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

+ **CS(COMM) 535/2026**

CELAGENEX RESEARCH (INDIA) PVT. LTD.Plaintiff

Through: Mr. Sachin Gupta, Ms. Mahima Chanchalani, Mr. Rajat Jain, Mr. Rohit Pradhan, Ms. Prashansa Singh, Mr. Ajay Kumar and Ms. Archana, Advocates.

versus

NUGENESYS PHARMACEUTICALS PVT. LIMITED & ORS.

.....Defendants

Through: None.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

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20.05.2026

I.A. 14197/2026 (Pre-Institution Mediation)

1. 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").

2. As the present matter contemplates urgent interim relief, in light of the judgment of the Supreme Court in *Yamini Manohar vs. T.K.D. Keerthi: (2024) 5 SCC 815*, exemption from the requirement of pre-institution Mediation is granted.

3. The application stands disposed of.

I.A. 14198/2026 (Exemption)

4. This is an application filed on behalf of the plaintiff under Section 151 of the Code of Civil Procedure, 1908 ("CPC") seeking exemption from filing clearer copies of documents.

CS(COMM) 535/2026

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**Court Master
High Court of Delhi
New Delhi**

Page 1 of 13

5. Exemption allowed, subject to just exceptions. However, the clear, true, typed and translated copies of the documents with proper margins be filed within four weeks.

6. The application stands disposed of.

I.A. 14199/2026 (Exemption from Advance Notice to Defendant)

7. This is an application filed by the plaintiff under Section 151 of CPC seeking exemption from advance service to the defendants.

8. Mr. Sachin Gupta, learned counsel for the plaintiff submits that there is a real and imminent likelihood that the defendants may take immediate steps to dispose of, conceal or suppress its infringing business operations bearing the deceptively similar trademark.

9. In view of the fact that the plaintiff has sought an urgent *ex-parte ad-interim* injunction along with the appointment of Local Commissioner, the exemption from advance service to the defendants is granted.

10. The application is disposed of.

I.A. 14201/2026 (Order XXXIX Rules 1 & 2, CPC)

11. Present application has been filed on behalf of the plaintiff under Order XXXIX Rules 1 & 2 of CPC, 1908 seeking *ex-parte ad-interim* injunction against the defendants.

12. The present suit has been filed against the defendants alleging dishonest adoption and use of the impugned mark "RewireX" and the packaging/trade dress for selling its nutraceutical preparations, which is deceptively similar to the plaintiff's prior adopted and prior used registered trademark "NUREWIRE" under no. 4525594 dated 09.06.2020 in Class 5 and the trade dress.

13. Plaintiff claims to have been using the said mark extensively to manufacture its product which is a nerve-health supplement since the year 2020. Plaintiff claims that it has built substantial goodwill and reputation in

the market based on the sales turnover of Rs.356,096,140.50/- in FY 2025-26. Plaintiff claims that its product under the trademark "NUREWIRE" comprises a proprietary nutraceutical formulation containing Inosine Monophosphate, Agmatine Sulphate and L-Carnosine. Plaintiff claims to have undertaken extensive research in the fields of neuro regeneration, neuroplasticity, neuro protection, endothelial function and neuro-inflammation.

14. In para 10 of the plaint, the plaintiff has disclosed the sales figures achieved by the plaintiff's product under the mark "NUREWIRE" for the last five years, and claims that the high quality product manufactured by the plaintiff has resulted in substantial goodwill and immense reputation on account of such mark.

15. Plaintiff states that the defendant no.2 is the former Director, Vice-President and Chief Financial Officer, and also one of the Founding Directors of the plaintiff's company with effect from 09.10.2019 till 09.10.2024. According to the plaintiff, in that capacity the defendant no.2 had unrestricted access to the confidential and proprietary information, including product formulations, art work, pricing strategies, vendor networks, employee data base and the intellectual property assets. The defendant no.2 is stated to have tendered his resignation, which was accepted and relieved on 28.10.2024. Plaintiff claims that the moment the defendant no.2 demitted services of the plaintiff, the defendant no.1 was incorporated on 12.12.2024 within two months. Plaintiff also has a grievance that the defendant no.2 also poached as many as 21 employees from the plaintiff's company.

16. It is stated that the defendant no.1 has filed its trademark application for the mark "RewireX" under no.6892520 dated 06.03.2025 in Class 5 for Medicinal and Pharmaceutical Preparations. Plaintiff alleges that the application was filed prior to rebranding of defendant no.1 as Nugenesys

Pharmaceuticals Private Limited on 30.12.2025, which according to the plaintiff establishes that the adoption of infringing mark and trade dress were premeditated.

17. Plaintiff claims to have learnt sometime in the first week of May, 2026 that the defendants are unlawfully selling identical products under the impugned mark "RewireX" which has propelled the plaintiff to file the present suit.

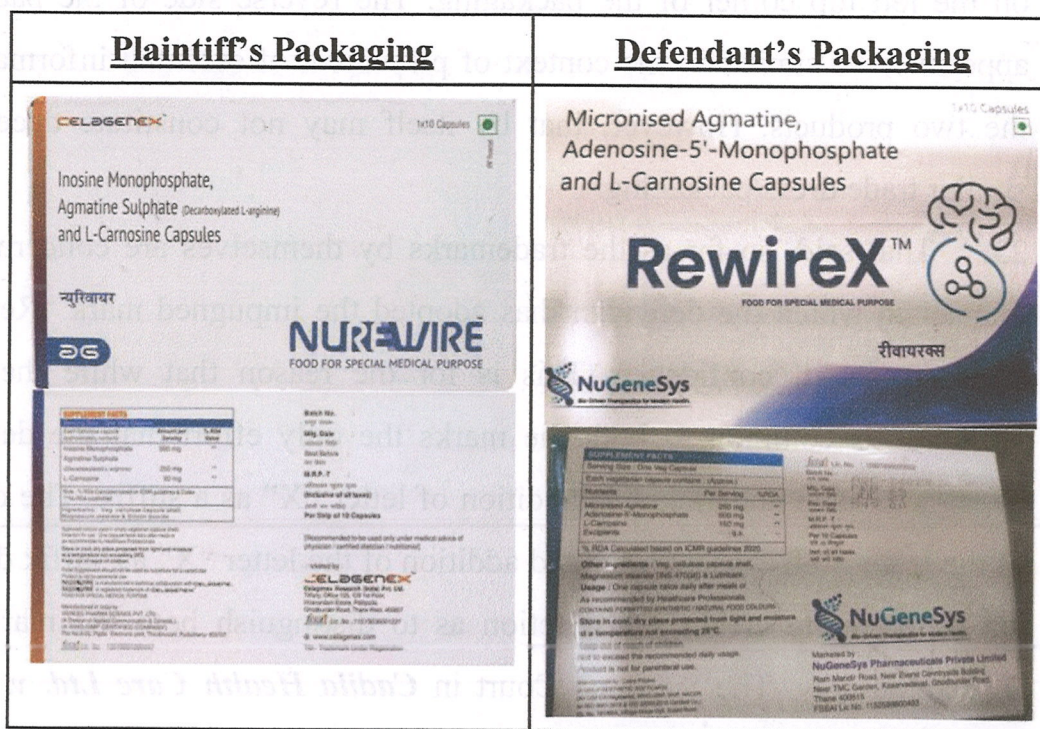
18. Plaintiff claims that the adoption of the impugned trademark "RewireX" and the trade dress was *malafide* and intended to ride upon the plaintiff's substantial goodwill and reputation. Plaintiff also alleges that the defendants have slavishly copied and adopted the dominant and essential feature "Rewire", from the plaintiff's mark "NUREWIRE". The omission of the prefix "NU" and subsequent addition of the suffix "X" are incapable of drawing any distinction between the impugned mark and the plaintiff's registered mark. Plaintiff claims that the products being manufactured are identical. Further plaintiff claims that the impugned mark "RewireX" is visually, structurally, phonetically and conceptually deceptively similar to the plaintiff's trademark "NUREWIRE" and would cause confusion and deception amongst consumers and medical practitioners, etc. Apart from the above, the plaintiff claims that the public interest would suffer immensely in case the defendants are not restrained from using the mark "RewireX" in respect of the goods manufactured by them.

19. Based on the above, the plaintiff seeks an *ex-parte ad interim* injunction alongwith appointment of a Local Commissioner.

20. This Court has heard Mr. Sachin Gupta, learned counsel for the plaintiff and perused the record.

21. At the outset, it may be relevant to compare both the products for appreciating similarity or deceptive similarity as alleged by the plaintiff. The

comparative table is reproduced hereunder:-



22. So far as the trade dress is concerned, the similarity is only to the extent of the trademark of both the products being in dark blue colour on a white background, however, do not appear to be deceptively similar. It is to be noted that while the plaintiff's registered trade mark NUREWIRE is in capital letters with the letters "NU" and "WIRE" in dark blue font while the letters "RE" are in capitals and in white font on a blue background. The placement of the mark of the plaintiff is on the right bottom and the corporate name of the plaintiff is on the left top corner of the packaging. Additionally, the description of the composition is on the left upper side of the packaging and under the corporate name of the plaintiff. Whereas, the impugned mark "RewireX" of the defendant is in dark blue colour in sentence case with the last letter "X" in capital on a white background at the centre of the packaging. That apart, there is a blue wavy design on the right bottom corner of the packaging and the corporate name of the defendant is on the left bottom

corner in multiple colours. The composition of the product of the defendant is on the left top corner of the packaging. The reverse side of the packaging appears to be similar in the context of placement of essential information of the two products. However, that by itself may not constitute deceptively similar trade dress/packaging.

23. That said, so far as the trademarks by themselves are concerned, the manner in which the defendant has adopted the impugned mark "RewireX" does not instill confidence. This is for the reason that while the words "Rewire" is common to both the marks the only effort that the defendant appears to have undertaken is addition of letter "X" as a suffix. The deletion of the letters "NU" as a prefix and addition of the letter "X" as suffix does not appear to really create a distinction as to distinguish both the marks in a substantial way. The Supreme Court in *Cadila Health Care Ltd. v. Cadila Pharmaceuticals Ltd.*, (2001) 5 SCC 73, that too in respect of goods manufactured in Class 5 in relation to pharmaceutical and medicinal preparations had clearly held as under:-

32. Public interest would support lesser degree of proof showing confusing similarity in the case of trade mark in respect of medicinal products as against other non-medicinal products. Drugs are poisons, not sweets. Confusion between medicinal products may, therefore, be life threatening, not merely inconvenient. Noting the frailty of human nature and the pressures placed by society on doctors, there should be as many clear indicators as possible to distinguish two medicinal products from each other. It is not uncommon that in hospitals, drugs can be requested verbally and/or under critical/pressure situations. Many patients may be elderly, infirm or illiterate. They may not be in a position to differentiate between the medicine prescribed and bought which is ultimately handed over to them. This view finds support from McCarthy on Trade Marks, 3rd Edn., para 23.12 of which reads as under:

"The tests of confusing similarity are modified when the goods involved are medicinal products. Confusion of source or product between medicinal products may produce physically harmful results to purchasers and greater protection is required than in the ordinary case. If the goods involved are medicinal products each with different effects and designed for even subtly

different uses, confusion among the products caused by similar marks could have disastrous effects. For these reasons, it is proper to require a lesser quantum of proof of confusing similarity for drugs and medicinal preparations. The same standard has been applied to medical products such as surgical sutures and clavicle splints."

33. The decisions of English courts would be relevant in a country where literacy is high and the marks used are in the language which the purchaser can understand. While English cases may be relevant in understanding the essential features of trade mark law but when we are dealing with the sale of consumer items in India, you have to see and bear in mind the difference in situation between England and India. Can English principles apply in their entirety in India with no regard to Indian conditions? We think not. In a country like India where there is no single common language, a large percentage of population is illiterate and a small fraction of people know English, then to apply the principles of English law regarding dissimilarity of the marks or the customer knowing about the distinguishing characteristics of the plaintiff's goods seems to overlook the ground realities in India. While examining such cases in India, what has to be kept in mind is the purchaser of such goods in India who may have absolutely no knowledge of English language or of the language in which the trade mark is written and to whom different words with slight difference in spellings may sound phonetically the same. While dealing with cases relating to passing off, one of the important tests which has to be applied in each case is whether the misrepresentation made by the defendant is of such a nature as is likely to cause an ordinary consumer to confuse one product for another due to similarity of marks and other surrounding factors. What is likely to cause confusion would vary from case to case. However, the appellants are right in contending that where medicinal products are involved, the test to be applied for adjudging the violation of trade mark law may not be on a par with cases involving non-medicinal products. A stricter approach should be adopted while applying the test to judge the possibility of confusion of one medicinal product for another by the consumer. While confusion in the case of non-medicinal products may only cause economic loss to the plaintiff, confusion between the two medicinal products may have disastrous effects on health and in some cases life itself. Stringent measures should be adopted specially where medicines are the medicines of last resort as any confusion in such medicines may be fatal or could have disastrous effects. The confusion as to the identity of the product itself could have dire effects on the public health."

[emphasis supplied]

24. Thus, at the time of consideration of deceptive similarity of rival marks in respect of medicinal and pharmaceutical preparations falling in Class 5, the

threshold is very low. In that, if the marks appear to be similar visually, structurally, phonetically or conceptually on a mere examination, the Courts would generally pass interim restraint orders. The said exception in respect of products under Class 5 has been drawn clearly in view of the public interest involved in consumption of such medicinal and pharmaceutical preparations. Thus, an unwary consumer with average intelligence and imperfect recollection is most likely to get confused or deceived into believing that the goods of the defendant are that of the plaintiff or associated with it. Therefore, at this *prima facie* stage, this Court is of the opinion that there indeed is a deceptive similarity between the rival marks. Having considered the fact that the trade circle, the distribution channel, the retail outlets as well as the consumers are common too, thus, the plaintiff would be entitled to an *ex-parte ad interim* injunction against the use of the mark "RewireX" by the defendants.

25. It is also pertinent and significant to note that the defendant no.2 was a former Founder and Director of the plaintiff till the year 2024, and had immediately set up the defendant no.1 within two months of demitting his office as a Director of plaintiff. The *bonafide* of the defendants in adopting the impugned mark "RewireX" in the manner as stipulated above, does not instil any confidence. Thus, the adoption of the mark "RewireX" being deceptively similar to that of the plaintiff in the aforesaid circumstances cannot be permitted to continue. In this regard, it may be worthwhile to refer to the judgement of the Division Bench of this Court in *Nutrica Pusti Healthcare Pvt. Ltd. v. Morepen Laboratories Ltd., 2021 SCC OnLine Del 2631*, where, in similar factual matrix, this Court has held that the burden is heavier on the ex-employee of the plaintiff to show that the creation of their trademark was *bonafide*, and does not cause confusion in the minds of consumers of the said products. Though in the present case, the defendant is

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an erstwhile distributor, yet, applying the aforesaid judgement, clearly the onus would be on it to discharge that the trademark was created, *bonafide*.

26. On an overall conspectus, it is clear that the plaintiff has been able to establish a *prima facie* strong case in its favour. The balance of convenience is tilted in favour of the plaintiff at this stage. Plaintiff is most likely to suffer irreparable loss and injury which may not be adequately compensated in monetary terms in case *ex-parte ad interim* injunction is not granted.

27. Accordingly, the following directions are passed:

i. The defendants, its proprietor, assignee in business, officers, employees and all those persons claiming through and/or under them or acting on their behalf or connected with the them in their business are restrained from trading, marketing, manufacturing, selling, offering for sale, advertising, promoting, distributing, exporting, importing, exhibiting, directly or indirectly dealing in nutraceutical, medicinal and pharmaceutical products using the impugned mark "RewireX", and/or any other mark deceptively similar to the plaintiff's registered trademark "NUREWIRE".

ii. Defendants are directed to file an affidavit disclosing the details of the stocks, the batch numbers and the sales figures till date alongwith the relevant documents in a sealed cover within six (6) weeks

28. Issue notice.

29. Let a reply to this application be filed by the defendants within four weeks from service. Rejoinder, thereto, if any, be filed within two weeks thereafter.

CS(COMM) 535/2026

30. Let the plaint be registered as a suit.

31. Upon filing of the process fee, issue summons of the suit to the defendants through all permissible modes.

32. The summons shall state that the Written Statement shall be filed by the defendants within 30 days from the date of the receipt of summons. Alongwith the Written Statement, the defendants shall also file Affidavit of Admission/Denial of the documents of the plaintiff, without which the Written Statement shall not be taken on record.

33. Liberty is granted to the plaintiff to file Replication, if any, within 30 days from the receipt of the Written Statement. Along with the Replication filed by the plaintiff, an Affidavit of Admission/Denial of the documents of defendant be filed by the plaintiff, without which the Replication shall not be taken on record.

34. 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.

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

36. List before the Joint Registrar (Judicial) on 14.08.2026 for completion of service and pleadings.

37. List before the Court on 05.11.2026.

I.A. 14200/2026 (Appointment of Local Commissioner)

38. The present application has been filed by the plaintiff under Order XXVI Rule 9 read with Order XXXIX Rule 7 of CPC seeking appointment of Local Commissioner. The Court has considered the merits of the plaintiff's case and has granted an *ex-parte ad-interim* injunction as recorded above.

39. After having perused the plaint and the documents in support thereof and hearing learned counsel for the plaintiff, this Court is of the, *prima facie*, opinion that in order to preserve the evidence of the infraction by the defendant and in order to ensure that the injunction is fully complied with, it may be appropriate to appoint Local Commissioner. Accordingly, the

following is appointed as Local Commissioner with a direction to visit the premises of the defendants specified against his/her name:-

Name and Contact Details of the Local Commissioner	Location
Mr. Sameer Sharma Ph: 9213857759	M/s Lakra Polytex Kh. No. 181/86/4, Village Mouja Ogli, Suketi Road, Kala Amb, District Sirmaur- 173030, Himanchal Pradesh

40. The Commission be executed with the following directions:-

- (i) Local Commissioner shall visit the premises of the defendant as outlined above to inspect and seize any and/or all infringing product of the defendant bearing the impugned mark "RewireX", and may be accompanied by representatives of the plaintiff in order to assist in conducting inspection of the said premises.
- (ii) Local Commissioner shall make an inventory of the products bearing the impugned trademark "RewireX" along with any marketing/packaging material, labels, brochures, advertisements, etc. thereof and provide a copy of the same to the representative of the plaintiff;
- (iii) If knowledge is acquired of any other premises than the aforesaid premise, where the infringing goods bearing the impugned mark "RewireX" could be stored or services can be provided from, the Local Commissioner is free to record the same and then visit the other premises and prepare an inventory of the same as well;
- (iv) Local Commissioner is permitted to take photographs/videos of the impugned materials, products bearing the impugned mark "RewireX", and the defendant's premises so visited;
- (v) Local Commissioner shall inspect and seize any and all stationery, books of accounts etc., bearing or in respect of the impugned mark "RewireX",

procured at the premises of the defendants and release it on *superdari* to the representatives of the defendants, with an undertaking that they will not be disposed of except under orders of this Court;

(vi) Local Commissioner shall inspect and make copies of the account books/ledgers/cash books, bill books, sale records, invoices and all other relevant documents (whether maintained as physical copies or e-records) discovered from the premises mentioned herein above;

(vii) Local Commissioner is also permitted to break open the locks in case of resistance by the defendants and seek police assistance, if necessary;

(viii) To ensure unhindered and effective execution of the Commission, the Station House Officer (SHO) of the local police station within whose jurisdiction the premises of defendants lie, is directed to render all necessary assistance and protection to the Local Commissioners, if and when sought;

(ix) The Local Commissioner, while executing the Commission, shall ensure that there is no disruption to the business of the defendant, except for the purposes of the execution of the Commission. The Commission shall be executed in a peaceful manner;

41. The Commission be executed within a period of ten (10) days from the date of receipt of order and the report of the Local Commissioner shall be filed within a period of two weeks thereafter.

42. The fees of the Local Commissioner is fixed at Rs.1,50,000/- (Rupees One Lakh Fifty Thousand only), excluding out of pocket expenses, travel, lodging etc., to be borne by the plaintiff and paid in advance to the Local Commissioner. The Commission to be carried out at the additional premises would be entitled a reasonable additional fee, at the discretion of the Court.

43. Compliance of Order XXXIX Rule 3 of CPC shall be done within a week after the execution of the Commission.

44. It is directed that this Order **shall not be** uploaded on the Court's website till the execution of the commission is completed within the timeline and parameters directed in paras 40 and 41 above, so as to enable its effective execution.

45. Concerned parties shall comply with the directions in the order without waiting for the certified copy of the same.

46. Accordingly, the application is allowed and is disposed of.

47. Order *dasti* under the signatures of the Court Master.

MAY 20, 2026

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TUSHAR RAO GEDELA, J

