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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **CS(COMM) 204/2025 & I.A. 6068-6074/2025**  
**CARGILL INDIA PRIVATE LIMITED** .....Plaintiff

Through: **Mr. Ashwani Balayan and Mr. Manish Kumar, Advocates.**

versus

**TIRUPATI OILS & ANR.** .....Defendants

Through:

**CORAM:**  
**HON'BLE MR. JUSTICE AMIT BANSAL**

**ORDER**  
**06.03.2025**

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**I.A. 6070/2025 (u/O XI Rule 1 (4) of CPC, 1908)**

1. The present application has been filed on behalf of the plaintiff seeking leave to file additional documents under the Commercial Courts Act, 2015.
2. The plaintiff is permitted to file additional documents in accordance with the provisions of the Commercial Courts Act, 2015 and the Delhi High Court (Original Side) Rules, 2018.
3. Accordingly, the application is disposed of.

**I.A. 6071/2025 (u/s 12A of Commercial Courts Act, 2015)**

4. As the present suit 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.



**I.A. 6072/2025 (exemption from filing clearer/ reformatted copies etc.)**

6. Allowed, subject to the plaintiff filing legible copies of the documents within four (4) weeks from today.
7. The application stands disposed of.

**I.A. 6073/2025 (exemption from filing certificate u/S 63(4)(C) of BSA, 2023)**

8. The plaintiff is exempted from filing the certificate under Section 63(4)(C) of Bhartiya Sakshya Adhiniyam, 2023 at this stage.
9. The application stands disposed of.

**I.A. 6074/2025 (seeking exemption from advance service to defendants)**

10. The plaintiff seeks urgent interim relief against infringing products and for this purpose, an *ex-parte* appointment of Local Commissioner is also sought to confiscate the goods. It is submitted that there is a probability that the defendants may remove the infringing products if the defendants are given advance service of the plaint paper book. Therefore, in the peculiar facts and circumstances of this case, exemption from effecting advance service upon the defendants is granted.
11. The application is disposed of.

**CS(COMM) 204/2025**

12. Let the plaint be registered as a suit.
13. Issue summons.
14. Summons be issued to the defendants through all modes. The summons shall state that the written statement shall be filed by the defendants within thirty days from the date of the receipt of summons. Along with the written statement, the defendants shall also file an affidavit of admission/denial of the



documents of the plaintiff, without which the written statement shall not be taken on record.

15. Liberty is given to the plaintiff to file replication, if any, within thirty days from the receipt of the written statement. Along with the replication filed by the plaintiff, affidavit of admission/denial of the documents of the defendants be filed by the plaintiff.

16. The 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 also be filed with the pleadings.

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

18. List before the Joint Registrar on 5<sup>th</sup> May, 2025 for completion of service and pleadings.

19. List before the Court on 19<sup>th</sup> August, 2025.

**I.A. 6068/2025 (u/O-XXXIX Rules 1 & 2 of Code of Civil Procedure, 1908)**

20. The present suit has been filed seeking relief of permanent injunction restraining the defendant from infringing the plaintiff's registered trademark and copyright, passing off along with other ancillary reliefs.

**CASE SET UP IN THE PLAINT**

21. Plaintiff company is a wholly owned Indian subsidiary of Cargill Inc., a company organized and incorporated under the laws of the United States of America. The American parent company of the plaintiff was founded in 1865 and is a global leader in the food processing industry and one of the world's largest food ingredient providers.



22. In India, the plaintiff's operation started in the year 1987. The plaintiff's business in India includes *inter alia* refined oils, food ingredients, industrial specialties, grain and oilseeds, cotton, animal nutrition and trade and capital markets. Plaintiff has thirteen (13) manufacturing facilities in India and also opened an innovation centre in India to develop solutions for the food and beverage market. In respect of edible oil business in India, plaintiff currently markets six (6) leading consumer brands of edible oils 'NATUREFRESH', 'GEMINI', 'SWEEKAR', 'LEONARDO OLIVE OIL', 'RATH', 'SUNFLOWER'.

23. The subject matter of the present suit pertains to the plaintiff's mark 'GEMINI' and 'NUTRI'. It is stated that the 'GEMINI' mark was adopted and used by the plaintiff through its predecessor-in-interest, Parakh Foods Limited in the year 1982 for manufacturing and selling packaged wheat and ground flour products. Since then, 'GEMINI' trademark has been continuously and extensively used by the plaintiff in relation to a range of products.

24. Plaintiff also owns common law rights in the suit trademark 'GEMINI' owing to its adoption as well as continuous, extensive and uninterrupted use of the mark for over four decades. Plaintiff, through its predecessor-in-interest, commenced the use of the suit trademark 'GEMINI' with respect to packaged edible oils in India in the year 1994 and since then the plaintiff has been using the trademark 'GEMINI' with respect to manufacturing and sale of edible oils in India.

25. In 2008, the plaintiff launched its edible oil products under the marks 'GEMINI' and 'NUTRI' which are stated to be infused with essential vitamins to prevent malnutrition. It is stated that the plaintiff uses its



‘NUTRI’ trademark in conjunction with the ‘GEMINI’ trademark on the packaging and labels of oils.

26. The plaintiff has also obtained trademark registrations for its mark ‘GEMINI’. The earliest trademark registration for the trademark ‘GEMINI’ was obtained by the plaintiff, through its predecessor in interest, on 22<sup>nd</sup> August, 1983 in Hindi. With respect to the edible oils, the plaintiff’s earliest trademark application for ‘GEMINI’ trademark was filed on 18<sup>th</sup> April, 1996 in Class 29. The details of various trademark registrations in respect of the trademark ‘GEMINI’ are provided in the table below:


Mark	Registration/Application No.	Date of Filing	Class
GEMINI	3919702	August 16, 2012	29
GEMINI GOLD	3919709	July 13, 2012	29
	3919715	July 04, 2012	29
	2611004	October 11, 2013	29

27. Plaintiff also owns a copyright registration in respect of the artwork under the title ‘GEMINI (REFINED SUNFLOWER OIL)’, registered *via* registration no.A-56912/99 dated 21<sup>st</sup> October 1999, which is valid and subsisting.

28. The plaintiff has also obtained the following registrations in respect of



the mark 'NUTRI' and its formative marks:-

Mark	App/Reg.No.	Class	Application Date
	232987	29, 30, 32	May 10, 2012
Nutri FreshLock Technology	4369483	29	December 6, 2019

29. The plaintiff has given its revenue figures in respect of 'GEMINI' trademark from 2010 to 2024 in paragraph 25 of the plaint. The plaintiff promotes its aforesaid trademarks extensively on social media. The plaintiff has also given its promotional and publicity expenditure in respect of the 'GEMINI' trademark in paragraph 27 of the plaint.

30. In the present case, the defendants are engaged in the business of manufacturing edible oils and fats. The grievance of the plaintiff is that the defendants are manufacturing refined oil products under the marks, which are deceptively similar to the plaintiff's trademark 'GEMINI' and 'NUTRI'. The defendants have filed at least three (3) trademark applications in respect of the



impugned marks *Super Gamini* and 'GESMINI', which have been opposed by the plaintiff and have been ordered to be abandoned as the defendants failed to contest the said oppositions.

31. The defendants filed a trademark application seeking registration of the



mark 'GAJGAMINI' in relation to edible oils and fats in Class 29 on a 'proposed to be used' basis on 3<sup>rd</sup> April, 2021.

32. Even though the defendants have registered the mark 'GAJGAMINI', the defendants are using the same in a misleading and dishonest manner by



using the mark as , which is confusingly and



deceptively similar to the plaintiff's registered trademark .

33. Aggrieved by the same, the plaintiff issued a 'Cease and Desist' notices to the defendants on 22<sup>nd</sup> March, 2019, 6<sup>th</sup> March, 2024 and 17<sup>th</sup> August, 2024. However, the defendants have failed to respond to the aforesaid notices.

34. A comparison of the plaintiff's trademark and the defendants' trademark is given in the table below:-

PLAINTIFF'S MARKS	DEFENDANTS' MARKS









35. A perusal of the aforesaid comparison would show that the defendants have written 'GAJ' in a small font and the prominent component of the defendants' mark is 'GAMINI' which is deceptively and confusingly similar to the 'GEMINI' marks of the plaintiff. The format, colour, style and placement of writing the text 'REFINED SOYABEAN OIL' and 'NUTRI FreshLock Technology' by the defendant is also similar to that of the plaintiff.

36. Based on the averments made in the plaint, the plaintiff has established its statutory as well as common law rights over the 'GEMINI' and 'NUTRI' formative marks. The marks adopted by the defendants are deceptively similar to that of the plaintiff and in respect of identical goods.


37. On a *prima-facie* view, the goods being sold by the defendants appear to be infringing the registered trademarks as well as the copyright of the plaintiff. The impugned marks used by the defendants appear to be a slavish imitation of the plaintiff's registered marks. Clearly, an attempt has been made by the defendants to create an impression that the impugned products being sold by the defendants are connected to the plaintiff.

38. Balance of convenience is in favour of the plaintiff and against the defendants. Irreparable injury would be caused to the plaintiff if the




defendants continue to use the impugned marks. Prejudice would also be caused to the public as the marks of the defendants are deceptively similar to that of the plaintiff and likely to cause confusion in the market.

39. Consequently, till the next date of hearing the defendants, its partners or proprietors, directors, officers, servants, employees, agents, distributors, affiliates, and any and all persons, firms, companies or associations acting for or on behalf of defendants or in active concert or participation with the defendants are restrained from using in any manner plaintiff's Suit Trademark 'GEMINI' or any other mark which is deceptively or confusingly similar thereto including but not limited to: (i) the infringing marks including

'GAMINI', 'SUPER GAMINI', 'GESMINI', ,



and (ii)  infringing trade-dress including but not limited to



in relation to or connection with



offering for sale, selling, providing, promoting, advertising, or, directly or indirectly dealing in any goods, including infringing goods related to edible oils, fats etc.

40. In view of the fact that the plaintiff has sought appointment of a Local Commissioner to seize the infringing goods, the very purpose of grant of *ex-parte ad interim* injunction would be defeated if the defendants are given notice contemplated in Order XXXIX Rule 3 of Code of Civil Procedure, 1908 (hereinafter “CPC”) prior to the execution of the commission. Hence, it is directed that the plaintiff shall serve notice under Order XXXIX Rule 3 of CPC at the time of execution of the commission which shall not be later than two (2) weeks from today.

41. Issue Notice.

42. Notice be issued to the defendants *via* all permissible modes, including e-mail.

43. Reply be filed within four (4) weeks.

44. Rejoinder thereto, if any, be filed within two (2) weeks thereafter.

45. List before the Joint Registrar on 5<sup>th</sup> May, 2025 for completion of service and pleadings.

46. List before the Court on 19<sup>th</sup> August, 2025.

**I.A. 6069/2025 (O-XXVI R-9 of CPC)**

47. The present application has been filed under Order XXVI Rule 9 of the CPC seeking appointment of three Local Commissioners to visit and inspect the premises of the defendants, make an inventory of all products, labels, packaging/ promotional material, etc. bearing the impugned marks (hereinafter referred to as ‘infringing material’) and effect seizure of the same.

48. In view of what is stated above, the plaintiff has made out a case for



appointment of two Local Commissioners.

49. Accordingly, the following Local Commissioners are appointed to visit the premises of defendants situated at:

<b>S. No.</b>	<b>Addresses of the Premises</b>	<b>Local Commissioner</b>
1.	M/s Tirupati oils, Moradabad, Mahanandan Puram, Chandausi, Sambahl, Uttar Pradesh – 244412.	Mr. Shashwat Sharma, Advocate (Mobile No. +91 9671444468)
2.	M/s Rahul Store, Main Choraha, (Near Jio Care Centre), Islamnagar, Budaun, Uttar Pradesh – 243723.	Mr. Akshit Gupta, Advocate (Mobile No. +91 9805909183)

50. The following directions are passed in this regard:

- a. The Local Commissioners, along with a representative of the plaintiff and its counsel, shall be permitted to enter upon the premises of the defendants mentioned above or any other location/ premises that may be identified during the course of commission, in order to conduct the search and seizure.
- b. The Local Commissioners shall conduct a search at the defendants' aforesaid premises and seize the infringing material.
- c. The Local Commissioners shall make an inventory of all the infringing material.
- d. After seizing infringing material, the same shall be sealed and signed by the Local Commissioners, in the presence of the parties, and released on *superdari* to the defendants on their undertaking to produce the same



as and when further directions are issued in this regard.

- e. The Local Commissioners shall also be permitted to make copies of the books of accounts including ledgers, cash registers, stock registers, invoices, books, etc. insofar as they pertain to the infringing material.
- f. The defendants and their representatives are directed to provide full assistance to the Local Commissioners for executing the present commission.
- g. In case, the aforesaid premises of the defendants or any part thereof are found locked, the Local Commissioners are permitted to break open the locks and doors for execution of the commission.
- h. To ensure an unhindered and effective resolution of this order, the SHO of the local police station having jurisdiction of the aforesaid premises and the DCP concerned are directed to render the necessary protection and assistance to the Local Commissioners, if and when sought.
- i. The Local Commissioners shall have the liberty to take photographs and/ or videos of the stock seized and to take a sample of the infringing material to be filed along with the Report.

51. The Local Commissioners shall file their Reports within two (2) weeks of executing the commission, along with photographs/ videos taken and photocopies of the books of account and stock and the inventory procured pursuant thereto.

52. The fee of the Local Commissioners, to be borne by the plaintiff, is fixed at Rs. 1,50,000/- each. The plaintiff shall also bear expenses for travel and lodging of the Local Commissioners and other miscellaneous out-of-pocket expenses for the execution of the commission.

53. The application stands disposed of in the aforesaid terms.



54. The order passed today shall not be uploaded for a period of two (2) weeks from today.

55. *Dasti.*

**AMIT BANSAL, J**

**MARCH 6, 2025**

*Vivek/-*