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

+ **CS(COMM) 569/2019**

**TATA CHEMICALS LIMITED** ..... Plaintiff

Represented by: Mr.Sachin Gupta, Mr.Pratyush Rao,  
Ms.Jasleen Kaur and Ms.Rajnandini  
Mahajan, Advocates.

versus

**RAJINDER KUMAR** ..... Defendant

Represented by: None.

**CORAM:**

**HON'BLE MS. JUSTICE MUKTA GUPTA**

**ORDER**

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**11.10.2019**

**I.A. 14065/2019 (exemption)**

Allowed, subject to all just exceptions.

**I.A. 14064/2019 (under Order XI Rule 1 (4) CPC)**

1. Learned counsel for the plaintiff submits that this application has been filed as a matter of abundant caution so that in case some grounds are taken in the written statement for which additional documents are required to be filed, the plaintiff would file the same along with the replication.

2. Since that stage has not arrived as yet, the present application is disposed of as not pressed with liberty to file fresh application if need arises.

**CS(COMM) 569/2019**

1. Plaint be registered as a suit.

2. Issue summons in the suit to the defendant on the plaintiff taking steps through ordinary and dasti process, registered A.D. and speed post

**CS(COMM) 569/2019**

**Page 1 of 6**

T-C  
11/10/19  
11/10/19  
11/10/19

returnable on 13<sup>th</sup> November, 2019 before the Joint Registrar for completion of service, pleadings and admission/denial of documents.

3. Summons to the defendant shall indicate that the written statement to the plaintiff shall be positively filed within thirty days of the receipt of the summons. Liberty is given to the plaintiff to file a replication within three weeks of the receipt of the advance copy of the written statement.

4. Parties shall file all original documents in support of their respective claims along with their respective pleadings. In case parties are placing reliance on a document which is not in their power and possession, its detail and source shall be mentioned in the list of reliance which shall be also filed with the pleadings.

5. Admission/denial of documents shall be filed on affidavit by the parties within two weeks of the completion of the pleadings. The affidavit shall include the list of the documents of the other party. The deponents shall indicate their position with regard to the documents against the particulars of each document.

6. List the suit before Court on 4<sup>th</sup> December, 2019.

**I.A. 14066/2019 (under Order XXXIX Rule 1 and 2 CPC)**

1. Issue notice to the defendant on the plaintiff taking steps through ordinary and dasti process, registered AD and Speed Post, returnable on 4<sup>th</sup> December, 2019 before Court.

2. On receipt of service of notice, reply affidavit, if any, be filed within four weeks. Rejoinder affidavit be filed within three weeks thereafter.

**CS(COMM) 569/2019**

**Page 2 of 6**

T.C.  
11.10.19  
AIR Court Master  
Court of Delhi  
New Delhi

3. As per the plaint, plaintiff is a company dealing in production, manufacturing and sale of salt preparations. It is one of the group companies of TATA Group and the gunny bags of the plaintiff contain the logo 'A TATA Product' represented within a diamond device besides other features.

4. Grievance of the plaintiff is that the defendant is selling common salt locally made with the design, logo and trademark under a packaging which is deceptively similar to the plaintiff's packaging, thus infringing the copyright of the plaintiff which is registered vide registration No.A-120055/2017.

5. Considering the material placed on record, the plaintiff has made out a prima facie case in its favour and in case no ad-interim injunction is granted, the plaintiff will suffer an irreparable loss. The balance of convenience also lies in favour of the plaintiff.

6. Consequently, till the next date of hearing, defendants, their agents, licensees, franchisee etc. are restrained from manufacturing, selling, offering for sale, advertising, directly or indirectly dealing in the impugned TATA SALT art work/packaging or selling salt preparations or imitating any packaging which is similar to the plaintiff's packaging.

7. Compliance under Order XXXIX Rule 3 CPC be made within one week.

**I.A. 14067/2019 (under Order XXVI Rule 9 CPC)**

1. Plaintiff claims that the defendant is working through its premises at C-154, Sector-1, Bawana Industrial Area, New Delhi-110039 where large number of packaging material counterfeiting the plaintiff's packaging and

**CS(COMM) 569/2019**

**Page 3 of 6**

TC  
logally 11.10.19  
M.A. Court Master  
High Court of Delhi  
New Delhi

copyright are stocked/stored, thus it is necessary that a local commissioner be appointed so as to prepare an inventory of the counterfeit products and seize the same.

2. Considering the facts noted Mr. Shivam Singh, Advocate (Mob. No.9873832280) is appointed as the Local Commissioner for conducting the local commission.

3. The Local Commissioner will visit the premises C-154, Sector-1, Bawana Industrial Area, New Delhi-110039 and thereafter prepare an inventory and take into custody all the counterfeit TATA Salt packaging, its promotional material, stationery, dyes, blocks etc. After seizing and sealing the same, hand over the same to the defendant's representative on superdari after taking the due identification of the owner of the goods with the undertaking to produce the seized goods as and when called by this Court. In case no one is present on behalf of the defendant when the stocks are seized, the stocks will be seized, sealed and kept in a specific area of the premises which will be locked and sealed with the seal of the Local Commissioner and the SHO or the authorised police officer.

4. If the premises is found locked the Local Commissioner, with the help of local police and two respectable persons of the locality will conduct the commission and access the premises by breaking open the locks and prepare an inventory, seize and seal the stock, which after preparing the inventory will be restocked at the premises in a particular area and the premises be sealed with the seal of the Local Commissioner and the concerned SHO or the authorised officer.

T. C.  
11.10.19  
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5. The Local Commissioner need not give any advance notice to the defendant however, on reaching the site an attempt will be made to associate the defendant or his representative. The representative of the plaintiff and its counsel will assist the Local Commissioner in carrying out the necessary work.

6. In case in the course of inspection or otherwise if the Local Commissioner is revealed about any nearby place/other premises/ go-down/shop where the infringing products have been shifted or that the products are lying at some other place, the Local Commissioner would be entitled to carry out the entire exercise in respect of the said premises as well.

7. The Local Commissioner is also permitted to hire a photographer who will take photographs of the seized stock at the site. The Local commissioner will also be entitled to break open the locks of any almirah or storage area in the premises, if the defendant does not cooperate and open the locks.

8. The Local Commissioner will also seek production of the books of accounts including ledgers, cash book purchase and sale records of the defendant. In case the accounts are maintained in the hardcopies, photocopies of those documents will be taken and placed on record of this Court and in case the accounts are maintained in electronic form, the mirror image of the hard-drives of the laptop/ computer being used for the purpose will be taken and filed before this Court.

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9. The SHO, PS Bawana, Delhi is directed to ensure that local commission is executed uninterruptedly and would provide necessary police protection to the Local Commissioner.

10. The fee of the Local Commissioner is fixed at ₹1 lakh to be borne by the plaintiff besides the expenses of the photographer to be borne by the plaintiff.

11. Application is disposed of.

12. Order dasti under signatures of the Court Master.

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MUKTA GUPTA, J.

OCTOBER 11, 2019  
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