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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **CS(COMM) 15/2020**

**HINDALCO INDUSTRIES LTD.** ..... Plaintiff

Through: Mr. Sachin Gupta, Ms. Rajnandini  
Mahajan, Ms. Jasleen Kaur, Mr.  
Pratyush Rao & Mr. Kartik Agarwal,  
Advs.

Versus

**AMIT AGRAWAL** ..... Defendant

Through: None.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

**ORDER**

% **15.01.2020**

**IA No.423/2020 (for exemption)**

1. Allowed, subject to just exceptions.
2. The application is disposed of.

**IA No.422/2020 (under Order XI Rule 1(4) CPC)**

3. For the reasons stated, the plaintiff is permitted to file the additional documents latest with the replication, if any.
4. The application is disposed of.

**CS(COMM) 15/2020, IA No.424/2020 (under Order XXXIX Rules 1&2 CPC) & IA No.425/2020 (under Order XXVI Rule 9 read with Order XXXIX Rule 7 CPC)**

5. The plaintiff has sued the defendant for permanent injunction to restrain the defendant from infringing the trade marks 'BALWAN' and 'BIRLA BALWAN' and copyright of the plaintiff with respect to emblem on the packaging of the goods bearing the said trade marks, by adopting the

  
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mark 'GOYANKA BALWAN' in relation to the same goods and by also copying the packaging and trade dress of the plaintiff.

6. The plaintiff, in paragraphs no.3 to 9 of the plaint spanning from page 13 to page 20, has made verbose pleadings with respect to the Birla Group of Companies and their antecedents and status occupied by it in the industry and economy of the country. However the said pleadings are not found to be relevant for the purpose of the cause of action with which the suit has been filed and unnecessarily add to the length of the plaint and correspondingly long written statement and often also leads to framing of unnecessary issues, thereby delaying the legal process.

7. Though the counsel for the plaintiff states that the other relevant and necessary facts have been pleaded but the unnecessary pleadings still have the result as aforesaid and are to be avoided.

8. The plaintiff to file an amended plaint, removing the said paragraphs and otherwise retaining the other contents of the plaint and without changing the same, within three days of today.

9. Upon such amended plaint being filed the same be taken on record and placed in Part-I file.

10. On the assumption that the plaintiff, in the amended plaint to be filed would not make any other changes as aforesaid, the suit is entertained.

11. Issue summons of the suit and notice of the application for interim relief to the defendant by all modes including dasti and electronic, returnable on 18<sup>th</sup> February, 2020.

12. The plaintiff, on the basis of averments made in the plaint and documents filed therewith has made out a case for grant of *ex parte* ad-interim injunction.



A handwritten signature in black ink, appearing to be 'J. K. Das', is written over the date '15/1/2020'. The signature is stylized and somewhat cursive.

13. The defendant, till further orders is restrained from using the mark 'BALWAN' or 'GOYANKA BALWAN' and / or any other mark similar or deceptively similar to the marks 'BALWAN' and 'BIRLA BALWAN' of the plaintiff and from using the packaging to which objection is taken by the plaintiff in the plaint.

14. The plaintiff has also made out a case for *ex parte* issuance of commission.

15. A commission is issued to Mr. Abhishek Agarwal, Advocate, Mobile No.9811114489/9810400291, to visit the premises of the defendant at M/s Goyanka Organic Products, Pandit Deen Dayal Upadhyay Marg, Sujalpur Mandi, District Shajapur, Madhya Pradesh-456333 and to seize all goods including packaging and moulds and casts for making the said packaging and account books, bearing the mark 'BALWAN' or 'GOYANKA BALWAN' and / or used for embossing the mark 'BALWAN' or 'GOYANKA BALWAN' and / or containing the records of sales/transactions of goods under the mark 'BALWAN' / 'GOYANKA BALWAN' and / or the packaging to which objection is taken in the plaint and to, after making an inventory thereof, entrust the same on superdari if any offered by the defendant.

16. The Commissioner is permitted to be accompanied by the representative/s of the plaintiff.

17. The owner/s/proprietor/s of the aforesaid premises are also directed to co-operate in execution of the commission and to allow the Commissioner access to all their stocks, goods, books of accounts, advertisement materials etc.

  
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18. The Station House Officer of the Police Station having jurisdiction over the premises to be visited by the Commissioner, is directed to render necessary assistance to the Commissioner, if sought, to ensure that the commission is executed.

19. The commission proceedings, if so desired, be videographed/photographed.

20. The commission, if required, be executed by breaking open locks and door.

21. The Commissioner to execute the commission within two weeks, as sought and to submit the reports with inventories/photographs/videographs within five days of execution of the commission.

22. The fee of the Commissioner is tentatively fixed at Rs.1 lakh to be paid in advance by the plaintiff, besides out of pocket expenses.

23. The provisions of Order XXXIX Rule 3 of CPC be complied with either at the time of execution of the commission or within 24 hours thereof.

24. IA No.425/2020 is disposed of.

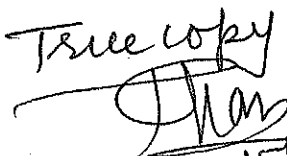
*Dasti* under signature of Court Master.

**JANUARY 15, 2020**

'gsr'..

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**RAJIV SAHAI ENDLAW, J**

True copy  
  
15/1/2020  
Court Master  
High Court of Delhi  
New Delhi

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