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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 963/2025, I.A. 22352/2025, I.A. 22353/2025, I.A. 25305/2025, I.A. 25987/2025, I.A. 26091/2025, I.A. 26549/2025, I.A. 28799/2025 & I.A. 28800/2025**

AB SKF

.....Plaintiff

Through: Mr. Saif Khan and Mr. Prajjwal
Kushwaha, Advocates.

versus

M/S PARAMOUNT BEARING CO. & ORS.

.....Defendants

Through: Mr. Uttam Datt, Senior Advocate with
Mr. Abhishek Mishra, Ms. Sonakshi
Singh, Mr. Shibhit K. Srivastava, Mr.
Vishal Banshal and Mr. Kumar
Bhaskar, Advocates for D-2 to D-4.
Ms. Rashmi, Advocate for D-11.
Mr. Ashish Batra, Advocate for D-12.

CORAM:

HON'BLE MR. JUSTICE TEJAS KARIA

ORDER

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19.11.2025

I.A. 28799/2025

1. The learned Counsel for the Plaintiff seeks to withdraw this Application.

2. In view of the same, this Application is dismissed as withdrawn.

I.A. 28800/2025

3. This is an Application under Order XI Rule 1 (4) (as amended by the Commercial Courts Act, 2015) read with Section 151 of Code of Civil Procedure, 1908 ("CPC") for seeking permission to place on record the documents filed along with this Application as filed by Defendant Nos. 2 to 4



before the Division Bench of this Court in FAO(OS)(COMM) 181/2025 titled as *M/s. Paramount Bearing and Industrial Products & Ors. v. AB SKF & Ors.* filed by Defendant Nos. 2 to 4 (“**Appeal**”).

4. The learned Senior Counsel for Defendant Nos. 2 to 4, on instructions, submits that Defendant No. 2 to 4 do not have any objection for taking on record the documents sought to be placed on record by the Plaintiff.

5. In view of the above statement and considering the averments made in this Application, the present Application is allowed and the documents filed along with this Application are directed to be taken on record.

6. This Application stand disposed of.

I.A. 22352/2025

7. This Application has been listed pursuant to the Order dated 11.11.2025 passed by the Division Bench of this Court in the Appeal, which reads as under:

“1. Mr. Uttam Datt, learned Senior Counsel appearing for the appellants restricted his challenge in this appeal to the orders dated 10 September 2025, 10 October 2025 and 16 October 2025 passed by the learned Single Judge to the extent they have directed freezing of his bank accounts.

2. He submits that the direction for freezing of bank accounts is in the nature of an order under Order XXXVIII Rule 5 of the CPC which is not supported with the requisite reasoning.

3. Having heard learned Counsel for both sides, with consent of parties, we dispose of this appeal by setting aside the impugned orders dated 10 September 2025, 10 October 2025 and 16 October 2025 to the extent they direct freezing of the appellants’ bank accounts.

4. However, as Mr. Khan, learned Counsel for the respondents, apprehends that the appellants may divert their moneys if their accounts are defrozeed, and it may become impossible to recover anything from them, we direct the parties to appear before the learned Single Judge on 19 November 2025. We request the learned Single



Judge to pass a fresh order on the prayer for freezing of the bank accounts.

5. We make it clear that we have not expressed any opinion one way or the other on the merits of the said prayer and it would be open to the learned Single Judge to take an appropriate view in that regard. We have not examined any other aspect of the matter and this order is passed without prejudice to all other contentions available to the parties.

6. The appeal is disposed of in the aforesaid terms.”

8. Accordingly, the Plaintiff and Defendant No. 2 to 4 were heard on the issue of granting *ad-interim* relief of freezing of the Bank Accounts of Defendant Nos. 2 to 4.

9. The learned Counsel for the Plaintiff made the following submissions:

9.1 The Plaintiff, established and founded in the year 1907 in Gothenburg, Sweden is engaged in the business of manufacturing and supplying bearings, seals, lubrication systems, and related products and services under the Mark ‘SKF’ and its formative Marks (“**SKF Marks**”). The Plaintiff started its operations in India in 1923 and currently has a pan-India footprint of 6 manufacturing facilities, 12 offices, and a supplier network of over 300 authorized distributors and an employee base of more than 2600 professionals. The Plaintiff has an authorized list of distributors and partners through which the Plaintiff’s genuine products are sold. A list of the Plaintiff’s distributors is publicly available on the Plaintiff’s website, <https://www.skf.com/in/support/find-a-distributor>.

9.2 The Plaintiff has been receiving complaints regarding several entities operating under the common name ‘PARAMOUNT’ with different GST numbers, which have been unauthorisedly



manufacturing and selling identical products to that of the Plaintiff's products bearing the SKF Marks (**"Counterfeit Products"**). The Plaintiff first received such a complaint against one Paramount Bearing Company in 2021 and continued to receive such complaints from various customers over time. The Plaintiff contacted its customers as and when a query / complaint was received from the customers. The Plaintiff also sent e-mail notices to such entities arraigned as the Defendants from time to time, but the Defendants continued the alleged acts in an uninhibited manner.

9.3 The Partnership Deed dated 31.03.2019, placed on record, shows that both Mr. Bikrant Jaiswal and Mr. Pratik Jaiswal resided at the same address and were in partnership. Although Defendant Nos. 2 to 4 now state that the said partnership has been dissolved, this is not reflected on the websites of Defendant Nos. 2 to 4, and no public notice has been issued as required under the Partnership Act, 1932. The Plaintiff has accordingly confined its averments regarding the Defendants' interconnection to what is available in the public domain.

9.4 The website of Defendant No. 2, www.paramountindustrialproducts.com, publicly represents that Defendant No. 2 operates from multiple locations across the country, including Chennai, Kolkata, Bengaluru, Ahmedabad, Mumbai and Delhi. Despite claiming ownership of the said website, Defendant No. 2 has wrongly contended that the Delhi address displayed on the said website from where the learned



Local Commissioner recovered Counterfeit Products does not belong to Defendant No. 2.

- 9.5 The Tax Invoices issued by Defendant No. 2, which were shared directly by the customers with the Plaintiff pertain to Counterfeit Products. A complaint received from one Adishakti Enterprises, who had purchased products from Defendant No. 2 and later on sought verification of the purchased products from the Plaintiff, upon verification, the purchased product from Defendant No. 2 by Adishakti Enterprises, were found to be Counterfeit Products.
- 9.6 To demonstrate the alleged counterfeiting activities of Defendant Nos. 2 to 4, reliance was placed on the Tax Invoice dated 06.02.2025 pertaining to Defendant No. 2, and Tax Invoices dated 18.09.2025, 15.09.2025, 24.09.2024, 15.09.2025, 08.09.2025, 10.09.2025 and 05.09.2025 pertaining to Defendant No. 3 as well as Tax Invoices dated 14.11.2024, 24.12.2024, 26.12.2024, 03.06.2024, 12.06.2024, 24.08.2024, 28.08.2024, 31.08.2024 and 26.09.2024 pertaining to Defendant No. 4, all of which relate to Counterfeit Products.
- 9.7 Reliance was also placed on documents filed with the Suit on 01.09.2025, including Tax Invoices dated 15.09.2022, 16.09.2022 and 05.03.2024 pertaining to Defendant No. 2. These Tax Invoices were sent by the customers to the Plaintiff seeking validation of the purchased products, which were later found to be Counterfeit Products. Reference was also made to the Tax Invoice dated 17.02.2025 pertaining to Defendant No. 4. These Tax Invoices collectively show that the proceeds of the Counterfeit Products



were received in the Bank Accounts belonging to Defendant Nos. 2 to 4, as indicated by the Bank Account details appearing on the said Tax Invoices. Therefore, considering the material placed on record, the balance of convenience lies squarely in favour of the Plaintiff.

- 9.8 The Plaintiff has not invoked Order XXXVIII Rule 5 of CPC as the nature of the relief sought did not require recourse to the said provision. In any case, Order XXXVIII Rule 5 of CPC is not relied upon at the stage of seeking *ad-interim* relief and the Plaintiff has invoked Section 135 (2) (c) of the Trade Marks Act, 1999 (“**Act**”) and Order XXXIX Rule 1 and 2 of CPC for seeking *ad-interim* relief of freezing the Bank Accounts of the Defendants at this stage, which is not in the nature of attachment before judgement.
- 9.9 The averments regarding freezing of the Bank Accounts are contained in Paragraph No. 44 of the Plaint, wherein it is stated that Defendant Nos. 1 to 6 are receiving proceeds of the alleged activities in Bank Accounts maintained across various Banks nationwide.
- 9.10 Accordingly, the Plaintiff has sought directions to the Proforma Defendants to freeze the Bank Accounts and provide the Statements of the said Bank Accounts as specified in Paragraph No. 44 of the amended Plaint.
- 9.11 This Court in multiple cases including, ***Zepto (P) Ltd. v. Owner of Domain Name Zeptonowindia.com***; 2025 SCC OnLine Del 5767, ***Reliance Industries Limited & Anr. v. AJIO Online Shopping Pvt. Ltd. & Ors.***, Neutral Citation: 2023:DHC:6499; as well as the



order dated 20.08.2025 passed in ***Burger King Corporation v. Swapnil Patil & Ors.*** CS(COMM) 303/2022; order dated 28.07.2025 passed in ***Indmoney Tech Private Limited & Anr v. Ashok Kumar and Ors.*** CS(COMM) 744/2025; order dated 14.11.2024 passed in ***TATA Power Renewable Energy Limited & Ors. v Ashok Kumar/s & Ors.*** CS(COMM) 1015/2024 and order dated 24.12.2024 passed in ***Ms RKSV Securities India Pvt. Ltd. UPSTOX v John Does and Ors.*** CS(COMM) 1215/2024 has passed similar directions recognising that where the proceeds of unlawful activities are easily transferable and indicated to be in the bank accounts identified on record, a temporary freezing direction particularly one that is expressly limited stands as a proportionate measure to preserve the *status quo* until the defendants place their financial disclosures before the Court.

9.12 Hence, similar order be passed in the present Suit as well as already passed *vide* orders dated 10.09.2025, 10.10.2025 and 16.10.2025 in the Suit, which were set aside by the Division Bench by consent of the Parties. Accordingly, a fresh order be passed on the prayer for freezing of the Bank Accounts of Defendant Nos. 2 to 4.

10. The learned Senior Counsel for Defendant Nos. 2 to 4 made the following submissions:

10.1 Defendant Nos. 2 to 4 are businesses owned and operated as a partnership / proprietorship firms run by Mr. Bikrant Jaiswal and other partners. Paragraph No. 26 of the Plaint is the sole basis on which Defendant Nos. 2 to 4 have been impleaded in the present



Suit. The Plaintiff has wrongly clubbed the partnership / proprietorship firms run by Mr. Bikrant Jaiswal and other partners with that of the partnership and proprietorship firms run by Mr. Prateek Jaiswal. Among the websites referred to in Paragraph No. 26 of the Plaint also, only those from (e) and (h) pertain to Defendant Nos. 2 to 4, while those from (a) to (d) pertain to Defendant No. 1.

10.2 The website referred to in Paragraph No. 29 belongs to Defendant No. 2, however, pursuant to dissolution of the partnership in 2019, the Delhi address displayed therein does not belong to Defendant Nos. 2 to 4. Since the website referred to in Paragraph No. 29 relates to a period prior to the dissolution of the partnership in 2019, the said website may not have been updated thereafter and, therefore, continued to attribute the Delhi address to Defendant No. 2.

10.3 Defendant Nos. 2 to 4 are not connected to Defendant No. 1 and not engaged in counterfeiting of the Plaintiff's products. After the dissolution of partnership in 2019, the concerned partners have pursued their businesses independently. The GST numbers of Defendant Nos. 1 to 4 are also distinct, which demonstrates that they have been operating independently since 2019. Each Defendant raises its own Tax Invoices, and the material placed on record also shows that Defendant Nos. 1 to 4 are independent business entities.

10.4 The confusion in the present case has arisen solely due to vague and sweeping pleadings made by the Plaintiff that treat all the



Defendants collectively. There are no pleadings in the Plaint alleging that Defendant Nos. 2 to 4, being partnership / proprietorship firms run by Mr. Bikrant Jaiswal are engaged in alleged activities. The learned Local Commissioner appears to have proceeded to addresses unconnected with Defendant Nos. 2 to 4. The Local Commissioner's Report of the Chennai premises does not state the nature of the products seized from the Chennai premises and merely records that the seized products bore the '*Impugned Mark*' i.e., the Mark 'SKF'. Therefore, the allegation of counterfeiting arises solely from Counterfeit Products recovered from the premises of Defendant No. 1 in Delhi, and not from the premises of either of Defendant Nos. 2 to 4.

10.5 The Affidavit of the Independent Investigator dated 29.08.2025 also does not record any finding of counterfeiting against Defendant Nos. 2 to 4 and merely states that the Plaintiff's products were purchased from Defendant Nos. 2 to 4.

10.6 Defendant Nos. 2 to 4 are resellers who purchase and resell products from multiple other manufacturers and are entitled to use the concerned marks while reselling genuine products. As Defendant Nos. 2 to 4 deal with products from multiple other manufacturers, all sale proceeds thereto also flow into the Bank Accounts in question. As regards the sale proceeds of the Plaintiff's products, the same account for only a small portion of the business of Defendant Nos. 2 to 4. The material placed on record also shows that for financial year 2024-25, purchases from the Plaintiff constitute only 3.65% of Defendant No. 2's total



purchases, and for financial year 2025-26, it is only 2.15%. There are no complaints from other manufacturers against Defendant Nos. 2 to 4, alleging any counterfeiting activities. The Plaintiff has not placed on record any technical report to substantiate allegations of counterfeiting against Defendant Nos. 2 to 4. No case of counterfeiting is, therefore, made out against Defendant Nos. 2 to 4.

10.7 Before an order of attachment before judgment is passed, the Plaintiff must demonstrate that Defendant Nos. 2 to 4 are engaged in selling the Counterfeit Products. The Plaintiff has failed to establish even a *prima facie* case that Defendant Nos. 2 to 4 are engaged in selling the Counterfeit Products. In these circumstances, there is no justification for freezing the Bank Accounts of Defendant Nos. 2 to 4.

10.8 Once the Plaintiff seeks attachment of the Bank Accounts, the requirements of Order XXXVIII Rule 5 of CPC must be fulfilled. The Plaintiff must show that any decree ultimately passed by this Court may be rendered infructuous unless the attachment of the Bank Accounts of Defendant Nos. 2 to 4 is ordered. There are no pleadings in the Plaint satisfying the threshold under Order XXXVIII Rule 5 of CPC for a drastic measure such as freezing of the Bank Accounts. No averments have been made in the Plaint regarding any intent to defeat the decree, if passed in favour of the Plaintiff. In the absence of such pleadings or material showing likelihood of defeating a decree, Order XXXVIII Rule 5 of CPC cannot be invoked.



10.9 Reliance was placed on ***Indcon Polymech Ltd. v. Switching Technologies Gunther Ltd.***, 1994 SCC OnLine Del 579, and on ***Raman Tech. & Process Engg. Co. v. Solanki Traders***, (2008) 2 SCC 302, to submit that in the absence of pleadings demonstrating intent to defeat a decree, no order under Order XXXVIII Rule 5 of CPC can be passed and that the object of supplemental proceedings including attachment before judgment is to prevent the ends of justice from being defeated and that merely having a *prima facie* case is not sufficient, the Plaintiff must also show that Defendant Nos. 2 to 4 intend to remove or dispose of assets to defeat execution of a decree, if the same is passed in favour of the Plaintiff.

10.10 Reliance was also placed on ***Skypower Solar India (P) Ltd. v. Sterling and Wilson International FZE***, (2023) 6 HCC (Del) 702 wherein it was observed that:

“74. In the present case, there are no observations or findings to the effect that if the orders for furnishing of the bank guarantee are not granted, S&W would be unable to enforce the arbitral award against Appellants 2 to 6. There is also no material-on-record to even remotely suggest that Appellants 2 to 6 are alienating their assets or acting in a manner that would frustrate the enforcement of the arbitral award, if S&W India prevails in the arbitral proceedings. Clearly, an order directing them to furnish a bank guarantee, militates against the principles underlying under Order 38 Rule 5CPC.”

10.11 Therefore, the principles underlying Order XXXVIII Rule 5 of CPC must be taken into account, while considering the prayer of freezing of Bank Accounts under Order XXXIX Rules 1 and 2 of CPC. In the absence of any averment or material on record



demonstrating the Plaintiff's inability to recover damages, or that Defendant Nos. 2 to 4 intend to remove or dispose of assets to defeat execution of a decree, if the same is passed in favour of the Plaintiff, the relief of freezing of Bank Accounts belonging to Defendant Nos. 2 to 4 cannot be granted, particularly in a manner that may later be used to compel Defendant Nos. 2 to 4 into settlement.

10.12 Accordingly, on the basis of the averments made in the Plaint by the Plaintiff no case is made out to justify either the allegations of counterfeiting or the drastic interim reliefs sought against Defendant Nos. 2 to 4 in the form of freezing of the Bank Accounts belonging to Defendant Nos. 2 to 4.

11. The Plaintiff and Defendant Nos. 2 to 4 have been heard afresh at length on the limited issue of the relief sought concerning the freezing of Bank Accounts belonging to Defendant Nos. 2 to 4 as directed *vide* Order dated 11.11.2025 passed by the Division Bench in the Appeal.

12. In view of the submissions made on the issue of freezing of the Bank Accounts, it is relevant to examine the applicable legal framework and the principles governing a prayer for freezing of bank accounts at the *ad-interim* stage.

13. The learned Senior Counsel for Defendant Nos. 2 to 4 has submitted that a prayer for freezing the Bank Accounts made under Order XXXIX Rules 1 and 2 of CPC is, in essence, akin to attachment before judgment under Order XXXVIII Rule 5 of CPC.

14. Accordingly, the scheme, object, applicability and interplay between Order XXXIX Rules 1 and 2 of CPC and Order XXXVIII Rule 5 of CPC is



examined in relation to passing of *ad-interim* injunction for freezing the Bank Accounts of Defendant Nos. 2 to 4 in the facts and circumstances of the present case.

15. Order XXXIX of CPC deals with temporary injunction and interlocutory orders. Temporary injunction is in the nature of preventive relief granted to a litigant *quia timet*, i.e., because he fears future possible injury. It is a remedy in the form of an order of the Court addressed to a particular person that either prohibits him from doing or continuing to do a particular act or orders him to carry out a certain act. Order XXXIX Rule 1 of CPC contemplates temporary relief to a plaintiff on an imminent risk to the property in dispute in the suit being wasted by certain acts of the defendant. If the Court finds from the materials before it, that the defendant intends to cause injury to the plaintiff in the interregnum including by causing damage to, alienating, selling or removing the property, the Court is empowered to pass orders to prevent the property from being dealt with in such manner or in any way which is prejudicial to the plaintiff until the suit is disposed of or until further orders are passed by the Court.

16. As per the provisions contained in Order XXXIX Rule 1(b) of CPC, while passing an order of injunction, the Court is not required to ascertain as to whether there is every possibility of passing a decree in favour of the plaintiff in the suit, the Court is only required to ascertain as to whether a *prima facie* case has been made out by the plaintiff in the suit. When the Court finds that a *prima facie* case is made out by the plaintiff then the Court passes an order of injunction so that the ultimate relief, which is claimed by the plaintiff in the suit is not frustrated.



17. Whereas Order XXXVIII Rule 5 of CPC as has been observed in **Raman Tech** (*supra*) uses the words ‘*to obstruct or delay the execution of any decree that may be passed against him*’. Before exercising the power under Order XXXVIII Rule 5 of CPC, the Court should be satisfied that there is a reasonable chance of a decree being passed in the suit against the defendant and that the defendant is likely to obstruct or delay the execution of such a decree requiring attachment before judgment. If the averments in the plaint and the documents produced in support of it, do not satisfy the Court about the existence of a *prima facie* case, the Court will not go to the next stage of examining whether the interest of the plaintiff should be protected by exercising power under Order XXXVIII Rule 5 of CPC.

18. This Court in **Raman Tech** (*supra*) further observed that merely having a just or valid claim or a *prima facie* case will not entitle the plaintiff to an order of attachment before judgment, unless the plaintiff also establishes that the defendant is attempting to remove or dispose of his assets with the intention of defeating the decree that may be passed.

19. The question that requires consideration is whether an *ad-interim* injunction for freezing of Bank Accounts of Defendant Nos. 2 to 4 under the provisions of Order XXXIX Rules 1 and 2 of CPC amounts exercise of power under Order XXXVIII Rule 5 of CPC.

20. The Supreme Court in **Vareed Jacob v. Sosamma Geevarghese**, (2004) 6 SCC 378, has observed that the scheme of Order XXXVIII of CPC is different from Order XXXIX or Order XL of CPC and that attachment under Order XXXVIII of CPC cannot be compared with power of the Court to grant temporary injunction under Order XXXIX of CPC as interlocutory orders.

21. The Supreme Court in **Vareed Jacob** (*supra*) observed that:



“14. In the case of Nagar Mahapalika v. Ved Prakash [AIR 1976 All 264] the same view has been taken in that matter. In that matter it was held that interim injunction came to an end on dismissal of the suit for default and it would not automatically revive on restoration. Here also reliance has been placed by the Allahabad High Court on its earlier judgment in the case of Ram Chand v. Pitam Mal [ILR (1888) 10 All 506 : (1888) 8 AWN 195] . However, this is the only judgment which has equated order of temporary injunction with attachment before judgment as interlocutory orders without considering provisions of Order 38 Rule 9 and Rule 11.

15. At the outset, we may point out that the case of Ram Chand v. Pitam Mal [ILR (1888) 10 All 506 : (1888) 8 AWN 195] was under the provisions of the earlier Civil Procedure Code of 1859. In this case we are concerned with the Civil Procedure Code of 1908, which has made substantial changes with regard to the attachment before judgment. Under Order 38 Rule 1 an extraordinary relief is given to the plaintiff, namely, in appropriate cases where the court finds a strong prima facie case in favour of the plaintiff and if the court is satisfied that the defendant is likely to defeat the decree in future as and when it is passed, then the court shall grant attachment before judgment even before final adjudication of the claim of the plaintiff, hence it is an extraordinary relief given to the plaintiff by the court. However, under Order 38 Rule 9 the court shall order withdrawal of attachment when the suit is dismissed. Therefore, Rule 9 makes it mandatory for the court to lift the attachment at the time of the dismissal of the suit. Such a provision is not there under Order 39 or under Order 40. This has not been noticed by the Allahabad High Court in the case of Nagar Mahapalika v. Ved Prakash [AIR 1976 All 264] . All the earlier judgments of the Allahabad High Court related to Order 38 and not to Order 39. Moreover, as stated above, attachment is a part of execution process. It is granted to protect the decree. Under Order 38 Rule 11 it is further provided that when the suit is decreed the courts will continue attachment before judgment and the plaintiff is not required to reapply for attachment. The scheme of Order 38 is different from Order 39 or Order 40. Hence, we cannot compare attachment under Order 38 with power of the court to grant temporary injunction under Order 39 as interlocutory orders. Similarly, Order 21 Rule 57 indicates the duty on the courts to order whether the attachment shall continue or cease on the dismissal of the execution suit.”

[Emphasis supplied]



22. The Calcutta High Court in ***Prabha Surana v. Jaideep Halwasiya***, 2021 SCC OnLine Cal 2480, while noting the distinction between Order XXXVIII of CPC and Order XXXIX of CPC, *inter alia*, has observed that Order XXXVIII Rule 5 of CPC applies at a later stage in a suit where the plaintiff seeks to execute a decree. The provision, by its very description, applies to an order which lends finality to the suit and aims at preserving the state of affairs after the interim stage in the suit is over.

23. Under Order XXXIX Rule 1 CPC, the property sought to be preserved is ‘*property in dispute in a suit*’, whereas, it is the defendant’s property under Order XXXVIII Rule 5 of CPC. The words used are ‘*his property*’ following specific reference to ‘*...the defendant, with intent to obstruct or delay...*’. In the present case, where the Plaintiff seeks rendition of accounts and account of profits along with damages, owing to averments of illegal and unfair gains earned by Defendant Nos. 2 to 4 and the resulting loss of sales and business to the Plaintiff, the sale proceeds deposited in the identified Bank Accounts constitute ‘*property in dispute in a suit*’ within the meaning of Order XXXIX Rule 1 CPC as the same contains the proceeds of selling Counterfeit Products.

24. The Division Bench of the Calcutta High Court in ***Harleen Jairath v. Prabha Surana***, 2019 SCC OnLine Cal 2372 has observed that:

*“39. In decision of a Division Bench decision of our Court in **Santosh Promoters** (supra), the relative scope of both the sections have been lucidly discussed. It is stated:—*

“Let us now try to find out the distinction between the provisions under order 39 Rule 1(b) of Civil Procedure code and the provision contained in Order 38 Rule 5 of the Code of Civil Procedure. At the very outset, we like to mention here that that those two provisions operate in different fields altogether. Order 38 Rule 5 of the Civil Procedure Code contemplates post decree consequences. While dealing with such an application, the Court is required to find out first



as to whether there is strong possibility of passing a money decree in favour of the plaintiff. If the court is satisfied that there is every possibility of passing a money decree in favour of the plaintiff, then only the court can pass any order of attachment before judgment provided the Court is satisfied that the defendant is either trying to dispose of whole or any of his property or is about to remove the whole or any part of his property from the local limits of the jurisdiction of the Court, with an intent to obstruct or delay the execution of any decree that may be passed against him. Reading the said provision as a whole, we are of the view, that order of attachment before judgment cannot be passed by any Court unless the Court is satisfied about the conditions as mentioned above.

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Again the order of attachment before judgment will continue even after the suit is decreed in favour of the plaintiff and re-attachment of the attached property in execution is not needed in view of Order 38 Rule 11 & 11A of the Civil Procedure Code. However, the order of attachment before judgment will stand withdrawn on furnishing security by the defendant or with the dismissal of the suit as per the provision contained in Order 38 Rule 9 of the Civil Procedure Code.

Order of temporary injunction is essentially different from the order of attachment before the judgment as it loses its force with the disposal of the suit, be it decreed or dismissed. Its operation cannot be extended beyond the disposal of the suit.

Thus, we hold that the Court's power to grant temporary injunction cannot be treated at par with its power to pass an order of attachment before judgment under Order 38 Rule 5 of the Code of Civil Procedure. Thus, while passing an order of temporary injunction, post decree consequences need not be considered by the Court, but while passing an order of attachment before judgment, the Court has to consider the post decree consequences. As such the standard of proof in case of attachment before judgment is higher than the standard of proof necessary to be discharged in case temporary injunction is sought for.

[Emphasis supplied]

25. Thus, the rigours of Order XXXVIII Rule 5 of CPC are not applicable in the present case at this stage, when the Defendants have not even filed



Reply to this Application under Order XXXIX Rules 1 and 2 of CPC. The Plaintiff has not sought attachment of any of the properties of the Defendants. All that the Plaintiff seeks is maintaining the *status quo* with regard to the Bank Accounts of Defendant Nos. 2 and 4 so that till such time Defendant No. 2 to 4 file Reply to this Application and the same is considered on merits, the relief sought in the Suit is not rendered infructuous. Therefore, there is no basis to expand the factors considered for attachment before judgment to the relief that the Plaintiff is praying for grant of an *ad-interim* injunction for freezing the Bank Accounts of Defendant No. 2 to 4 have shown *prima facie* case, balance of convenience and irreparable loss if such an interim injunction is not granted at this stage.

26. While the learned Senior Counsel has vehemently submitted that there is no connection between Defendant No. 1 and Defendant Nos. 2 to 4, independent of any such connection, there is material on record indicating the independent involvement of Defendant Nos. 2 to 4 in counterfeiting activities. The material placed on record such as customer complaints, invoices bearing Defendant Nos. 2 to 4's bank account details, and the Local Commissioners' seizure of Counterfeit Products creates a direct and traceable link between the alleged activities and the concerned Bank Accounts, establishing a *prima facie* case for preserving the proceeds of Counterfeit Products received by Defendant Nos. 2 to 4 in the identified Bank Accounts.

27. The Tax Invoices placed on record indicate that the concerned Bank Accounts belong to Defendant Nos. 2 to 4 and were used in the course of their business activities. The continued display of the Delhi address on Defendant No. 2's website, www.paramountindustrialproducts.com strengthens the *prima facie* link between Defendant Nos. 2 to 4 and the premises from which



the Counterfeit Products were recovered. Defendant Nos. 2 to 4's own public representation connects them to the premises from where the Counterfeit Products were recovered. At this *ad-interim* stage, the website extracts, Tax Invoices, and the Local Commissioners' Reports are *prima facie* indicators of Defendant No. 2 to 4s' involvement in the sale and distribution of the Counterfeit Products, and of the proceeds of such sales being credited to the identified Bank Accounts.

28. The learned Senior Counsel for Defendant Nos. 2 to 4 has submitted that the Bank Accounts sought to be frozen contain sale proceeds for products from multiple other manufacturers. It was further submitted that as all sale proceeds flow into the Bank Accounts in question, the sale proceeds of the Plaintiff's Products account for only a small portion of the business of Defendant Nos. 2 to 4. Although Defendant No. 2 and 4 have placed material placed on record that shows that for financial year 2024-25, purchases from the Plaintiff constitute only 3.65% of Defendant No. 2's total purchases, and for financial year 2025-26, it is only 2.15%, there is no document on record to show that how much sale of the Plaintiff's products was undertaken during the said period. If Defendant Nos. 2 to 4 can maintain information regarding the purchase of the products of the Plaintiff, they can certainly provide the details of the sale of the said products. Such suppression of information by Defendant Nos. 2 to 4 *prima facie* shows the clandestine nature of activities of selling Counterfeit Products by Defendant Nos. 2 to 4.

29. In cases involving allegations of counterfeiting, the proceeds generated from the sale of infringing goods are directly tied to the unlawful activity itself. This Court in ***New Balance Athletics Inc. v. Salman Khan & Anr.***, Neutral Citation: 2023:DHC:7412 has observed that counterfeiting is a



serious social evil, which erodes brand value which may have been gained over a long period of time and has, therefore, to be dealt with strictly. This view has also been accepted by the Division Bench of this Court in **Jawed Ansari v. Louis Vuitton Malletier**, 2023 SCC OnLine Del 8758.

30. The learned Senior Counsel for Defendant Nos. 2 to 4 has placed reliance on decision of this Court in **Indcon Polymech Ltd.** (*supra*) wherein it was observed that an order cannot be passed by reference to Order XXXIX Rule 1 of CPC, when the injunction sought for by the defendant therein restraining the plaintiff therein from disposing of its assets and property because the property of the plaintiff therein was not a subject matter of the suit or a property in dispute in the concerned suit and that the only provision by reference to which the defendant therein could have sought for the relief prayed for is Order XXXVIII Rule 5 of CPC.

31. However, in the present Suit, the identified Bank Accounts clearly form part of the subject matter by virtue of averments of illegal and unfair gains earned by Defendant Nos. 2 to 4 by selling the Counterfeit Products, the resulting loss of sales and business to the Plaintiff, and claim of the sale proceeds being deposited in the identified Bank Accounts, as supported by the material placed on record.

32. As regards the reliance placed in **Raman Tech** (*supra*) and **Skypower Solar India (P) Ltd.** (*supra*), the said decisions dealt entirely with an attachment before judgment issue while observing that the claim therein suggesting alienation of assets to be lacking in material particulars. The principles of Order XXXVIII Rule 5 of CPC expressed with precision in the said decisions are not applicable at this stage of grant of *ad-interim* injunction aimed at preserving property in dispute in Suit, and not with attachment before



judgment aimed at protecting execution of a decree to be passed ultimately in the Suit. Standards for consideration of both the reliefs and also the stages for the same are entirely different and distinct and not comparable with each other.

33. Section 135 (2) (c) of the Act also empowers the Court to pass such injunction orders as are necessary to restrain the defendant from disposing of or dealing with his assets in a manner which may adversely affect the plaintiff's ability to recover damages, costs or other pecuniary remedies which may be finally awarded to the plaintiff thereby giving Court the power to preserve the position so that monetary remedies in an infringement action are not frustrated. This is not the same as attachment under Order XXXVIII Rule 5 of CPC, which applies only where there is clear intention to defeat execution of a decree and is aimed at securing enforcement of a judgment rather than preserving property in dispute in a suit.

34. Order XXXIX Rules 1 and 2 of CPC read with Section 135 of the Act, empowers the Court to mould relief in a manner that prevents the continuing flow of infringing products. In cases of counterfeiting, where the subject matter is not merely the products seized, but also the revenue generated from unlawful sales, the Bank Accounts receiving such proceeds form an integral part of the injunctive framework. It is alleged, on the basis of the relevant material placed on record, that the sale proceeds of the Counterfeit Products have been received directly into Defendant Nos. 2 to 4's identified Bank Accounts, a nexus indicated through Tax Invoices linking the sale of Counterfeit Products to the specific Bank Accounts sought to be frozen by the Plaintiff. Therefore, the material placed on record is, *prima facie*, sufficient to conclude that the inflows into the identified Bank Accounts as sought to be



frozen by the Plaintiff, represent the sale proceeds of the transactions involving the alleged trade of Counterfeit Products.

35. This Court in multiple cases including ***Zepto (P) Ltd.*** (*supra*), ***Reliance Industries Limited*** (*supra*), ***Burger King Corporation*** (*supra*), ***Indmoney Tech Private Limited*** (*supra*), ***TATA Power Renewable Energy*** (*supra*), ***Ms RKSV Securities*** (*supra*) has passed similar directions for freezing the bank accounts of the defendants at an *ad-interim* stage recognising that where the proceeds of unlawful activities are easily transferable, and indicated to be in the bank accounts identified on record, a temporary freezing direction particularly one that is expressly limited stands as a proportionate measure to preserve the *status quo* until the defendants place their financial disclosures before the Court.

36. At this interim stage, the Court is not called upon to decide final rights but only to ensure that the monetary claims, *inter alia*, for damages, rendition of accounts and account of profits are not rendered illusory. The temporary freezing of the bank accounts of the Defendants does not operate as an attachment before judgment under Order XXXVIII Rule 5 of CPC, but it is an interlocutory measure under Order XXXIX of CPC read with Section 135 of the Act to hold the position in *status quo* until the Defendants place on record their complete financial disclosures on oath. Once the Defendants place their financial records on oath, the Court may suitably modify the direction, if warranted. Until then, given the *prima facie* finding of the sale of the Counterfeit Products, and the established nexus between transactions pertaining to the sale of the Counterfeit Products and the identified Bank Accounts wherein the sale proceeds of the Counterfeit Products are received,



an interim order freezing the identified Bank Accounts of the Defendants is not only justified, but absolutely essential.

37. Accordingly, till the next date of hearing, Defendant Nos. 7 to 14 are directed to freeze the Bank Accounts as specified in the table below and file in a sealed cover / password protected document, all details, records and particulars relating to opening and operating of the said Bank Accounts including KYC records of the account holders and complete account statements from opening till date within two weeks from receiving copy of this Order from the learned Counsel for the Plaintiff:

Defendant Nos.	Bank Account Details
Defendant No. 7	1. 50200072658671 (IFSC – HDFC0004755) 2. 50200085032910 (IFSC – HDFC0000627)
Defendant No. 8	921020009740646 (IFSC-UTIB0000153)
Defendant No. 9	00250200001455 (IFSC- BARB0COLCAL)
Defendant No. 10	1. 8445274307 (IFSC- KKBK0008497) 2. 8448099679 (IFSC- KKBK0008038)
Defendant No. 11	257439594755 (IFSC- INDB0000737)
Defendant No. 12	40997706603 (IFSC- SBIN0000144)
Defendant No. 13	1. 113105001074 (IFSC – ICIC0001131) 2. 113105001187 (IFSC – ICIC0001131)
Defendant No. 14	0084202100000823 (IFSC - PUN80008420)

38. List on 16.12.2025 for further hearing on the date already fixed along with I.A. 26091/2025 filed on behalf of Defendant Nos. 2 to 4 under Order XXXIX Rule 4 of CPC.



39. The learned Senior Counsel for Defendant No. 2 to 4 submits, on instructions, that Defendant Nos. 2 to 4 does not wish to file Reply to this Application and I.A. 26091/2025 filed on behalf of Defendant Nos. 2 to 4 be treated as Reply to this Application.

40. The Plaintiff is at liberty to file Reply to I.A. 26091/2025, which will be treated as Rejoinder to the Reply to the present Application, if any, before the next date of hearing.

TEJAS KARIA, J

NOVEMBER 19, 2025/ *Ap*