



IN THE COURT OF DISTRICT JUDGE (COMMERCIAL COURT)-03
(SHAHDARA) KARKARDOOMA COURTS, DELHI

PRESIDED BY: SH. SANJAY SHARMA-II, DHJS

CS (Comm.) No. 294/2024

CNR No.: DLSH01-003376-2024

Havells India Limited

904, 9th Floor, Surya Kiran Building
K.G. Marg, Connaught Place
New Delhi-110001

..... Plaintiff

VERSUS

Vijay

S/o Sh. Krishan
4/1622, Mahavir Block
Bholanath Nagar, Opp. Gali No. 10
Shahdara, Delhi-110032

Also at:

H. No. 4/1888, Gali No. 3
Rama Block, Shahdara
Delhi-110032

H. No. 4/1887, Gali No. 3
Rama Block, Shahdara
Delhi-110032

..... Defendant

Date of Institution : 17.05.2024
Date of Arguments : 16.05.2026
Date of Judgment : 30.06.2026

J U D G M E N T

THE SUIT:

1. The plaintiff instituted a suit for permanent injunction seeking, *inter alia*, a decree of permanent injunction to restrain the defendant from infringement of trademark, copyright and passing off its registered trademark ‘**HAVELLS**’ and consequent, delivery up, rendition of accounts and damages against the defendant.

INCORPORATION OF THE PLAINTIFF:

2. The plaintiff was incorporated in the year 1983. The plaintiff became a public limited company in the year 1992.

BUSINESS OF THE PLAINTIFF:

3. The plaintiff is manufacturing and marketing electrical goods, power distribution equipments, industrial and domestic circuit protection switchgear, cables & wires, motors, fans, power capacitors, lamps, luminaires for domestic, commercial & industrial applications, modular switches, water heaters & domestic appliances. The plaintiff is providing Internet of Things (IoT) technology for its products ranging from home lighting to air conditioners, fans and water heaters.

4. The plaintiff has 15 manufacturing plants with warehousing space of 42,00,000 sq. feet at Haridwar, Baddi, Sahibabad, Faridabad, Alwar, Neemrana and Ghiloth. The plaintiff has 35 branch offices and a network of 17,000 dealers.

5. In the year 2007, the plaintiff acquired renowned company ‘*Sylvania*’ for 225 million Euro.

6. In the year 2017, the plaintiff acquired Consumer Durable Business (CDB) of ‘*Lloyd Electric and Engineering Limited*’ for Rs. 1600 crores.

7. The plaintiff’s global subsidiaries are using ‘**HAVELLS**’ as a corporate name.

8. The plaintiff is proprietor of global brands ‘**CRABTREE, REO, LLOYD, STANDARD AND HAVELLS STUDIO**’

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HISTORY OF HAVELLS MARK:

9. In the year 1942, the trademark '**HAVELLS**' was coined from first five letters of name of Mr. Haveli Ram Gandhi.

10. In the year 1958, Late Qimat Rai Gupta established a shop of electrical goods in Bhagirath Palace in Delhi.

11. In the year 1971, Late Qimat Rai Gupta purchased brand '**HAVELLS**' from Mr. Haveli Ram Gandhi.

NATURE OF MARK:

12. The trademark '**HAVELLS**' is an invented / coined word. It is an arbitrary word. It is a unique trademark.

13. On account of extensive, continuous, uninterrupted, open and exclusive use in the course of trade in relation to the plaintiff's goods, trademark '**HAVELLS**', trade name '**HAVELLS**' and trade dress have acquired local and global reputation and goodwill and it is exclusively associated with the plaintiff's goods.

14. The trademark '**HAVELLS**' is a source identifier.

15. The plaintiff is using trademark '**HAVELLS**' as its corporate name.

16. The plaintiff created several artistic / stylistic / formats / labels containing the trademark '**HAVELLS**', as under:



17. The plaintiff has registrations in the trademark '**HAVELLS**' and its formative trademarks, as under:

Sl No	Trade Mark	Regn. No.	Class	Regn. Date	Status
1.		167484	11	18.01.1955	Registered
2.	HAVELL'S	290541	09	01.09.1973	Registered
3.		272378	07	31.05.1971	Registered

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4.		1558787	7	15.05.2007	Registered
5.		4678498	7	29.09.2020	Registered
6.		4678499	7	29.09.2020	Registered
7.		4678500	8	29.09.2020	Registered
8.		4678502	8	29.09.2020	Registered
9.	HAVELLS LOGO	1762389	7, 9, 11, 42	10.12.2008	Registered
10.	HAVELLS	2338944	37	28.05.2012	Registered
11.	HAVELLS	2338943	35	28.05.2012	Registered
12.		1558789	11	15.05.2007	Registered
13.		1558788	9	15.05.2007	Registered
14.		4678501	9	29.09.2020	Registered
15.		4678504	9	29.09.2020	Registered
16.		4678505	11	29.09.2020	Registered
17.		4678503	11	29.09.2020	Registered

18. The sales figure and promotional expenses of the plaintiff are, as under:

Sl. No.	Financial Year	Revenue (in crores)	Advertising, Promotional & Marketing Expenditure (in crores)
1.	2017-2018	8260.27	307.58
2.	2018-2019	10,067.71	384.28
3.	2019-2020	9429.20	320.94
4.	2020-2021	10427.92	132.55
5.	2021-2022	13888.53	246.82
6.	2022-2023	16868.38	437.40
7.	2023-2024	18549.90	527.36

PROMOTIONAL ACTIVITIES AND AWARDS:

19. The plaintiff engaged bollywood celebrities for promotion of the trademark '**HAVELLS**'. The plaintiff collaborated with sports channels and other TV channels for advertising of its mark. The plaintiff sponsored international tournaments and other famous TV programmes. The plaintiff has received several awards and recognitions.

HAVELLS - A WELL-KNOWN MARK:

20. The trademark '**HAVELLS**' is a well-known mark under Section 2(1)(z)(g) of '*The Trade Marks Act, 1999*'. The trademark '**HAVELLS**' is mentioned at Sl. No. 70 in list of **Well Known Marks** maintained by Trademark Registry. Hon'ble High Court of Delhi in CS (Comm.) No. 3770/2014 titled as '*HAVELLS INDIA LTD. & Anr. vs. T.T. PLYBOARDS & Ors.*' observed that '**HAVELLS**' is a well-known mark amongst the members of the trade and public, *vide* order dated 08.12.2014.

GRIEVANCE OF THE PLAINTIFF:

21. According to the plaintiff, the defendant is manufacturing, marketing, trading and selling electrical products including cables and wires under the trademark '**HAVELLS**'.

22. According to the plaintiff, in an investigation conducted by its investigator in April, 2024, the defendant was found manufacturing, printing and selling his products under the plaintiff's mark, as under:

The plaintiff's products	The defendant's products
	



23. The case of the plaintiff is that it had statutory and common law right in respect of the trademark '**HAVELLS**', trade dress and trade name.

24. It is further case of the plaintiff that the defendant is using its trademark '**HAVELLS**' standalone and in combination with device mark in relation to his goods. The defendant is using identical or deceptively similar trademark in relation to the goods for which the said mark is registered.

25. The defendant is selling inferior quality of goods under counterfeit marks and it may cause short circuits and fire. The defendant is endangering life of innocent people.

26. The defendant is using the plaintiff's trademark in the course of trade and thereby causing confusion about source and origin of the goods and passing off his goods as that of the plaintiff and thereby trading on goodwill and reputation of the plaintiff's trademark and causing loss of business as well as reputation to the plaintiff.

27. Therefore, the plaintiff filed the said suit to restrain the defendant from using the trademark '**HAVELLS**' and damages to the extent of Rs. 10,00,000/-.

WRITTEN STATEMENT:

28. In the written statement, the defendant contended that he is an uneducated person. He contended that he is a scrap dealer. He contended that he is dealing in scrap and recycles corrugated boxes at minuscule scale. He collects scrap for recycling.

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29. The defendant contended that he is not engaged in production of any counterfeit product or infringement of trademark or copyright of the plaintiff. He contended that he is not engaged in sale, manufacturing, marketing, supplying, soliciting or purveying electrical products including printing, packaging of cables and wires and other related products of the plaintiff. He contended that he has neither adopted nor used the plaintiff's marks in relation to any product of the plaintiff.

30. The case of the defendant is that the plaintiff has no *locus standi* to file the suit. He contended that the plaintiff is not a registered proprietor of the subject marks. He contended that the plaintiff committed trespassed and raided the defendant's premises in breach of order dated 27.05.2024. He contended that raid conducted at the premises of the defendant on 01.06.2024 was illegal as Mr. Chitra Gupt Dagar was not appointed to conduct the raid, *vide* order dated 27.05.2024. He contended that the said local commissioner conducted raid at three premises of the defendant on instruction of the plaintiff. He contended that Mr. Kunal Kumar, Ld. Local Commissioner has not signed the report of local commissioner. He contended that the defendant was not served with the summons of the suit and notice of the application under Order 39 Rule 1 and 2 CPC. He contended that the plaintiff has not complied Order 39 Rule 3 CPC. He contended that the plaintiff brought 15 – 20 persons at the defendant's premises without permission of the Court. He contended that Mr. Harsh Aggarwal and Ms. Roma Arora, Authorized Representatives of the plaintiff were not present at the time of raid on 01.06.2024.

31. According to the defendant, his premises was illegally raided on 17.06.2024. He contended that the Court had not authorized multiple raids at the defendant's premises.

32. The defendant contended that Mr. Chitra Gupt Dagar, Ld. Local Commissioner was not associated in raid conducted on 17.06.2024. He contended that the plaintiff did not call police officials from PS Farsh Bazar, Shahdara to accompany Ld. Local Commissioner to conduct the raid. He contended that unauthorized persons brought by the plaintiff planted false evidence upon the defendant. He contended that the plaintiff committed criminal contempt of Court.

REPLICATION:

33. In the replication, the plaintiff reiterated the averments made in the plaint and denied the contentions raised in written statement.

34. The plaintiff contended that report pertaining to inspection dated 17.06.2024 would reveal that the defendant was not only engaged in infringement of the plaintiff's mark '**HAVELLS**' but also other reputed brands like **Anchor**, **Finolex**, **RR Cable**, **V Guard**, **Gold Medal**, **Polycab**, **Kundan Cable**. It contended that huge quantity of seized material in gunny bags pertaining to **Anchor** was found in the defendant's premises. It contended that the defendant is a habitual infringer and '**HAVELLS**' filed an FIR No. 0161 on 21.03.2016 for manufacturing and sale of counterfeit products. It contended that Ld. Local Commissioners inspected the defendant's premises in terms of order dated 27.05.2024.

ISSUES:

35. On 19.07.2024, the Court framed issues, as under:

(1) Whether plaintiff is entitled to decree of permanent injunction restraining the defendant and his subjects to injunct them from manufacturing, marketing, refurbishing, revamping, purveying, supplying, using, selling, soliciting, exporting, displaying, advertising products using plaintiff's registered trademark "Havells" or any other word mark deceptively similar to plaintiff's trademark and its picture marks as prayed?

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(2) Whether plaintiff is entitled for permanent injunction against defendant and his subjects restraining them from disposing the assets violating the goods of plaintiff's registered trademark "Havells" and / or any other word mark deceptively similar to plaintiff's trademark and its picture marks as prayed?

(OPP)

(3) Whether plaintiff is entitled to decree of delivery up of finished and unfinished materials goods in violation of the plaintiff's above trademark?

(OPP)

(4) Whether plaintiff is entitled to decree of rendition of accounts of profits earned by defendant in violation of plaintiff's above trademark?

(OPP)

(5) Whether the plaintiff is entitled to damages if Rs. 10,00,000/- alongwith punitive and exemplary damages?

(OPP)

(6) Relief.

36. *Vide* order dated 07.03.2025, the Court framed additional issue, as under:

(a) Whether the search and seizure raid / proceedings were carried out on 01.06.2024 and 17.06.2024 by the plaintiff were illegal, resulted in trespassing and in violation of Court's order dated 27.05.2024?

(OPD)

THE PLAINTIFF'S EVIDENCE:

37. The plaintiff examined Mr. Kishan Sharma, Deputy Manager as **PW-1**. He deposed, on strength of evidence-affidavit **Ex.PW1/A**. He relied on documents, as under:

Sl No.	Description	Exhibit
1.	Photographs of original products of the plaintiff	Ex.PW1/1
2.	Photographs of counterfeit products of the defendant	Ex.PW1/2
3.	Trademark Registration Certificates of the plaintiff	Mark 'A'
4.	Copyright Certificates of the plaintiff	Mark 'B'
5.	Application, <i>vide</i> Temp 10656953 dated 13.05.2024 filed by the plaintiff for Expedited Legal Certificate	Ex.PW1/5
6.	Photograph of the defendant's premises	Ex.PW1/6
7.	CA Certified Sales and Promotions of FY 2017-2023	Ex.PW1/7
8.	Printout of the plaintiff's website	Ex.PW1/8

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9.	Awards, recognition and news articles pertaining to the plaintiff	Ex.PW1/9
10.	Orders of Hon'ble Courts in favour of the plaintiff	Ex.PW1/10
11.	Investigator's affidavit	Ex.PW1/11
12.	Coloured photographs of other reputed brands found during Local Commission dated 17.06.2024 at the premises of the defendant	Ex.PW1/12
13.	Coloured photographs of earlier seized material of Anchor lying at the defendant's premises found during Local Commission dated 17.06.2024	Ex.PW1/13
14.	Board Resolution dated 28.07.2020	Ex.PW1/14
15.	Copy of Incorporation Certificate of the plaintiff	Ex.PW1/15
16.	Legal Proceedings Certificate dated 15.05.2024	Ex.PW1/16
17.	Photocopy of certified copy of charge-sheet in FIR No. 0161 dated 21.03.2016 PS Farsh Bazar against the defendant filed alongwith written statement	Ex.PW1/19
18.	Letter of Authority No. LOA/0824/1118 dated 02.08.2024 and Letter of Authority No. LOA/1024/1133 dated 15.10.2024	Ex.PW1/20

THE DEFENDANT'S EVIDENCE:

38. The defendant has not led defence evidence.

APPEARANCE:

39. This Court has heard arguments of **Mr. Nitin K. Gupta**, Ld. Counsel with **Mr. Sanchay Mehrotra**, Ld. Counsel for the plaintiff and **Mr. Abhijit Mishra**, Ld. Counsel with **Mr. Prashant Jaiswal** and **Mr. Ram Parvesh Kumar**, Ld. Counsel for the defendant and examined pleadings and evidence, oral and documentary, and perused written arguments and case law relied by the plaintiff.

CONTENTIONS OF THE PLAINTIFF:

40. Ld. Counsel for the plaintiff contended that the plaintiff is a registered proprietor of trademark '**HAVELLS**' (*logo and device*) in Class 9 in relation to electrical appliances including electric cables, conduits and wires, *vide* Trademark No. 4678501 **Ex.PW1/16**. He contended that the defendant is involved in manufacturing, printing, packaging and distribution of electrical cables and wires bearing the mark '**HAVELLS**'.

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41. Ld. Counsel for the plaintiff contended that substantial quantity of corrugated boxes containing the mark 'HAVELLS' alongwith printing press with a metal plate recovered from the defendant's premises on 17.06.2024. He contended that the defendant is not a scrap collector or dealer. He contended that the defendant is actively involved in printing, packaging and distribution of corrugated boxes containing the mark 'HAVELLS' at a large scale. He contended that the defendant has acknowledged presence of counterfeit material and means of counterfeiting. In that regard, he referred order dated 19.07.2024. He contended that the defendant was similarly found manufacturing, storing, marketing and selling the products containing the mark 'HAVELLS' and in that regard, FIR No. 0161/2016 was registered against the defendant under Section 63/65 of 'The Copyright Act, 1957' on 21.03.2016 with PS Farsh Bazar. He contended that this Court, *vide* order dated 13.10.2025 and 01.11.2025, directed the defendant to produce the entire seized material entrusted to him on *superdari*. However, the defendant has not produced the entire seized material, as noted in order dated 01.11.2025. He contended that seized packing material is bearing identical marks and therefore, the defendant is using identical mark in relation to the goods for which the trademark of the plaintiff is registered and therefore, the defendant caused statutory infringement under Section 29(1) of 'The Trade Marks Act, 1999'. He contended that the plaintiff's mark is a well-known mark and it is duly recognized and protected by the Courts, *vide* orders **Ex.PW1/10**. He contended that the defendant is misrepresenting the counterfeit goods as that of the plaintiff and causing damage to the plaintiff's goodwill and reputation and therefore, the defendant is passing off his goods.

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42. Ld. Counsel for the plaintiff contended that Ld. Counsel for the defendant admitted that during search and seizure proceedings, a printing press was found in the defendant's premises alongwith a metal plate used for printing counterfeit corrugated boxes of the plaintiff's registered trademark 'HAVELLS'. He contended that Ld. Local Commissioners inspected the defendant's premises on 01.06.2024 and 17.06.2024 in accordance with order dated 27.05.2024. He contended that on 01.11.2025, this Court again appointed a Local Commissioner for search and seizure proceedings and pursuant thereto, huge quantity of counterfeit products were recovered from the premises of the defendant. He contended that besides counterfeiting the plaintiff's mark, the defendant was found in possession of wire packaging material of other reputed brands like **Anchor, Finolex, RR Cable, V Guard, Gold Medal, Polycab, Kundan Cable**. He contended that sale of inferior electrical products may lead to electrocution, fire hazards and endanger public safety. He contended that the plaintiff is entitled to damages to the extent of Rs. 10,00,000/-. He contended that the defendant was found in possession of stock worth Rs. 9,46,18,000/- and therefore, the plaintiff should be awarded punitive damages. He contended that the plaintiff entitled to actual cost of litigation.

43. Ld. Counsel for the plaintiff relied upon judgments, as under:

Sl No	Judgment	Citation
1.	<i>Committee of Management Anjuman Intezamia Masajid, Varanasi vs. Rakhi Singh and Ors.</i>	(2024) 3 SCC 336
2.	<i>Court on its own motion vs. Rajesh Girothiya and Ors.</i>	2024:DHC:6390-DB
3.	<i>La Fin Financial Services Pvt. Ltd. vs. Multi Commodity Exchange of India Ltd.</i>	MANU/MH/3163/2021

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4.	<i>Rolex SA vs. Alex Jewellery Pvt. Ltd.</i>	2014:DHC:4678
5.	<i>SanDisk LLC and Ors. vs. Transton</i>	2018:DHC:3103
6.	<i>SanDisk LLC and Ors. vs. B-One Mobile and Ors.</i>	2019:DHC:2028
7.	<i>Inter Ikea Systems B.V. and Ors. vs. Sham Murari and Ors.</i>	2018:DHC:5780
8.	<i>Hindustan Unilever Limited vs. Reckitt Benckiser India Limited</i>	2014:DHC:620-DB
9.	<i>Louis Vuitton Malletier vs. Santosh & Ors.</i>	2023:DHC:2595
10.	<i>Time Incorporated vs. Lokesh Srivastava and Ors.</i>	116 (2005) DLT 599
11.	<i>Microsoft Corporation vs. Kiran and Ors.</i>	2007 (35) PTC 748 (Del)
12.	<i>Koninlijke Philips N.V. and Ors. vs. Amazestore and Ors.</i>	2019:DHC:2185
13.	<i>Castrol Limited vs. Gautam Kumar, Trading as Shri Balaji Oil & Chemicals and Ors.</i>	2024:DHC:6660
14.	<i>Adobe Systems, Inc. and Ors. vs. P. Bhoominathan and Ors.</i>	2009 (39) PTC 658 (Del)
15.	<i>Delhi Public School Society vs. D.P.S. Trust</i>	2012:DHC:7449
16.	<i>Delhi Public School Society vs. D.P.S. Trust and Ors.</i>	2014:DHC:5569
17.	<i>A.K. AL Muhaidib and Sons vs. Chaman Lal Sachdeva and Ors.</i>	2024:DHC:1181

CONTENTIONS OF THE DEFENDANT:

44. Ld. Counsel for the defendant contended that the plaintiff is not a registered proprietor of the trademark ‘**HAVELLS**’. He contended that the trademarks ‘**A**’ and copyrights ‘**B**’ are neither owned by the plaintiff nor they are licensee of ‘*QRG Enterprises Limited*’. He contended that deed of assignment executed between QRG Enterprises Limited and HAVELLS India Limited on 09.05.2016 Ex.PW1/DW-A states that the trademarks are owned by ‘*QRG Enterprises Limited*’. He contended that FIR No. 0161/2016 registered on 21.03.2016 with PS Farsh Bazar states that trademark ‘**HAVELLS**’ is owned by ‘*QRG Enterprises Ltd.*’

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45. Ld. Counsel for the defendant contended that the defendant is an uneducated person and he is a scrap dealer. He contended that the defendant is not using the mark '**HAVELLS**' in the course of a trade. He contended that the plaintiff has not examined Mr. Harsh Aggarwal and Ms. Roma Arora, Authorized Representatives who instituted the suit on its behalf. He contended that the plaintiff has not examined the investigator. He contended that the plaintiff wrongly filed the suit in the name of *John Doe* despite having knowledge of the name and address of the defendant. He contended that the plaintiff has not examined police officials who accompanied Ld. Local Commissioner at the time of raid. He contended that the plaintiff has not produced original trademarks and copyrights. He contended that the plaintiff committed trespassing and illegally raided the defendant's premises. He contended that report prepared by Mr. Chitra Gupta Dagar, Ld. Local Commissioner is not signed by Mr. Kunal Kumar. He contended that Mr. Chitra Gupta Dagar, Ld. Local Commissioner raided three premises on 01.06.2024 on instruction of the plaintiff in breach of order dated 27.05.2024. He contended that the plaintiff brought 15 - 20 unauthorized persons at the defendant's premises without permission of the Court. He contended that Mr. Kunal Kumar conducted raid at the defendant's premises on 17.06.2024 in violation of order dated 27.05.2024. He contended that Mr. Kunal Kumar conducted multiple raids without permission of the Court. He contended that Mr. Kunal Kumar did not join Mr. Chitra Gupta Dagar in the raid. He contended that report prepared by Mr. Kunal Kumar is not signed by Mr. Chitra Gupta Dagar. He contended that the plaintiff did not associate police officials from PS Farsh Bazar during the raid. He contended that the plaintiff is not entitled to any relief.

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ANALYSIS AND CONCLUSION:

46. All issues are inter-connected and they are taken up together for adjudication and final determination.

47. The points for determination arising / raised are taken up for adjudication in chronological manner, as under:

(a) Whether the plaintiff is a registered proprietor of the trademark 'HAVELLS'?

48. The case of the plaintiff is that it is a registered proprietor of the trademark 'HAVELLS' (*logo and device*).

49. In that regard, it would be relevant to refer definition of 'registered proprietor' in Section 2 of 'The Trade Marks Act, 1999', as under:

“(v) ‘registered proprietor’, in relation to a trade mark, means the person for the time being entered in the register as proprietor of the trade mark;”

50. The plaintiff is registered proprietor of word mark 'HAVELLS' (*logo and device*)



51. The plaintiff, *vide* Trademark No. 4678501 dated 29.09.2020 with user claim since 31.08.2008 is registered proprietor of word mark and device mark, as depicted above, in relation to goods in Class 9 including 'electric cables', 'conduits' and 'wires'.

52. The registration of the word mark and device mark 'HAVELLS', as depicted above, in the name of the plaintiff is valid till 29.09.2030.

53. Therefore, the plaintiff is a registered proprietor of word mark and device mark 'HAVELLS'.

(b) Effect of deed of assignment dated 09.05.2016 Ex.PW1/DW-A?

54. It may be relevant to note that the plaintiff neither produced nor relied upon the said deed of assignment dated 09.05.2016 Ex.PW1/DW-A.

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55. However, during cross-examination of **PW-1** Mr. Kishan Sharma, Ld. Counsel for the defendant confronted him with the said deed of assignment **Ex.PW1/DW-A** while contending that trademarks and copyrights in '**HAVELLS**' in Annexure '1', trademarks in Schedule 'A' and 'B' and copyrights in Schedule 'C' do not belong to the plaintiff.

56. In order to substantiate his contention, Ld. Counsel for the defendant heavily relied on FIR No. 0161/2016 registered on 21.03.2016 at PS Farsh Bazar while contending the said FIR was lodged by '*QRG Enterprises Limited*' alleging itself as owner of copyright in artistic work of '**HAVELLS**'.

57. This Court does not find any merit in his contention. *Vide* deed of assignment dated 09.05.2016 **Ex.PW1/DW-A**, '*QRG Enterprises Limited*' assigned its statutory and common law rights in the trademarks and copyrights in '**HAVELLS**' trademark to the plaintiff w.e.f. 01.04.2016.

58. Further, the said FIR No. 0161/2016 was registered on 21.03.2016 before execution of the said deed of assignment on 09.05.2016.

(c) Effect of non-examination of Mr. Harsh Aggarwal and Ms. Roma Arora, AR of the plaintiff and investigator.

59. The plaintiff is an incorporated company. The plaintiff may examine any person conversant with the facts and circumstances of the case and having knowledge of the facts.

60. **PW-1** Mr. Kishan Sharma filed authority letter **Ex.PW1/20** whereby he was authorized as a representative by the plaintiff.

61. The plaintiff has examined **PW-1** Mr. Kishan Sharma who accompanied Ld. Local Commissioners during search and seizure proceedings.

62. Non-examination of Mr. Harsh Aggarwal and Ms. Roma Arora as well as investigator is not significant.

(d) Evidentiary value of report of Local Commissioner.

63. In *Puma SE vs. Ashok Kumar*, 2023 SCC OnLine Del 6764, Hon'ble High Court of Delhi held that the Local Commissioner's report can be read in evidence under Order 26 Rule 10 (2) CPC, as under:

"22. The settled legal position is that the Local Commissioner's report can be read in evidence in terms of Order XXVI Rule 10(2) CPC. In *ML Brother LLP v. Mahesh Kumar Bhruwal Tanna* [CS(COMM) 126/2022] this Court held as under:

"10. Order 26 Rule 10(2) CPC stipulates that the report of the Commissioner and the evidence taken by the Commissioner shall be evidence in the suit and shall form part of the record. ...

11. In *Levi Strauss & Co. v. Rajesh Agarwal* 2018 IAD (Delhi) 622, this Court examined the said provision and held that once the Commissioner has filed the evidence along with his report, it becomes evidence in the suit itself. Under Order 26 Rule 10(2) CPC it is not mandatory to examine the Commissioner to admit the report of the Commissioner as evidence in the suit. The relevant observations are as under:

8. The Local Commissioner is in fact a representative of the Court itself and it is for this reason that Order 26 Rule 10 (2) of CPC clearly provides that once the Commissioner has filed the evidence along with his report the same shall be treated as evidence in the suit and shall form part of the record.

XXX XXX XXX

10. The rationale behind Order 26 Rule 10 (2) of CPC is clear i.e. the Commissioner is appointed as a representative of the Court and evidence collected by the Commissioner along with the report of the Commissioner would be evidence in the suit, subject to any objection raised by any party. If any party has any objection to Commissioner's report or to the evidence, such party has an option to examine the Commissioner personally in open Court. Such examination is however, neither compulsory nor required especially in cases where the party does not challenge the report. In the present case, a perusal of the written statement filed by the Defendant clearly

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reveals that the Defendant does not challenge the Commissioner's report. Para of the written statement is set out below..."

12. This position of law has been reiterated by this Court in Vinod Goel v. Mahesh Yadav [RFA 2022/DHC004806 CS (COMM) 413/2021 Page 9 of 14 598/2016 decided on 23rd May, 2018] wherein the Court observed as under:

"7. It is the settled proposition in law that when a Commissioner is appointed, he acts as the officer of the Court and it is not necessary for the Commissioner to be examined. This is clearly laid down by the Supreme Court in **Misrilal Ramratan & Ors. Mansukhlal & Ors. v. A. S. Shaik Fathimal & Ors., 1995 Supp (4) SCC 600**, wherein the Court held as under:

"It is now settled law that the report of the Commissioner is part of the record and that therefore the report cannot be overlooked or rejected on spacious plea of non-examination of the Commissioner as a witness since it is part of the record of the case.

8. Even this Court, recently in Levis Strauss v Rajesh Agarwal [RFA 127/2007 decision dated 3rd January, 2018], held as under:

"11. The rationale behind Order 26 Rule 10 (2) of CPC is clear i.e. the Commissioner is appointed as a representative of the Court and evidence collected by the Commissioner along with the report of the Commissioner would be evidence in the suit, subject to any objection raised by any party. If any party has any objection to Commissioner's report or to the evidence, such party has an option to examine the Commissioner personally in open Court. Such examination is however, neither compulsory nor required especially in cases where the party does not challenge the report."

9. Mr. Prag Chawla clearly concedes that there 2022/DHC/004806 CS (COMM) 413/2021 may be no requirement to examine the Local Commissioner once the Commissioner is appointed by a Court."

64. Therefore, the report of a local commissioner and evidence collected by him is evidence in the suit.

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(e) What is the effect of objections of the defendant to the inspections of his premises conducted on 01.06.2024 and 17.06.2024?

65. Precisely, the defendant is challenging inspection of his premises conducted on 01.06.2024 and 17.06.2024 by Ld. Local Commissioners on the ground that they conducted multiple raids at the premises of the defendant, the reports were not signed by both local commissioners, Mr. Kunal Kumar conducted raid without police officials of PS Farsh Bazar and the plaintiff brought 15 - 20 persons and Mr. Harsh Aggarwal and Ms. Roma Arora were not present during the raid.

66. In this regard, it would be relevant to take note of the fact that the defendant had filed applications under Order 16 Rule 1 and 6 CPC and Section 30 CPC read with Section 165 BSA.

67. The said applications were dismissed by this Court, *vide* order dated 31.05.2025, as under:

“24. As regards summoning of Ld. Local Commissioner, it may be relevant to note that the defendant has neither averred nor argued any sufficient cause or plausible reason for his examination as a defendant’s witness.

25. In the written statement, the defendant stated that he is a scrap dealer and recycle corrugated boxes. He stated that he is not engaged in any activity relating to infringement of Intellectual Property Rights of the plaintiff.

26. The defendant challenged inspection of his premises conducted on 01.06.2024 and 17.06.2024 as in breach of order dated 27.05.2024. However, he has not stated any fact which may warrant examination of Mr. Kunal Kumar, Advocate. The defendant has neither stated nor demonstrated any illegality in inspection conducted by Mr. Kunal Kumar, Advocate.

27. As regards contention that this Court did not authorize Mr. Kunal Kumar, Ld. Local Commissioner to conduct multiple inspections, it can be stated that this contention does not stand scrutiny. This Court, *vide* order dated 27.05.2024, authorized Ld. Local Commissioners to inspect any other premises where infringing goods are present, as under:

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“14. The commission will be executed in the following terms:

d. During the course of the execution of the commission, should the learned Local Commissioners come to learn of any other premises where similar infringing goods are present, the commission would be executed in the terms stated in this order at such other premises as well.”

28. There was no necessity for Mr. Chitra Gupt Dagar, Ld. Local Commissioner to sign the report prepared by Mr. Kunal Kumar, Ld. Local Commissioner as Mr. Kunal Kumar was independently authorized to conduct the inspection. There was no order for joint inspection of the premises by Ld. Local Commissioners.

29. As regards contention that Mr. Kunal Kumar, Ld. Local Commissioner did not seek assistance of local police station, it can be stated that Ld. Local Commissioner was given liberty to seek assistance of jurisdictional police in case, it was needed. In this regard, it would be relevant to refer order dated 27.05.2024, as under:

“14. The commission will be executed in the following terms:

f. The learned local commissioners are also at liberty to seek the assistance of the jurisdictional police authorities, should it become necessary to do so. In that event, this order shall operate as a direction to the SHO of the jurisdictional Police Station to provide all such assistance as is necessary for execution of the commission.”

30. As regards contention that the plaintiff brought 15 – 20 people on the premises of the defendant without permission of the Hon’ble Court and thereby, they trespassed in the defendant’s property in the garb of order dated 27.05.2024 and planted false evidence on the defendant, it can be stated that this Court, *vide* order dated 27.05.2024, permitted one representative of the plaintiff to accompany Ld. Local Commissioner. Ld. Local Commissioner inspected the premises pursuant to direction of this Court and he photographed and videographed the entire search and seizure proceedings. The defendant cannot be permitted to summon Ld. Local Commissioner on such general grounds.”

68. Thereafter, the defendant again filed an application under Order 26 Rule 10(2) CPC for summoning Ld. Local Commissioners as defence witnesses. However, the said application was dismissed, *vide* order dated 05.06.2025, as under:

“1. Feeling undeterred in his pursuit to impede the progress of the trial, in the wake of dismissal of applications for summoning of witnesses, *vide* order dated 31.05.2025, the defendant re-agitated the issues, already addressed by this Court, in an another application premised on Order 26 Rule 10 (2) CPC.

2. *Vide* the said application, the defendant is intending to summon Ld. Local Commissioners as defence witnesses.

3. The said application deserves outright dismissal for the reasons. ***First***, the name of Mr. Chitra Gupta Dagar, Ld. Local Commissioner was not mentioned in the list of witnesses. ***Second***, the grounds furnished for summoning of Ld. Local Commissioners as witnesses are already addressed by this Court, *vide* order dated 31.05.2025. ***Third***, the application is in the nature of a review application without disclosing any manifest error in the said order. ***Fourth***, there is no worthy objection to reports of Ld. Local Commissioners touching any of the matters referred to them or as to their reports. ***Fifth***, there is no reason for this Court to dissatisfy with the proceedings or reports submitted by Ld. Local Commissioners.

4. Accordingly, the application under Order 26 Rule 10 (2) CPC filed by the defendant is dismissed.”

69. The defendant challenged the said order, *vide* CM(M)-IPD 29/2025 titled as ‘ ***Vijay vs. Havells India Limited***’. Hon'ble High Court of Delhi dismissed the said petition, *vide* order dated 14.07.2025, as under:

“17. The first objection raised by the petitioner was that the Local Commissioners raided the premises which they were not authorised to raid.

18. A reading of paragraph 14 (d) of the order dated 27th May, 2024 makes it abundantly clear that the Local Commissioners had the liberty to visit any other premises which came to their knowledge during the execution of the commission where infringing goods could be found. Pursuant to the aforesaid liberty, the Local Commissioners decided to raid *House No. 4/1887, Rama Block, Gali No.3, Shahdara,*

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Delhi-110032 which came to their knowledge during the execution of the commission and, in fact, seized various infringing goods such as packaging boxes, printing plates containing the respondent / plaintiff's trademark.

19. Therefore, there is no merit in the objection taken by the petitioner / defendant that the Local Commissioners could not have raided other properties.

20. The second objection taken by the petitioner / defendant is that one of the Local Commissioners, i.e. Mr. Kunal Kumar was not requested by the respondent / plaintiff to conduct the raid on the aforesaid premises and consequently, he has not signed the Report for the said raid. Thus, the raid was *prima facie* illegal.

21. As noted in paragraph 20 of the order dated 31st May, 2025, which is set out above, Mr. Kunal Kumar only accompanied the other Local Commissioner, i.e. Mr. Chitra Gupt Dagar at the behest of Mr. Dagar. Therefore, the aforesaid objection taken by the petitioner / defendant is also devoid of any merit.

22. Another objection taken by the petitioner / defendant is that the petitioner / defendant was not served with the summons of the civil suit at the time of execution of the commission. It is also stated that the respondent / plaintiff did not comply with the provisions of Order XXXIX Rule 3 of the CPC.

23. Even assuming that the aforesaid objections are valid, the responsibility of fulfilling the aforesaid compliances were that of the plaintiff and not the Local Commissioners.

24. Having perused the objections taken to the reports of the Local Commissioners, I am in agreement with the finding of the Commercial Court that there is nothing in the aforesaid objections which would require the Local Commissioners to be examined in person.”

70. The order dated 17.05.2025 passed by Hon'ble High Court of Delhi in CM(M)-IPD 29/2025 has attained finality.

71. The nature of objections raised by the defendant regarding inspections are generic in nature.

72. Therefore, the issues raised by Ld. Counsel for the defendant regarding legality of search and seizure proceedings conducted by Ld. Local Commissioners are without any merit and accordingly, Issue No. (a) is decided against the defendant.

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(f) Whether the defendant committed infringement of trademark of the plaintiff?

73. Ld. Counsel for the plaintiff contended that the defendant committed statutory infringement under Section 29(1) of ‘*The Trade Marks Act, 1999*’.

74. On the contrary, Ld. Counsel for the defendant contended that the defendant is an uneducated person and he is a scrap dealer. He further contended that the defendant collects scrap for the purpose of recycling and he is not using the plaintiff’s trademark in the course of a trade.

75. Statutory infringement is defined in Section 29(1) of ‘*The Trade Marks Act, 1999*’ is, as under:

“**29. Infringement of registered trade marks.**- (1) A registered trade mark is infringed by a person who, not being a registered proprietor or a person using by way of permitted use, uses in the course of trade, a mark which is identical with, or deceptively similar to, the trade mark in relation to goods or services in respect of which the trade mark is registered and in such manner as to render the use of the mark likely to be taken as being used as a trade mark.”

76. The essential ingredients of Section 29(1) of ‘*The Trade Marks Act, 1999*’ are, as under:

- (a) The defendant is not a registered proprietor or permitted user of the trademark; and
- (b) The impugned mark must be identical or deceptively similar to the trademark of the plaintiff; and
- (c) The impugned mark is used in relation to goods or services in respect of which the trademark of the plaintiff is registered; and
- (d) The defendant is using the trademark in the course of trade.

77. On 17.06.2024 at 05.30 p.m., Mr. Kunal Kumar, Ld. Local Commissioner inspected the premises of the defendant i.e. 4/1887, Rama Block, Gali No. 3, Shahdara, Delhi-110032 in the presence of the defendant.

78. The relevant part of his report is, as under:

“3. That subsequently, upon discovering that the property was locked and at the proposal of the Ld. Counsel for the Plaintiff and in compliance with the Paragraph 14 Clause (d) of order dated 27.05.2024, we proceeded to the factory or manufacturing unit of the Defendant located at 04/1887, Rama Block, Gali Number-03, Shahdara, Delhi-110032, as suggested by the Ld. Counsel for the Plaintiff and the employees of the Plaintiff Company, we reached the premises of the Defendant at 05:30 PM, where it is alleged that the Defendant manufactures goods and produces alleged counterfeit or infringing products. Upon arrival at the aforementioned location, I inquired about the identity of the owner of the premises, who identified himself as Vijay Kumar. Following this, in compliance and adherence of Paragraph 17 and 18 of the order dated 27.05.2024, I then delivered to him a copy of the order dated 27.05.2024, along with a copy of the Complaint filed before this Hon'ble Court and other relevant case documents. Subsequently, I obtained his acknowledgment on a copy of the aforementioned order dated 27.05.2024, and also collected a self-attested copy of his Aadhar Card. Thereafter, I discovered and observed that exact replicas of the packaging boxes of the Plaintiff Company were being printed, with numerous such replicas present at the aforementioned premises. Consequently, I immediately halted the printing machinery, seized the printing plates to prevent the Defendant from producing additional counterfeit products, and confiscated the counterfeit items, storing them in gunny bags. Subsequently, these bags were sealed and I affixed my signature to all the gunny bags and on their seals. It is noteworthy to mention herein that photos and videos of all proceedings during the raid were recorded to ensure transparency. The self-attested copy of Aadhar card of the defendant along with the acknowledgment / receiving provided by the defendant on order dated 27.05.2024, the on-spot proceeding sheet along-with the seizure memo, Superdari Nama signed by the Defendant, photographs of the infringing / counterfeit packaging boxes of the Plaintiff Company and the photographs or photographs extracted from videos taken at the time of some proceedings, are annexed herewith as **Annexure A-1 (COLLY)**.”

(emphasis added by the Court)

79. On spot proceedings are bearing signatures of the defendant.

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80. The material seized from the said premises of the defendant is, as under:

Bag No.	Product	Quantity (Pieces)
17.	Printed Sheet Havells Black Box 1 mm [Each sheet contains 2 boxes]	800
18.	Printed Sheet Havells Black Box 1 mm [Each sheet contains 2 boxes]	800
19.	Printed Sheet Havells Black Box 1 mm [Each sheet contains 2 boxes]	600
29.	Printed Sheet Havells Black Box 1 mm [Each sheet contains 2 boxes]	800
30.	Printed Sheet Havells Black Box 1 mm [Each sheet contains 2 boxes]	1000
31.	Printed Sheet Havells Black Box 1 mm [Each sheet contains 2 boxes]	1000
32.	Printed Sheet Havells Black Box 1 mm [Each sheet contains 2 boxes]	600
33.	Printed Sheet Havells Black Box 1 mm [Each sheet contains 2 boxes]	800
34.	Printed Sheet Havells Black Box 1 mm [Each sheet contains 2 boxes]	800
35.	Printed Sheet Havells Black Box 1 mm [Each sheet contains 2 boxes]	800
36.	Printed Sheet Havells Black Box 1 mm [Each sheet contains 2 boxes]	800
37.	Printed Sheet Havells Black Box 1 mm [Each sheet contains 2 boxes]	800
38.	Printed Sheet Havells Black Box 1 mm [Each sheet contains 2 boxes]	1000
20.	Printed Sheet Havells White Box 1 mm	1000
21.	Printed Sheet Havells White Box 1 mm	1000
22.	Printed Sheet Havells White Box 1 mm	1000
23.	Printed sheet Havells White Box 1 mm	1100
24.	Printed Sheet Havells White Box 1 mm	1000
25.	Printed Sheet Havells White Box 1 mm	900
26.	Printed Sheet Havells White Box 1 mm	1000
27.	Printed Sheet Havells White Box 1 mm	1000
28.	Printed Sheet Havells White Box 1 mm	1000
39.	14 Printing Plates + 1 Dye Havells	-

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81. Operative part of report of Ld. Local Commissioner is, as under:

“SUMMARY OF FINDINGS / ADDITIONAL NOTES:

During the commission of raid, **I discovered numerous counterfeit packaging boxes identical to those of the plaintiff company being printed at the premises.** I immediately halted the printing machinery, seized the printing plates, and confiscated the counterfeit items, storing them in sealed and seized gunny bags.”

(emphasis added by the Court)

82. Mr. Kunal Kumar, Ld. Local Commissioner entrusted the seized goods to the defendant on *superdari*, *vide superdarinama*.

83. The plaintiff is registered proprietor of word mark ‘HAVELLS’ (*logo and device*) 

84. Photographs of printed sheets, printing machines and dye recovered from the said premises of the defendant are, as under:





85. On 17.06.2024 at about 05.50 p.m., Mr. Kunal Kumar, Ld. Local Commissioner conducted inspection of the premises i.e. 4/1888, Gali No. 3, Rama Block, Shahdara, Delhi-110032 in the presence of the defendant.

86. The relevant part of his report is, as under:

“5. That pursuant to the request of the Ld. Counsel for the Plaintiff and in accordance with Paragraph 14 Clause (d) of the order dated 27.05.2024, I the undersigned, along with the Ld. Counsel for the Plaintiff and half of his team members and associates, proceeded towards the second manufacturing unit of the Defendant which was located at 04/1888, Rama Block, Gali Number-03, Shahdara, Delhi-110032. Upon arrival on the aforementioned premises at 5:50 PM, I again discovered and observed that numerous exact replicas of the packaging boxes of the Plaintiff Company were present at the aforementioned premises. Consequently, I immediately confiscated the counterfeit items, storing them in gunny bags.

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Furthermore, these bags were duly sealed, and I affixed my signature to all the gunny bags and on their seals. It is noteworthy to mention herein that the photos and videos of all the proceedings during the raid were recorded to ensure transparency. The on-spot proceeding sheet along-with the seizure memo, Superdari Nama signed by the Defendant, photographs of the infringing / counterfeit packaging boxes of the Plaintiff Company and the photographs or photographs extracted from videos taken at the time of some proceedings, are annexed herewith as **Annexure A-2 (COLLY)**.”

(emphasis added by the Court)

87. On spot proceedings are bearing signatures of the defendant.

88. The material seized from the said premises of the defendant is, as under:

Bag No.	Product	Quantity (Pieces)
1.	Dye Cut Havells Black Box 2.50 mm	200
2.	Dye Cut Havells Black Box 2.50 mm	200
3.	Dye Cut Havells Black Box 2.50 mm	200
4.	Dye Cut Havells Black Box 2.50 mm	200
5.	Dye Cut Havells Black Box 2.50 mm	200
6.	Dye Cut Havells Black Box 2.50 mm	200
7.	Dye Cut Havells Black Box 2.50 mm	200
8.	Dye Cut Havells Black Box 2.50 mm	200
9.	Dye Cut Havells Black Box 2.50 mm	200
10.	Dye Cut Havells Black Box 2.50 mm	200
11.	Dye Cut Havells Black Box 2.50 mm	200
12.	Dye Cut Havells Black Box 2.50 mm	200
13.	Dye Cut Havells Black Box 2.50 mm	200
14.	Dye Cut Havells Black Box 2.50 mm	200
15.	Dye Cut Havells Black Box 2.50 mm	200
16.	Dye Cut Havells Black Box 2.50 mm	70

“SUMMARY OF FINDINGS / ADDITIONAL NOTES:

During the inspection / raid on the second premises / present premises, **I discovered numerous exact replicas of the packaging boxes of the plaintiff company.** I immediately confiscated the counterfeit items, storing them in gunny bags which were subsequently sealed and signed by myself.” *(emphasis added by the Court)*

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89. Photographs of dye-cut 'HAVELLS' black boxes recovered from the said premises of the defendant are, as under:



90. Mr. Kunal Kumar, Ld. Local Commissioner entrusted the seized goods to the defendant on *superdari*, *vide superdarinama*.

91. Thereafter, on 17.06.2024 at about 06.45 p.m., Mr. Kunal Kumar, Ld. Local Commissioner conducted inspection of the premises i.e. 4/1622, Mahavir Block, Bholanath Nagar, Shahdara, Delhi-110032 in the presence of the defendant.

92. The relevant part of his report is, as under:

“6. That following the raids on aforementioned two properties, I inquired with the Defendant regarding the keys to the property which was found locked, as detailed in Paragraph Number 01 of this Report to which the Defendant informed me that the keys were at his residence. Subsequently, the Defendant sent one of his workers to his residence to retrieve the keys. Upon receiving the keys, I the undersigned, along with the Ld. Counsel for the Plaintiff, his staff members, associates, and an employee of the Plaintiff Company, proceeded towards the premises which was found locked in the beginning. Following this, the Defendant unlocked the property upon our arrival. Further, I enquired the Defendant for the exact address of the premises, to which the Defendant replied that the address is property number 04/1622, Mahavir Block, Bholanath Nagar, Shahdara, Delhi-110032. After noting down the exact address, I observed that the same counterfeit packaging boxes were present on this premises as those found at the previously raided premises. Furthermore, this premises appeared to function as a warehouse for the Defendant, where products were stored and supplied upon receiving the orders. Consequently, I confiscated the counterfeit items, storing them in gunny bags.

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Thereafter, these bags were duly sealed, and I affixed my signature to all the gunny bags and on their seals. It is noteworthy to mention herein that the photos and videos of all the proceedings during the raid were recorded to ensure transparency. The on-spot proceeding sheet along-with the seizure memo, Superdari Nama signed by the Defendant, photographs of the infringing / counterfeit packaging boxes of the Plaintiff Company, the photographs or photographs extracted from videos taken at the time of some proceedings and a pen drive containing all the video footages taken from all the three raided premises, are annexed herewith as **Annexure A-3 (COLLY)**.”

(emphasis added by the Court)

93. On spot proceedings are bearing signatures of the defendant.

94. The material seized from the said premises of the defendant is, as under:

Bag No.	Product	Quantity (Pieces)
1.	Dye Cut Havells Black Box 2.50 mm	250
2.	Dye Cut Havells Black Box 2.50 mm	250
3.	Dye Cut Havells Black Box 2.50 mm	250
4.	Dye Cut Havells Black Box 2.50 mm	250
5.	Dye Cut Havells Black Box 2.50 mm	250
6.	Dye Cut Havells Black Box 2.50 mm	250
7.	Dye Cut Havells Black Box 2.50 mm	180

95. Operative part of report of Ld. Local Commissioner is, as under:

“SUMMARY OF FINDINGS / ADDITIONAL NOTES:

During the inspection / raid on the third premises / present premises, **I discovered numerous exact replicas of the packaging boxes of the plaintiff's company.** Thereafter, I immediately confiscated the counterfeit items, storing them in gunny bags which were subsequently sealed and duly signed by myself.”

(emphasis added by the Court)

96. Mr. Kunal Kumar, Ld. Local Commissioner entrusted the seized goods to the defendant on *superdari, vide superdarinama*.

97. Photographs of dye-cut 'HAVELLS' black boxes recovered from the said premises of the defendant are, as under:



98. In video and photographs of the proceedings conducted by Ld. Local Commissioner, the defendant is seen present during the inspection, as under:



99. During the course of arguments, Ld. Counsel for the defendant raised contention that Ld. Local Commissioner did not furnish certificate under Section 65-B of '*The Indian Evidence Act, 1872*' in support of digital photographs and videos.

100. In that regard, it can be stated that inspection conducted by a Ld. Local Commissioner is, in fact, an inspection conducted by the Court and he is not required to furnish certificate under Section 65-B of '*The Indian Evidence Act, 1872*'.

101. Further, to address the said contention, the Court issued direction to the defendant to produce the entire seized material for the inspection of the Court, *vide* order dated 13.10.2025.

102. However, the defendant produced 26 bags out of 46 bags and the said bags were in torn condition and containing packaging boxes having **CONA** and **LOVI** imprinted upon them. In that regard, relevant part of order dated 01.11.2025 is, as under:

“01.11.2025

Present : Mr. Nitin K. Gupta, Ld Counsel with Mr. Sanchay Mehrotra, Ld. Counsel with Mr. Kishan Sharma, Authorized Representative and Ankur Gupta for the plaintiff.

Mr. Vikhyat Gupta with Mr. Prashant Jaiswal, Ld. Counsel for the defendant.

At 3.45 p.m.

The Court along with Ld. Counsel for the parties and their representatives went to parking area of New Court Building for inspection of the bags. The defendant sent 26 bags in two handcarts. Each handcart was carrying 13 bags. However, the seizure reports would show that Ld. Local Commissioner seized goods in 46 bags. Moreover, all the bags containing red paints and none of the bag was bearing any mark put by Ld. Local Commissioner. On inspection from torn portions of the bags, it revealed that the said bags were containing packaging boxes having **CONA** and **LOVI** imprinted upon them. Therefore, it is evident that defendant has neither produced the entire seized goods nor the material seized by Ld. Local Commissioner. In that view, the defendant shall personally appear before this Court along with all the 46 bags handed over to him on *superdari* by Ld. Local Commissioner, on 07.11.2025 at 3.30 p.m. Ld. Local Commissioner be also informed to appear before the Court for inspection of the seized goods and mark put by him on the said bags.”

103. On 07.11.2025, the Court in the presence of Ld. Counsel for the parties and the defendant with the assistance of Ld. Local Commissioner inspected the bags produced by the defendant. The defendant produced 28 bags in torn condition. 7 bags were in unpacked condition. The said 28 bags were containing packaging material relating to **CONA**, **LOVI** and **KUNDAN CAB**.

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104. Relevant part of the order dated 07.11.2025 is, as under:

“07.11.2025

Present : Mr. Nitin K. Gupta, Ld Counsel with Mr. Sanchay Mehrotra, Mr. Parth Kansal, Mr. Prasoon Kumar and Mr. Ankur Gupta, Ld. Counsel for the plaintiff.

Mr. Abhijit Mishra, Ld. Counsel with Mr. Himanshu Tomar, Ld. Counsel for the defendant.

Mr. Kunal Kumar, Ld. Local Commissioner is present.

Mr. Anant Rao, Ld. Local Commissioner is present (*through Video Conferencing*).

The Court in the presence of Ld. Counsel for the parties and the defendant with the assistance of Mr. Kunal Kumar, Ld. Local Commissioner inspected the bags brought by the defendant. The defendant brought bags in two handcarts. One cart was containing 15 bags and second cart was containing 13 bags. All the bags were bearing red paint extensively on them. Majority of the bags were in torn condition and seven bags were in unpacked condition. On checking the said bags, *through the torn portion*, it is seen that they were containing packaging material relating to **CONA**, **LOVI** and **KUNDAN CAB**. None of the bag was containing material seized by Ld. Local Commissioner. The defendant has not produced the seized material containing in 46 bags by Mr. Kunal Kumar, Ld. Local Commissioner which were handed him over on *superdari*. Issue notice to the defendant why a criminal case be not registered against him for misappropriation of the goods handed him over on *superdari* in his custody and for destruction and disappearance of evidence.”

105. Therefore, the defendant cannot contend that the photographs and video of the inspection proceedings annexed by Ld. Local Commissioner alongwith his report cannot be considered.

106. On comparison of the plaintiff's trademark with the trademark appearing on the seized material, it is evident that the defendant has not only copied entire trademark alongwith logo and device of the plaintiff's trademark '**HAVELLS**' but he has copied entire trade dress of the plaintiff's packaging material.

107. The defendant is using the similar trademark in relation to '**cables**' and '**wires**' for which the mark is registered.

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108. As regards contention that the defendant is a scrap dealer and he is not using the mark in the course of trade, it can be stated that Ld. Local Commissioner has not only seized huge packaging material containing the plaintiff's trademark but he has also seized printing plates and dye.

109. The defendant is not a scrap dealer. He was printing packaging boxes bearing the plaintiff's trademark and trade dress for commercial gain and therefore, the defendant was using the plaintiff's registered mark in the course of trade.

110. Therefore, the defendant committed statutory infringement of trademark of the plaintiff under Section 29(1) of '*The Trade Marks Act, 1999*'.

111. In order to bring his case within parameters of passing off, Ld. Counsel for the plaintiff contended that the plaintiff is a registered proprietor of '**HAVELLS**' with user claim since 1942. He contended that the plaintiff proved sales and advertisement figures, *vide* certificate issued by Chartered Accountant **Ex.PW1/7**. He contended that the plaintiff proved orders passed by Hon'ble High Court of Delhi **Ex.PW1/10** (colly.). He contended that the plaintiff's mark is a well-known trademark included in list of well-known marks and also recognized by Hon'ble High Court of Delhi in CS (OS) No. 3770/2014. He contended that the plaintiff has proved goodwill and reputation. He contended that the defendant is using the entire trademark and trade dress of the plaintiff and misrepresenting his goods as that of the plaintiff. He contended that the plaintiff is not only suffering immense loss to his goodwill and reputation but huge economic loss also. He also contended that misbranding of inferior quality of cables and wires is a safety hazard and can endanger human lives and properties.

112. In *Cadila Health Care Limited vs. Cadila Pharmaceutical Limited*, (2001) 5 SCC 1952, Hon'ble Supreme Court of India defined an action of passing off and the factors thereof, as under:

“31. Trade mark is essentially adopted to advertise one's product and to make it known to the purchaser. It attempts to portray the nature and, if possible, the quality of the product and over a period of time the mark may become popular. It is usually at that stage that other people are tempted to pass off their products as that of the original owner of the mark. That is why it is said that in a passing off action, the plaintiff's right is "against the conduct of the defendant which leads to or is intended or calculated to lead to deception. Passing off is said to be a species of unfair trade competition or of actionable unfair trading by which one person, through deception, attempts to obtain an economic benefit of the reputation which other has established for himself in a particular trade or business. The action is regarded as an action for deceit." (See *Wander Ltd. v. Antox India Pvt. Ltd.*, 1990 Suppl. SCC 727).

35. Broadly stated in an action for passing off on the basis of of unregistered trade mark generally for deciding the question of deceptive similarity the following factors to be considered:

- a) The nature of the marks i.e. whether the marks are word marks or label marks or composite marks i.e. both words and label marks.
- b) The degree of resemblance between the marks, phonetically similar and hence similar in idea.
- c) The nature of the goods in respect of which they are used as trade marks.
- d) The similarity in the nature, character and performance of the goods of the rival traders.
- e) The class of purchasers who are likely to buy the goods bearing the marks they require, on their education and intelligence and a degree of care they are likely to exercise in purchasing and / or using the goods.
- f) The mode of purchasing the goods or placing orders for the goods and
- g) Any other surrounding circumstances which may be relevant in the extent of dissimilarity between the competing marks.

Weightage to be given to each of the aforesaid factors depends upon facts of each case and the same weightage cannot be given to each factor in every case.”

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113. In *Honda Motors Co. Ltd. vs. Mr. Charanjit Singh and Ors.*, 2003 (26) PTC 1 (Del), Hon'ble High Court of Delhi delineated essential characteristics of an action of passing off, as under:

“9. What are the essential characteristics of an action of passing off has also come up for consideration in umpteen number of judgments. In *Erven Warnink B.V. v. J. Townsend & Sons (Hull) Ltd.* 1980 RPC 31, Lord Diplock stated the essential characteristics of a passing off action as under:

"(1) misrepresentation, (2) made by a person in the course of trade, (3) to prospective customers of his or ultimate consumers of goods or services supplied by him (4) which is calculated to injure the business or goodwill of another trader (in the sense that this is a reasonably foreseeable consequence and (5) which causes actual damage to a business or goodwill of the trader by whom the action is brought or (in a quia time action) will probably do so."

114. In *Hindustan Pencils (P) Ltd. vs. India Stationery Products Co. and Ors.*, AIR 1990 Delhi 19, Hon'ble High Court of Delhi held, as under:

“11. While an action for infringement is taken in respect of trade marks which are registered, an action for passing off is in respect of goods-for-which-the marks have not been registered but in respect of which marks, over-a-period-of-time, the user has acquired proprietary right.....”

115. In *B.K. Engineering Co. vs. Ubhi Enterprises and Ors.*, AIR 1985 Delhi 210, Hon'ble High Court of Delhi held, as under:

“12. The modern tort of passing-off has five elements: (1) a misrepresentation, (2) made by a trader in the course of trade, (3) to prospective customers of his or ultimate consumers of goods or services supplied by him, (4) which is calculated to injure the business or goodwill of another trader (in the sense that this is a reasonably foreseeable consequence) and (5) which causes actual damage to a business or goodwill of the trader by whom the action is brought. (Erwen Warnik supra at 932-933 per Lord Diplock).

(13) The law on this matter is designed to protect traders against that form of unfair competition which consists in acquiring for oneself, by means of false and misleading devices, the benefit of the reputation already achieved by a rival padre. The defendant seeks to acquire this benefit by passing off his goods as and for the goods of the plaintiff. ”

116. In an action of passing off, the plaintiff must establish three ingredients. *First*, goodwill and reputation, *second*, misrepresentation and *third*, damages.

117. In this suit, the plaintiff is a registered proprietor of mark ‘HAVELLS’ (*logo and device*)  in Class 9 including electric cables and wires with user claim since 31.08.2008, *vide* Legal Proceeding Certificate **Ex.PW1/16**.

118. The plaintiff’s mark is a well-known trademark. The plaintiff’s trademark is mentioned at Sl. No. 70 in the list of well-known trademarks. Hon'ble High Court of Delhi in CS (OS) No. 3770/2014 titled as ‘*Havells India Ltd. & Anr. vs. T.T. Plyboards & Ors.*’ decided on 08.12.2014 held that trademark ‘HAVELLS’ used by the plaintiff is a well-known mark, as under:

“13. In view of the above mentioned factors, the plaintiffs have established beyond reasonable doubt that their trade mark "HAVELLS" is a "well known" mark amongst the members of the trade and the public at large. Having considered the fact that on account of the long duration, for which the said mark has been put in use by the plaintiff; the wide extent of the "geographical area of use; the knowledge of the trademark "HAVELLS" to the general public; its goodwill and reputation due to extensive promotion, publicity, advertisement; the extensive sales made by the plaintiffs under the mark in India as well as other countries; and the numerous registrations obtained by the plaintiffs for the said mark, establish that the mark "HAVELLS" used by the plaintiffs has undoubtedly acquired the status of a "well known mark".”

119. The plaintiff proved sales and advertising figure, *vide* **Ex.PW1/7**.

120. The plaintiff is taking legal actions to protect its mark, *vide* orders **Ex.PW1/10** (colly.).

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121. The defendant is using the plaintiff's trademark and trade dress on packaging boxes pertaining to 'cables' and 'wires'.

122. The defendant is causing loss to the goodwill and reputation as well as revenue to the plaintiff.

123. The defendant is misrepresenting his goods as originating from the plaintiff and passing off his goods as that of the plaintiff.

124. Therefore, the plaintiff is entitled to a decree of injunction, as prayed in prayer clause 47(a).

(g) Whether the plaintiff is entitled to damages to the extent of Rs. 10,00,000/- and punitive / exemplary damages and legal costs?

125. Ld. Counsel for the plaintiff contended that the defendant is a habitual infringer. He contended that '*QRG Enterprises Limited*' lodged an FIR, *vide* FIR No. 161/2016 under Section 63/65 of '*The Copyright Act, 1957*' with PS Farsh Bazar on 21.03.2016 **Ex.PW1/19** wherein two printing plates and printing sheet bearing trademark '**HAVELLS**' were recovered from the premises of the defendant. He contended that according to the report of Local Commissioner, huge infringing material alongwith printing machines and dyes were recovered from three premises of the defendant. He contended that the defendant misappropriated the seized material entrusted to him on *superdari* and further, he was again found printing boxes containing the plaintiff's trademark in inspection conducted by Ld. Local Commissioner on 01.11.2025. He contended that sale of inferior quality of cables and wires in packaging boxes printed by the defendant is not only causing loss of revenue to the plaintiff but it is also a safety hazard to human lives and properties. He contended that total cost of boxes seized from the premises of the defendant was around Rs. 9,46,18,000/-. He contended that the plaintiff is entitled to damages more than Rs. 10,00,000/- besides punitive damages and cost.

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126. The defendant has not produced accounts books *qua* the transactions in respect of counterfeit boxes. In that fact situation, the Court is still empowered to grant appropriate damages.

127. In *Cartier International A.G. & Others vs. Gaurav Bhatia & Ors.*, (2016) 226 DLT 662, Hon'ble High Court of Delhi held, as under:

“66. It is well settled that damages in such cases must be awarded and a defendant, who chooses to stay away from the proceedings of the Court, should not be permitted to enjoy the benefits of evasion of court proceedings. Any view to the contrary would result in a situation where the defendant who appears in Court and submits its account books would be liable for damages, while a party which chooses to stay away from court proceedings would escape the liability on account of failure of the availability of account books.”

128. In *Inter Ikea Systems BV Anr vs. Imtiaz Ahamed and Another*, (2017) 237 DLT 247, Hon'ble High Court of Delhi held, as under:

“21. It is well settled that damages in cases like the present one must be awarded and a defendant, who elects to stay away from the court proceedings, should not be permitted to enjoy the benefits of staying away from the said proceedings. With regard to the relief of damages claimed by the plaintiffs herein, it may be noted that courts have been granting both, exemplary and punitive damages against the defendant in ex-parte matters of similar nature.....”

129. In the present case, Ld. Local Commissioner recovered 34,950 packaging boxes bearing trademark and trade dress of the plaintiff. The plaintiff has computed the cost of finished products to the extent of Rs. 9,46,18,000/-. On moderate assessment, if the defendant was making profit to the extent of 10% on the total value of the goods on account of use of the plaintiff's trademark and trade dress, it would come around Rs. 94,16,800/-. Therefore, the claim of the plaintiff to the extent of damages in the sum of Rs. 10,00,000/- is just and reasonable.

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130. As regards punitive and compensatory damages, it can be noticed that the defendant is a habitual infringer and he has not only misappropriated counterfeit products entrusted to him on *superdari* and earned considerable amount from sale thereof, and the defendant was found indulging in printing and sale of boxes containing the plaintiff's mark and trade dress even during operation of interim injunction.

131. On 01.11.2025, during the inspection of the bags produced by the defendant, Ld. Counsel for the plaintiff informed the Court that packaging boxes bearing the plaintiff's mark are still available in the defendant's premises and requested for appointment of a Local Commissioner for the inspection of the defendant's premises, as under:

“At this stage, Ld. Counsel for the plaintiff stated that he has received information that inspection of the premises of the defendant is being conducted in connection with any other case pertaining to IPR and it has been brought to his notice that packaging boxes pertaining to the plaintiff are also available in the defendant's premises. He prayed for appointment of a Local Commissioner for inspection of the defendant's premises in the presence of Counsel as well as representatives of the plaintiff as well as defendant. In view of the nature of the prayer and the duty of the Court to protect intellectual property rights of a registered proprietor and corresponding interest of general public, it would be appropriate to appoint a local commissioner for inspection of the defendant's premises at the premises already inspected by earlier local commissioner and any other premises where counterfeit products are stated to have been kept, prepared or stored. In that view, Mr. Anant Rao, Advocate Mob. No. 9999421467, Chamber No. Y-66, Civil Wing, Tis Hazari Courts, Delhi-110054 is appointed as Local Commissioner for inspection of defendant's premises and any other premises identified by the plaintiff's counsel or its representatives today itself. Ld. Local Commissioner shall conduct the inspection of the said premises and take photographs of the process of inspection including the counterfeit products including packing boxes and dyes. He shall also prepare video of process of inspection and file the said video in a *pen-drive* along with Certificate under Section 63 of *The Bhartiya Sakshya Adhiniyam, 2023*

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He shall seize the counterfeit products and prepare inventory thereof and handover the seized products to the plaintiff's representative on *superdari* with the direction to produce them as and when directed by the Court. He is also authorized to break open the locks of the premises, if found locked. In case of any resistance or obstruction to the process of inspection, SHO, PS Farsh Bazar or Officer In-Charge of any other police station having jurisdiction over the area wherein such premises is located, is directed to provide necessary police assistance to Ld. Local Commissioner. Ld. Local Commissioner shall file report of the inspection along with photographs, inventory and *pen-drive* containing video and Certificate under Section 63 of *The Bhartiya Sakshya Adhiniyam, 2023* within seven days from the date of inspection with advance copy to Ld. Counsel for the parties. ...”

132. The relevant part of report of Ld. Local Commissioner is, as under:

“I. FIRST SITE INSPECTION:

i. That in compliance with the above directions, the undersigned informed the plaintiff that the inspection of the suit property was scheduled for **01.11.2025** to seize the counterfeit products.

iii. The first site of inspection, as identified by the learned counsel for the plaintiff, was **6/210, Trunk Wali Gali, Shahdara, Delhi**, where the undersigned met **Mr. Narender Jain** S/o Sh. Krishan Lal, who stated that he is the owner of the property and that the ground floor hall is rented to one **Ballu (Mobile No. 9315407995)**.

v. Upon inspection, the following materials bearing the **Havells trademark** were found and seized:

Bag No	Item Description	Thickness	Quantity (Pcs.)
1.	Dye cut Havells lifeline white box	1.5 mm	141
2.	Dye cut Havells lifeline white box	1.5 mm	250
3.	Dye cut Havells lifeline white box	1 mm	200
4.	Dye cut Havells lifeline white box	1 mm	150
5.	Dye cut Havells lifeline white box	1 mm	200
6.	Dye cut Havells lifeline white box	1 mm	200
7.	Dye cut Havells lifeline white box	1 mm	350
8.	Dye cut Havells lifeline white box	1 mm	300
9.	Dye cut Havells lifeline white box	1 mm	150
10.	Dye cut Havells lifeline white box	1 mm	100

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	+ Dye cut Havells lifeline blue box	2.50 mm	1
	+ Dye cut Havells lifeline blue box	1.5 mm	1
	+ Dye cut Havells lifeline blue box	1 mm	2
11.	Ribbons Havells printed for packing wire	-	15 Rolls
12.	Havells Dye	-	6
13.	Dye cut Havells Life Line white wire	1 mm	162
	Dye cut Havells Life Line white wire	2.5 mm	19

II. SECOND SITE INSPECTION:

i. The Second site of inspection, as identified by the learned counsel for the plaintiff, was conducted at 08:00 PM at address 502, E-5, Gali No. 6, 60 Feet Road, Shahdara, Delhi.

iii. On inspection Mr. Pramod owner of the premises stated that Mr. Vijay (Mobile No. 9315407995) had rented an adjoining locked room (which is identified by the counsel of the plaintiff, where he suspected that counterfeit goods are placed), without any written rent agreement for the past five months and he had been paying rent in cash. Despite several phone calls made in his presence, Mr. Vijay did not answer and the owner was also not having keys to open the premises lock.

v. Upon entering the premises, the following materials bearing the **Havells trademark** were found and seized:

Bag No	Item Description	Thickness	Quantity (Pcs.)
1.	Dye cut Havells lifeline black / blue navy	6 mm	150
2.	Dye cut Havells lifeline black / blue navy	0.75 mm	150
3.	Dye cut Havells lifeline black / blue navy	16 mm	150

133. Even if contention of Ld. Counsel for the defendant that the said premises had no connection with the defendant is accepted, it is already observed that huge quantity of boxes pertaining to packaging of cables and wires bearing trademark and trade dress of the plaintiff alongwith 14 printing plates and dye were recovered from the premises of the defendant, *vide* inspection conducted on 17.06.2024. It can't be denied that cables and wires are used for electrification of houses and offices, and supply of inferior quality thereof can endanger human lives and properties.

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134. Installation of inferior cables and wires in the premises is more dangerous than spurious medicines and substandard drugs and cosmetic products as the said medicines and drugs / products endanger life of the consumer. In case of inferior cables and wires, it may lead to short circuit leading to fire accident not in one premises. It may engulf the entire building or the area and may result into loss of several human lives and properties.

135. Any attempt on the part of any person to pass on inferior cables and wires just for monetary gain at the cost of life and safety of innocent persons including consumers of such cables and wires must be properly dealt with.

136. It does appear from the conduct of the defendant that he has scant regard for safety and security of general public and he is only interested in making profit from sale of cables and wires to the general public in boxes containing the plaintiff's trademark and trade dress.

137. This is a just case for imposition of punitive damages so as to deter the defendant from indulging in printing and sale of packaging boxes containing the plaintiff's trademark and trade dress.

138. Therefore, the plaintiff will be entitled to punitive damages to the extent of Rs. 10,00,000/-.

139. The plaintiff is also entitled to actual legal cost assessed by the Court as Rs. 3,00,000/-.

140. The plaintiff will also be entitled to the amount paid to Ld. Local Commissioners pursuant to orders dated 27.05.2024, 19.07.2024 and 01.11.2025 for inspection and recording of evidence.

141. Accordingly, Issue No. 1 to 5 framed on 19.07.2024 and Issue No. (a) framed on 07.03.2025 are decided in favour of the plaintiff and against the defendant.

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RELIEF

142. Consequently, the suit of the plaintiff is decreed and a decree of permanent injunction, damages and punitive damages alongwith costs is passed in favour of the plaintiff and against the defendant, as under:

(a) The defendant is permanently restrained from manufacturing, printing, marketing, selling, advertising or supplying or dealing or using the plaintiff's marks



HAVELLS



or any other word / mark / trade dress / device identical or deceptively similar to the plaintiff's trademark in relation to electrical goods including cables and wires or any other related / allied products;

(b) The defendant is permanently restrained from passing off his goods or infringing copyright of the plaintiff in the trademark and trade dress in



HAVELLS



(c) The defendant is directed to pay damages to the extent of Rs. 10,00,000/- to the plaintiff;

(d) The defendant is further directed to pay punitive / exemplary damages to the extent of Rs. 10,00,000/- to the plaintiff;

(e) The plaintiff is awarded an amount of Rs. 3,00,000/- towards legal fees;

(f) The plaintiff is awarded Rs. 3,40,000/- paid to Ld. Local Commissioners pursuant to order dated 27.05.2024, 01.11.2025 and 07.11.2025; and

(g) The plaintiff will also be entitled to fees paid to Ld. Local Commissioner appointed for recording evidence.

143. Decree sheet be prepared.
144. File be consigned to record room.

Announced in the open Court SANJAY SHARMA-II
on this 30th June, 2026 DJ (Commercial Court)-03 (Shahdara)
Karkardooma Courts, Delhi

Havells India Limited vs. Vijay
CNR No.: DLSH01-003376-2024
CS (Comm.) No. 294/2024

30.06.2026

Through Video Conferencing.

Present : Mr. Sanchay Mehrotra, Ld. Counsel for the plaintiff.
Mr. Abhijit Mishra, Ld. Counsel with Mr. Himanshu
Tomar, Ld. Counsel for the defendant.

Vide separate judgment, the suit of the plaintiff is decreed and a decree, in terms of judgment, is passed in favour of the plaintiff and against the defendant. Decree sheet be drawn. File be consigned to record room.

Sanjay Sharma-II
DJ (Commercial Court)-03
Shahdara, KKD, Delhi
30.06.2026