drink' and further asserts that, 'if ethyl alcohol is directly mixed in grape juice, it can be deadly. If you drink it, your health will be at risk.' These statements are false, misleading, unsubstantiated and highly disparaging of the Plaintiff's Product 'BROCODE', any such implication is highly unacceptable especially when there is no factual basis for Defendant No. 2 to imply anything

of this nature against the Plaintiff.

d. Defendant No. 2 in the Impugned Video subsequently states that the alcohol content of the Plaintiff's Product 'BROCODE', is deadly and it is not advisable to drink it in the current climatic conditions. Such unsubstantiated allegations, equating the Plaintiff's Product 'BROCODE' with 'deadly' consumption, are clearly intended to scare consumers and malign the product, thereby denigrating its reputation in the eyes of consumers.

23.14. The first and immediate impression that any viewer gets on watching the Impugned Video is that the Plaintiff's Product 'BROCODE' is toxic, and the consumers must reject the same. The Impugned Video states that the formulation of Plaintiff's Product 'BROCODE' is deadly. There is no truth to the said assertions and also the same are disparaging in nature. The Impugned Video dissuades viewers from consuming the Plaintiff's Product 'BROCODE' by making patently false and baseless disparaging and defaming remarks about the Plaintiff's Product 'BROCODE', with no factual basis.

23.15. The Plaintiff is a highly respected company which only introduces products into the market after stringent tests towards their safety, which is established by the test reports being filed by the Plaintiff in the present case. The Plaintiff from time to time tests the purity and quality of its various formulations, including the Plaintiff's

Product 'BROCODE' in government approved laboratories. As per the certificate of analysis of various batches of the Plaintiff's products are deemed fit for human consumption and comply with IS 7058:2005 (Table Wines – Specification), as prescribed by the Bureau of Indian Standards ("BIS").

- 23.16. The action of Defendant No. 2 by referring to the Plaintiff's Product as 'B-CODE', which is a direct reference to the Plaintiff's Product 'BROCODE' with missing alphabets is exceptionally egregious as the Impugned Video would be circulated among the consumers, who can easily identify the Plaintiff's Product 'BROCODE' despite the missing alphabets.
- 23.17. The intention of Defendant No. 2 for publishing and circulating the Impugned Video with blatant falsehoods and fictitious claims is to denigrate the Plaintiff's Product 'BROCODE'. In the case of disparagement, the overall impression of the video has to be seen and the overall impression which comes from the Impugned Video is that the Plaintiff's Product 'BROCODE' is toxic and lethal to the consumers, due to the ingredients. Impugned Video also states that the Plaintiff's Product 'BROCODE' causes death.
- 23.18. The commercial speech cannot be abused by any individual for maligning, discrediting and / or belittling the products of a company by way of a negative speech, as is being done in the present case. The actions of Defendant No. 2 are egregious and are without a shred of proof and completely fictitious.

- 23.19. The reference by Defendant No. 2 of the Plaintiff's Trade Mark 'BROCODE' in the Impugned Video is detrimental to the distinctive character of the Plaintiff's Trade Mark 'BROCODE' and is against the reputation of the same.
- 23.20. The actions of the Defendant in publishing and circulating the Impugned Video also constitutes unfair trade practice, as Defendant No. 2 is using deceptive, fraudulent and unethical methods by using false advertising to disparage the Plaintiff's Trade Mark 'BROCODE'.
- 23.21. Defendant No. 2's acts are resulting in degradation of the hard earned reputation and goodwill of the Plaintiff's well-known and widely used product. The reputation of the Plaintiff is being misused and exploited by the Defendant by showing that the Plaintiff's Product 'BROCODE' is not only bad but actually harmful and deadly. The aforesaid activities of Defendant No. 2 is causing irreparable harm and injury to the Plaintiff's reputation, which cannot be measured or compensated in monetary terms.
- 23.22. The Plaintiff has a strong *prima facie* case in its favour and even the balance of convenience is in favour of the Plaintiff, as if Defendant No. 2 is restrained from circulating the Impugned Video, it will not suffer any loss, however if the said false and misleading Impugned Video is allowed to be circulated, the same will cause irreparable injury to the Plaintiff directly impacting the Plaintiff's business.

24. The learned Counsel for Defendant No. 1 submits that being an intermediary, Defendant No. 1 shall comply with the direction to take down the Impugned Video if a tiered order directing Defendant No. 2 first to take down the Impugned Video within the time directed by this Court, failing which Defendant No. 1 will take down the Impugned Video.

25. Having considered the material placed on record and submissions made by the learned Counsel for the Parties, the Plaintiff has established a *prima facie* case. The documentary evidence including test reports and regulatory clearances from FSSAI and BIS *prima facie* establish compliance with standards for safety and quality the Plaintiff's Product 'BROCODE'.

26. The Impugned Video published by Defendant No. 2 makes unsubstantiated allegations about the Plaintiff's Product 'BROCODE' portraying it as 'poisonous, deadly and not fit for consumption'. Defendant No. 2's references to the Plaintiff's Trade Mark 'BROCODE' combined with suggestive statements and partial disguising of the brand name, target the Plaintiff's Product 'BROCODE'.

27. The Impugned Video and its comment section further demonstrate that even with the partial disguising of the brand name, viewers are easily recognizing 'BROCODE' as the intended subject of the Impugned Video, resulting in direct injury to the Plaintiff's goodwill and reputation thereby constituting infringement of the Plaintiff's proprietary rights. The actions attributed to Defendant No. 2 are detrimental to the distinctive character of the Plaintiff's Trade Mark 'BROCODE', considering the fact that the same is deployed for disparagement of a legitimate, lawfully marketed product. If

the Impugned Video remains accessible, the irreparable injury shall be caused to the Plaintiff's brand, market standing, and consumer trust. The balance of convenience is also in favor of the Plaintiff.

28. Accordingly, till the next date of hearing, it is directed that:

- a) Defendant No. 2, its agents and representatives are restrained from publishing, circulating, uploading or otherwise disseminating on various social media platforms, including but not limited to its YouTube channel, the Impugned Video available at: <https://www.youtube.com/shorts/R44LARAfs4w> or any part thereof, or any other video in any language or in any manner, disparaging the goodwill and reputation of the Plaintiff and its Product 'BROCODE' and also causing infringement of the Plaintiff's Trade Mark 'BROCODE';
- b) Defendant No. 2, within 24 hours of receiving the Notice, shall take down, remove, and disable access the Impugned Video available at: <https://www.youtube.com/shorts/R44LARAfs4w> or any part thereof, or any other video in any language or in any manner, disparaging the goodwill and reputation of the Plaintiff and its Product 'BROCODE' and also causing infringement of the Plaintiff's Trade Mark 'BROCODE'.
- c) Defendant No. 1, within 72 hours of receiving the communication from the Plaintiff that Defendant No. 2 has failed to take down as per direction b) above, shall take down, remove, and disable access to the Impugned Video available at:

<https://www.youtube.com/shorts/R44LARAfs4w> and shall further file in a sealed cover / password-protected document, all the Basic Subscriber Information available with it in relation to Defendant No. 2, including the full name, registered email address, contact number, residential or business address, IP logs, registration details, and any other identification or Know Your Customer i.e., KYC particulars, as may be available in its regards, within 7 days of receipt of Notice;

- d) The Plaintiff is granted liberty to notify Defendant No. 1 in the event Defendant No. 2, or any of its employees, agents, or representatives, uploads, publishes, circulates, or disseminates any video identical to the Impugned Video on the YouTube channel named 'Sipp_Smart' bearing the URL https://www.youtube.com/@Sipp_Smart that disparages the Plaintiff's Trade Mark 'BROCODE'. Upon such notification by the Plaintiff, along with the specific URL of such video/s, Defendant No. 1 shall, within 72 hours of such notification, take down, remove and disable access to the concerned video/s. If Defendant No. 1 is of the opinion that the notified URL is not identical to the Impugned Video, Defendant No. 1 shall communicate the same to the Plaintiff, who is at liberty to approach this Court for appropriate directions.

29. Let the Reply to the present Application be filed within four weeks after service of Notice. Rejoinder thereto, if any, be filed before the next date of hearing.

30. The compliance of Order XXXIX Rule 3 of the CPC be done within two weeks.

31. List before this Court on 04.02.2026.

TEJAS KARIA, J

OCTOBER 6, 2025/sms

