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

+ **CS(COMM) 335/2025**

**SANJAY MEHRA..... Plaintiff**

Through: Mr. Pravin Anand, Mr. Manish  
Biala and Mr. Devesh Ratan, Advs.

versus

**M/S KSS ELECTRODES PVT. LTD. & ORS .....Defendants**

Through: None.

**CORAM:**

**HON'BLE MR. JUSTICE SAURABH BANERJEE**

**ORDER**

% **09.04.2025**

**I.A. 9332/2025-Exp from pre institution mediation**

1. The plaintiff, *vide* the present application filed under *Section 12A* of the Commercial Courts Act, 2015, read with *Section 151* of the Code of Civil Procedure, 1908 (CPC), seeks exemption from pre-litigation mediation.
2. Considering the averments made in the present application, as also since the plaintiff is seeking *ex parte ad interim* relief, and in view of the order passed by the Hon'ble Supreme Court in *Yamini Manohar v. T.K.D. Krithi* 2024 (5) SCC 815, which has been followed by a Division Bench this Court in *Chandra Kishore Chaurasia v. R. A. Perfumery Works Private Limited* 2022:DHC:4454-DB, the plaintiff is exempted from instituting pre-litigation mediation.
3. Accordingly, the present application stands disposed of.

**I.A. 9331/2025-Exp**

4. Exemption allowed, subject to all just exceptions.
5. The application stands disposed of.

**I.A. 9330/2025-Addl.doc.**

6. The plaintiff, *vide* the present application filed under *Order XI Rule 1(4)* read with *Section 151* of the CPC, seeks leave of this Court to file additional documents.
7. The plaintiff will be at liberty to file additional documents at a later stage, *albeit*, after initiating appropriate steps, strictly as per the provisions of the Commercial Courts Act, 2015 read with *Section 151* of the CPC and the Delhi High Court (Original Side) Rules, 2018.
8. Accordingly, the present application stands disposed of.

**CS(COMM) 335/2025**

9. The plaintiff, by way of the present plaint, seeks grant of permanent injunction and damages for infringement of its registered trademark.
10. Let the plaint be registered as a suit.
11. Upon filing of the process fee, issue summons of the suit to the defendants through all permissible modes, returnable before the learned Joint Registrar on 16.07.2025.
12. Needless to say, it shall be specified in the summons that the written statement(s) shall be filed by each of the defendants within a period of *thirty days* from the date of the receipt of the summons. Written statement(s) shall be accompanied by affidavit(s) of admission/ denial of documents of the plaintiff, without which the written statement(s) shall not be taken on record.


13. Replication(s) thereto, if any, be filed by the plaintiff within a period of *fifteen days* from the date of receipt of written statement(s). The said replication(s), if any, shall also be accompanied by affidavit(s) of admission/ denial of documents filed by the defendants, without which the replication(s) shall not be taken on record within the aforesaid period of *fifteen days*.

14. If, and when, any of the parties wish to seek inspection of any document(s), the same shall be sought and given within the requisite timelines.

15. List before the learned Joint Registrar for marking exhibits of documents on 16.07.2025. It is made clear that if any party unjustifiably denies any document(s), then such party would be liable to be burdened with costs.

**I.A. 9329/2025-Order XXXIX rule 1 & 2 CPC**

16. The plaintiff, *vide* the present application, seeks to restrain the defendants from infringing upon the trademark 'SUPERON' registered in the plaintiff's name.

17. As per pleadings, the plaintiff herein is engaged in the business of manufacturing and selling goods such as welding consumables, stainless steel wires and other allied and cognate goods. The plaintiff is the proprietor of the trademark 'SUPERON',  and other SUPER formative marks in India, since 1994.

18. The plaintiff adopted the said 'SUPERON' trademarks in the year 1994, which are being continuously and uninterruptedly used by it till date. In fact, the plaintiff has also, upon application, been granted

registration for the said trademark and its variants under Classes 2, 6, 7, 9, 35.

19. In furtherance thereof, the plaintiff has also made significant investments *qua* advertising its products under the aforesaid trademark and generated considerable revenue.

20. The defendant no.1 on the other hand, is a company and the defendant nos.2 to 5 herein are the directors of the said defendant no.1, also engaged in the business of manufacturing and selling '*welding electrodes*' and have, while dealing with similar product, adopted a deceptively similar trademark 'SUPERKON', to that of the plaintiff's registered trademark 'SUPERON'.

21. It was in the month of March, 2025 that the plaintiff came to know that the defendants have been selling '*welding electrodes*' in the markets of Delhi under the impugned trademark 'SUPERKON'. Subsequent thereto, the plaintiff, through one of its representatives, made a sample purchase of the impugned product from a shop in Shahdara, Delhi on 21.03.2025. Since the defendants are still continuing with the usage of the impugned mark, the plaintiff has instituted the present suit.

22. This Court has heard the submissions advanced by the learned counsel for the plaintiff and gone through the pleadings as also perused the documents on record.

23. Considering what is borne out from the aforesaid, this Court is *prima facie* of the view that the defendants have tried to come as close as possible to the plaintiff and that there is hardly any difference between the registered trademark 'SUPERON' of the plaintiff and the trademark 'SUPERKON' of the defendants to the naked eye.

24. In fact, the said impugned mark is deceptively identical to that of the plaintiff's registered trademark. So much so, the only difference is the addition of the alphabet 'K' in the impugned mark.

25. The aforesaid, coupled with the fact that the defendants are also manufacturing, offering and selling the very same product as that of the plaintiff and is also operating using the same trade channels and is targeting the same class of purchasers, reflects that the same is likely to lead to confusion amongst the members of the public as those of the trade as they be deceived into thinking that the product of the defendants is in some way associated/ connected with and/ or coming from the house of the plaintiff or that there is some kind of understanding *inter se* the plaintiff and the defendants.

26. In view of the aforesaid, the *balance of convenience* and probabilities heavily tilt in favour of the plaintiff for grant of an *ex parte ad interim* injunction in its favour and against the defendants. So much so, as per the existing circumstances the plaintiff has been able to make out a *prima facie* case in its favour and against the defendants as well. Therefore, allowing the defendants to continue using the impugned mark 'SUPERKON', which is deceptively/ identically similar to that of the registered trademark 'SUPERON' of the plaintiff is prone to cause *irreparable harm, loss and injury* to it.

27. Accordingly, till the next date of hearing, the defendants, and all persons acting for or on their behalf are restrained from dealing in any products under the impugned trademark 'SUPERKON' or any other mark, identical or deceptively similar to the plaintiff's registered trademark 'SUPERON', in any manner whatsoever or doing any other act amounting

to infringement of plaintiff's registered trademark.

28. Upon the plaintiff taking requisite steps within a period of one week issue notice to defendants through all permissible modes returnable before the Court on 27.08.2025.

29. Reply, if any, be filed within a period of *four weeks* from the date of service. Rejoinder thereto, if any, be filed within a period of *two weeks* thereafter.

30. The provisions of *Order XXXIX Rule 3 CPC* be complied within one week.

31. List before the Court on 27.08.2025.

**SAURABH BANERJEE, J**

**APRIL 9, 2025/Ab**

