



2026:DHC:3100



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% Order reserved on : 07.04.2026
Order delivered on: 15.04.2026
+ CS(COMM) 268/2021
PEPSICO INC. & ANR.Plaintiffs
versus
PARLE AGRO PRIVATE LIMITEDDefendant

Advocates who appeared in this case:

For the Plaintiff : Mr. Dayan Krishnan, Senior Advocate with Ms. Avni Sharma, Ms. Aparna Singh, Mr. Deepak Gogia, Mr. Aadhar Nautiyal and Ms. Shivangi Kohli, Advocates.

For the Defendant : Mr. C.M. Lall, Senior Advocate with Mr. Ankit Arvind, Mr. Shashwat Rakshit and Ms. Nidhi Pathak, Advocates.

CORAM:
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

TUSHAR RAO GEDELA, J:

I.A. 524/2026 (Under Order XXXIX Rule 2A CPC)

1. This is an application under Order XXXIX Rule 2A read with Section 151 of the Code of Civil Procedure, 1908 (hereinafter referred as “CPC”) filed on behalf of the plaintiffs seeking a direction to hold the defendant as also its principal officers guilty of wilfully violating and disobeying the order dated 18.09.2023, passed by this Court.

2. In the suit, the plaintiffs have sought a decree of permanent injunction, restraining infringement of registered trademark/tagline “For The Bold”, passing off, dilution, delivery up, damages and costs, against the defendant.



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3. Mr. Dayan Krishnan, learned senior counsel in order to set out the background, refers to the orders dated 09.01.2026, 06.02.2026 and 16.02.2026 passed by this Court based whereon the defendant has filed two affidavits dated 22.01.2026 and 16.02.2026.

4. He would contend that a plain reading of both the affidavits do not leave any doubt that the defendant has knowingly, wilfully and deliberately disobeyed the directions contained in sub-para (vii) of Para 139 of the order dated 18.09.2023 passed by this Court.

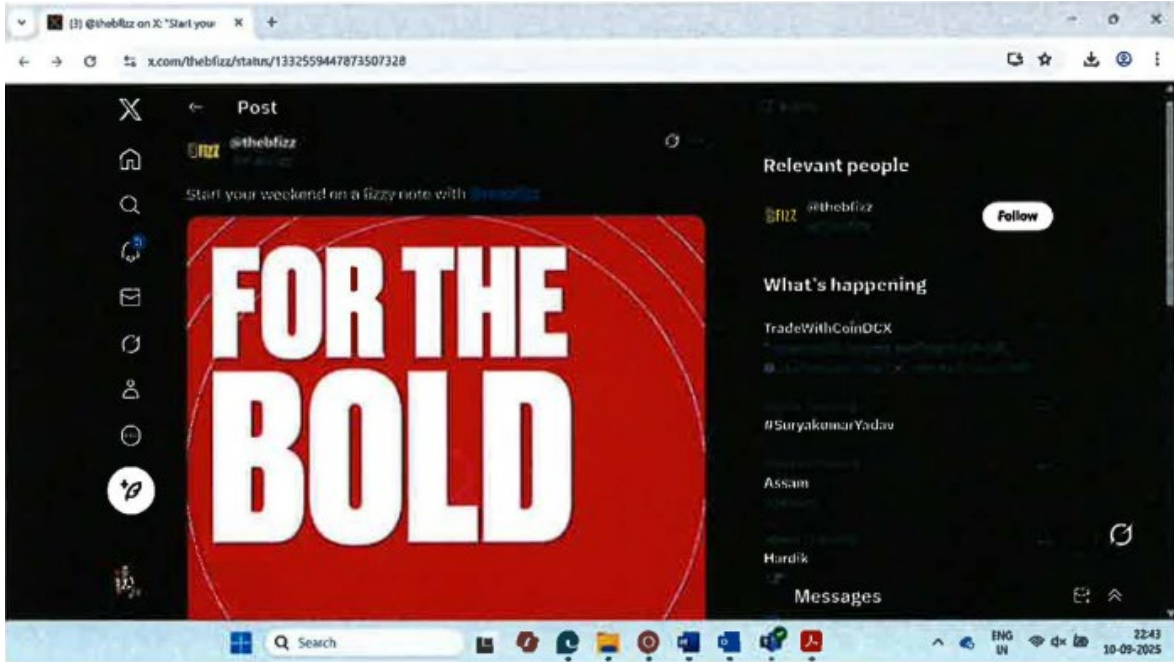
5. He would contend that this Court had restrained the defendant from (i) altering the label on its “B Fizz” beverage bottle/can without prior approval of the Court; (ii) from using the tagline “For The Bold” as the predominant part of any advertising campaign for its “B Fizz” beverage; (iii) airing or continuing the Facebook advertisements extracted in para 13 of the order dated 18.09.2023; and (iv) if such advertisements are continuing, the same to be immediately taken down and discontinued.

6. That apart, learned senior counsel stated that this Court had also directed the defendant to place on record the account statements every two months from the time the use of the label containing ‘For The Bold’ commenced, which too has been, with impunity, not complied with by the defendant.

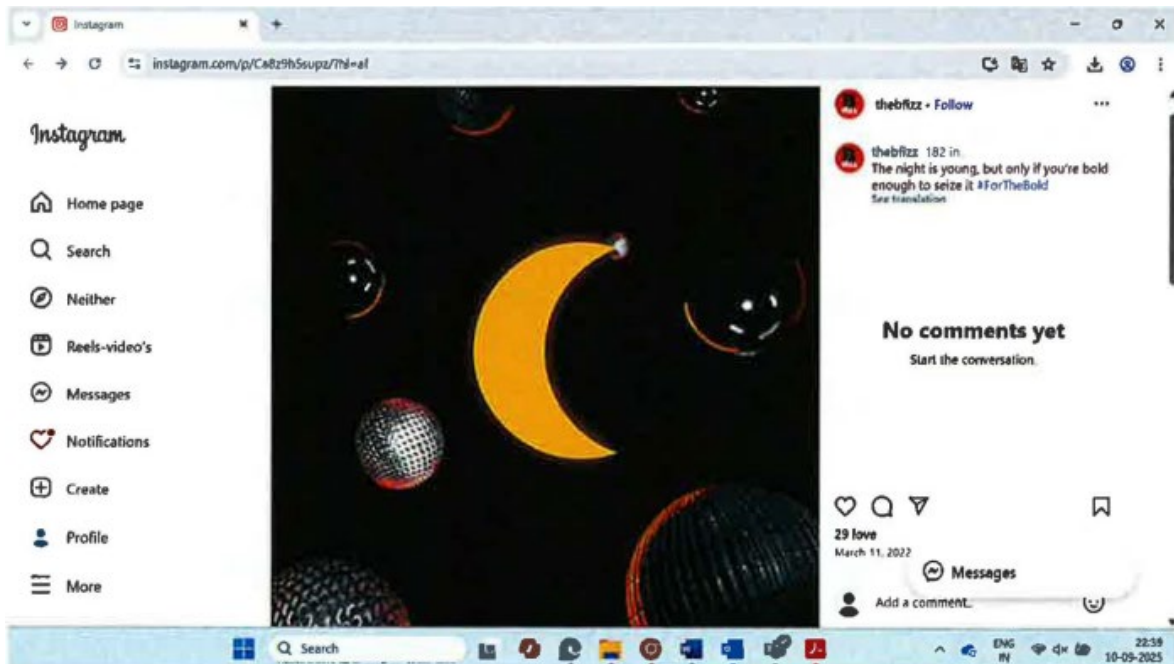
7. By referring to para 8 of the application, learned senior counsel would contend that the defendant has wilfully, deliberately and contumaciously violated the aforesaid directions. In that, in the X/Twitter, and the Instagram account of the defendant, the defendant has continued to violate the aforesaid directions. To explain it better, the screenshots are extracted hereunder:



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<https://x.com/thebfizz/status/1332559447873507328>



<https://www.instagram.com/p/Ca8z9h5supz/?hl=af>

8. In the aforesaid context, he would refer to the affidavit of one Mr.



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Bhalchandra Shripad Virkar dated 22.01.2026, who has categorically admitted that the advertisements/social media posts carrying the tagline “FOR THE BOLD” were taken down from its social media handles as soon as they came to know about it through the present application under Order XXXIX Rule 2A, CPC. The deponent had also admitted to filing the record of certified sales revenue of the “B Fizz” beverage of the defendant along with the said affidavit, which too is a clear admission of the violation of the directions contained in order dated 18.09.2023.

9. He would further contend that, since this Court was not satisfied with the affidavit, the defendant filed yet another affidavit dated 16.02.2026. Learned senior counsel would emphasize that the second affidavit is far more intriguing, inasmuch as, while in the first affidavit, the defendant admitted that the social media posts were its own, in the second affidavit, it falsely claimed that the posts complained of were on third-party social media platforms. He forcefully contended that rather than purging itself, and tendering an unconditional apology for the violations it committed, the defendant through the deponent stated that it was an inadvertent error, which was neither deliberate nor wilful.

10. According to Mr. Dayan Krishnan, learned senior counsel, there are two clear, unambiguous, deliberate and wilful violations specifically admitted by the deponent on behalf of the defendant, and thus this Court must exercise the powers conferred under Order XXXIX Rule 2A of the CPC to initiate appropriate action apart from initiating action under Section 12 of the Contempt of Courts Act, 1971 (hereafter referred to as “CC Act”). Learned senior counsel would urge that the power exercised by a Court under Order XXXIX Rule 2A of the CPC is punitive in nature and akin to the powers to punish for civil contempt under the CC Act.



11. Learned senior counsel emphasized that apart from the powers under Order XXXIX Rule 2A, CPC, this Court has ample powers and jurisdiction conferred under the provisions of the CC Act to take note of the defendant's wilful and contemptuous disobedience of the order dated 18.09.2023 as also for wilful obstruction of the administration of justice and the majesty of this Court. In support of his aforesaid contention, learned senior counsel relies upon the judgment of the Supreme Court in ***Food Corporation of India v. Sukh Deo Prasad, (2009) 5 SCC 665***, relevant paras of which are extracted hereunder:

“38. The power exercised by a court under Order 39 Rule 2-A of the Code is punitive in nature, akin to the power to punish for civil contempt under the Contempt of Courts Act, 1971. The person who complains of disobedience or breach has to clearly make out beyond any doubt that there was an injunction or order directing the person against whom the application is made, to do or desist from doing some specific thing or act and that there was disobedience or breach of such order. While considering an application under Order 39 Rule 2-A, the court cannot construe the order in regard to which disobedience/breach is alleged, as creating an obligation to do something which is not mentioned in the “order”, on surmises, suspicions and inferences. The power under Rule 2-A should be exercised with great caution and responsibility.

39. It is shocking that the trial court had entertained an application under Order 39 Rule 2-A from a person who was not entitled to file the application, has accepted an interpretation of the order which does not flow from the order, and has created a liability where none existed, resulting in attachment of the assets of FCI to an extent of more than Rs 1.12 crores. The order dated 15-12-2004 cannot be supported or sustained, under any circumstances.”

[emphasis supplied]

12. Learned senior counsel contended that admittedly, there was no compliance by the defendant till the present application was filed. It is only after the application was filed that the defendant took down the two infringing advertisements from its X/Twitter account and Instagram account, and also filed the certificate of sales revenue.



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13. Learned senior counsel referred to the Contempt of Courts (Delhi High Court) Rules, 2025 in respect of the procedure prescribed for initiating contempt action against contemnors. He relied on Rules 5(a), 9 and 10 of the Rules, 2025 to submit that this Court can and ought to initiate contempt proceedings against the defendant for wilful disobedience. He also referred to Section 12 of the CC Act in order to support his contentions.

14. *Per Contra*, Mr. Chander Lall, learned senior counsel appearing for the defendant submits at the outset that, though a lot of arguments were based on the provisions of the CC Act, however, no such provision has been invoked or referred to in the present application. He stated that the only provision invoked by the plaintiff is under Order XXXIX Rule 2A of the CPC. Thus, this Court would eschew any argument on issues which do not form part of the pleadings since the defendant has not had the opportunity to rebut the same in writing.

15. So far as the merits of the application is concerned, Mr. Lall, learned senior counsel, drew attention of this Court to para 139 of the order dated 18.09.2023 to submit that the Court did not completely agree with the contentions of the plaintiff, and only allowed the application seeking injunction in part. He stated that the prayer for injunction against use of “FOR THE BOLD” was in fact, rejected. According to him, the directions in sub-para (vii) of para 139 of the said order were very limited. He argued that the direction restraining the defendant from taking out any fresh advertisements has been totally complied with by the defendant. He asserted that the defendant has not taken out any fresh advertisement at all. So far as the advertisement in the Facebook account or elsewhere was concerned, the same too were immediately taken down by the defendant



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demonstrating its complete obedience and deference to the order dated 18.09.2023.

16. Insofar as the two advertisements containing the tagline “FOR THE BOLD” which were restrained by this Court in the order dated 18.09.2023 and were found available in the X/Twitter and Instagram accounts is concerned, he submitted that out of a large number of advertisements, listings and/or posts, which the defendant holds accounts of, it is only these two posts alone which were inadvertently not deleted or taken down by the defendant. In fact, he contended that these posts were of the year 2022, which were much prior in time to the directions passed by this Court in the order dated 18.09.2023. Dilating further, he submitted that it is purely out of oversight and inadvertence that the defendant was unable to delete/take down these posts. He emphatically stated that there was neither any deliberate nor wilful disobedience on the part of the defendant in not deleting or taking down these two posts. He would contend that having regard to the fact that these are old posts in accounts of the defendant, which may have hundreds of posts recorded/registered after the year 2022, such error or mistake is neither wilful nor deliberate. This Court may, learned senior counsel argued, in its grace and magnanimity, forgive any such error or inadvertence committed by the defendant, which was neither deliberate nor wilful.

17. Learned senior counsel contended that there was no benefit which would have accrued to the defendant in retaining such old posts deep within the accounts of the defendant which were almost forgotten by the defendant itself. He would also contend that the plaintiff could have easily informed the defendant of the presence of such posts, subsequent whereunto, the defendant would have immediately deleted or taken down such posts. He



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would contend further that it only shows the *malafide* of the plaintiff to put the defendant in a difficult situation before the Court.

18. He further relied upon the judgment of the Supreme Court in *U.C. Surendranath vs. Mamabally's Bakery*, reported in (2019) 20 SCC 666, particularly para 7 to submit that Order XXXIX Rule 2A of the CPC contemplates disobedience not as a mere 'disobedience' but a 'wilful disobedience', which has to be proved to the satisfaction of the Court. According to him, it has to be proved that there indeed was a 'wilful disobedience' since the provisions contemplate penal consequences of such disobedience. He would submit that in the circumstances narrated, there is no wilful disobedience but an inadvertent error/mistake committed by the defendant, which may not tantamount to disobedience at all.

19. So far as the non-filing of the certificate of sales revenue, every two months as directed in the order dated 18.09.2023 is concerned, he would submit that there is no wilful violation there either. His contention was that nothing impactful would turn around on the non-filing of such sales revenue, inasmuch as, the facts and figures required to be mentioned therein would be considered only when this Court is assessing or ascertaining the quantum of damages, if at all, the plaintiff is able to prove or establish any damages having accrued on account of any action of the defendant. There being no such urgency in the said aspect, since issues are yet to be framed, and trial is yet to commence, the delay in filing such certificate of sales revenue every two months, would be of no relevance. According to him, the actual requirement of such a document or sales figure would arise at a later stage in the suit. Hence, the delay in filing would neither be wilful nor deliberate disobedience of the directions contained in the order dated 18.09.2023.



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20. This Court has heard the arguments of Mr. Dayan Krishnan, learned senior counsel for the plaintiffs, and Mr. Chander M. Lall, learned senior counsel for the defendant at length and with their assistance, perused the documents placed on record.

21. This Court would examine the issue of whether the defendant is in disobedience of the directions in order dated 18.09.2023 on two aspects, (i) whether the defendant violated/disobeyed the direction of taking down all advertisements/posts featuring the tagline “FOR THE BOLD” and; (ii) whether the defendant has violated/disobeyed the direction to file its certificate of sales revenue every two months.

First aspect:

22. A perusal of the two affidavits filed by one Mr. Bhalchandra Sripad Virkar on behalf of the defendant brings to fore certain inconsistencies. In that, in the affidavit dated 22.01.2026, the deponent stated that the marketing team of the defendant confirmed that the social media post/advertisements featuring the tagline “FOR THE BOLD” were taken down from the **defendant’s social media handles** as soon as they came to know through the present application, while in the affidavit dated 16.02.2026, the deponent stated that as soon as the defendant came to know about the presence of the posts on **third-party social media platforms** through the present application, the defendant immediately took down the aforesaid social media posts.

23. Clearly the two statements do not align with each other.

24. The next aspect, having due regard to the aforesaid, would be as to whether the aforesaid inconsistency would amount to a wilful or a deliberate disobedience of the directions in the order dated 18.09.2023.

25. Though Order XXXIX Rule 2A of the CPC does not employ the



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word 'wilful' before the word 'disobedience', the Supreme Court in *U.C. Surendranath* (*supra*) has held that to hold a person guilty of violation of Order XXXIX Rule 2A, CPC, the disobedience has to be 'wilful', since the consequence of such finding has criminal/penal liability. Since the provision provides for a civil imprisonment to the extent of three months apart from attachment of the property, it appears that the Supreme Court in its interpretation took into consideration the deprivation of right to freedom guaranteed by the Constitution as the edifice to come to such conclusion. Though the provisions of Rule 2A of Order XXXIX of the CPC appear to be engrafted more for the purposes of enforcement of interim orders passed by the Court rather than for the purposes of deprivation of liberty or right to freedom guaranteed by the Constitution, however, the underlying factor that for the disobedience of an order, the Court can punish a person by detaining such person in civil prison for a period of three months, may necessarily imply such disobedience to be tested on the touchstone of whether the same is deliberate or wilful.

26. Having regard to the aforesaid, this Court agrees with the submissions of Mr. Chander Lall, learned senior counsel for the defendant that the said omission is most likely to be an error or a mistake having no semblance to a deliberate or wilful disobedience.

27. It is to be noted that this Court did not completely agree with the plaintiffs while passing the order dated 18.09.2023, and passed certain directions, one of which was to take down/delete the Facebook post or any other post. In deference to the order, the defendant appears to have taken down/deleted all such offending posts on its Facebook account and elsewhere. It is also noted that the two posts in question pertain to the year 2022, which are much prior in time to the order dated 18.09.2023. Having



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regard to the extensive use of such posts by the defendant to promote its brand etc., it is verily possible that the defendant may have by inadvertence or oversight, omitted to delete/take down the two offending posts. No doubt, the accounts do in fact belong to the plaintiffs, however, the omission appears to be an error on account of inadvertence rather than being wilful or deliberate.

28. As such, on this score, this Court is unable to agree with the submissions of the plaintiffs.

Second aspect:

29. So far as the second aspect regarding non-filing of the certificate of sales revenue every two months on or from the time the use of the label containing 'For The Bold' commenced is concerned, the submissions tendered on behalf of the defendant do not appeal to this Court.

30. A perusal of both the affidavits dated 22.01.2026 and 16.02.2026 discloses no reason whatsoever for not having filed the said certificate of sales revenue every two months from the time the use of the label containing 'For The Bold' commenced till February, 2026, has been tendered even after a lapse of more than two and a half years. The least expectation of this Court insofar as this aspect is concerned, was an explanation as to why the defendant was unable to comply with such direction. As admitted by Mr. Lall, learned senior counsel, the defendant is a listed company, in which case all its sales revenue are statutorily audited, and all accounts of sales etc. are properly recorded and maintained by the defendant.

31. Mr. Lall, learned senior counsel has over simplistically stated that no prejudice would be caused to the plaintiffs even if the certificate for sales revenue were not filed every two months, and were filed only in February,



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2026, inasmuch as, the requirement to consider such sales figures would arise only at the stage of trial of the suit.

32. Though a very attractive submission, yet does not appeal to this Court. This is for the reason that it is not as to the stage when the requirement of the certificate of sales revenue is relevant, but the fact that there was indeed a direction by this Court to file such certificate of sales revenue every two months which is the only and paramount consideration so far as the present application is concerned. The issue is whether a direction passed is or is not implemented in time by either of the parties. Clearly and unambiguously, the defendant has not complied with such directions. Manifestly, the defendant also cannot contend that it had no knowledge of the directions so passed in the order dated 18.09.2023. The defendant surely cannot expect the Court to countenance such a stand taken by it.

33. The sanctity and purity attached to Court's orders should and must, at all times, be maintained so as to ensure that the administration of justice is seen to be consistent and firm. The argument that a particular document directed to be placed on record would get diluted merely because a party considers that such documents may not be relevant at a particular stage, in these circumstances, is rejected.

34. Though this Court is not of the opinion that the non submission of the certificate of sales revenue every two months effective from the time the use of the label containing 'For The Bold' commenced till date, is wilful, but nonetheless, is a clear unambiguous and serious violation of the order of this Court. Neither an explanation nor an apology for the same is either tendered or is discernible from the contents of both the affidavits.

35. This Court does not wish to escalate the aforesaid aspect, however,



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in order to ensure that its orders are not taken in a perfunctory or a dismissive manner by either of the parties, being a Constitutional Court and to uphold its dignity and those of the subordinate Courts, under Article 215 of the Constitution of India, 1950 the need to pass appropriate orders is warranted. (See: *T.Sudhakar Prasad vs. Government of Andhra Pradesh*, (2001) 1 SCC 516; *Pallav Sheth vs. Custodian & Ors.*, (2001) 7 SCC 549; *Court on its own Motion v. B.I.S. Chahal*, (2010) SCC OnLine P&H 863). The Supreme Court in *Dnyandeo Sabaji Naik v. Pradnya Prakash Khadekar*, (2017) 5 SCC 496, though in a different context in respect of the frivolous petitions being filed in order to delay the implementation of the valid orders of the Court, had in para 13 of its judgment, which is relevant in the context of the present application, held as under:

“13. This Court must view with disfavour any attempt by a litigant to abuse the process. The sanctity of the judicial process will be seriously eroded if such attempts are not dealt with firmly. A litigant who takes liberties with the truth or with the procedures of the Court should be left in no doubt about the consequences to follow. Others should not venture along the same path in the hope or on a misplaced expectation of judicial leniency. Exemplary costs are inevitable, and even necessary, in order to ensure that in litigation, as in the law which is practised in our country, there is no premium on the truth.”

It is, therefore, deemed appropriate to impose a cost of Rs.10,00,000/- upon the defendant payable to the ‘BHARAT KE VEER’ within a period of three weeks from date. The details of the same are as under:

Name: BHARAT KE VEER
Bank Name: Union Bank of India
Account No.: 520101236373338
IFSC: CORP0000205

36. In order to ensure that the orders passed by this Court are respected



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and implemented in their true letters and spirit, the deponent of the affidavits dated 22.01.2026 and 16.02.2026 is directed to tender an unconditional apology to this Court within four weeks from date on account of non-compliance of the directions contained in sub-para (vii) of the para 139 of the order dated 18.09.2023.

37. The application is disposed of in the above terms.

38. List on the date already fixed i.e. 10.09.2026.

**TUSHAR RAO GEDELA
(JUDGE)**

APRIL 7, 2026/anj