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

+ CS(COMM) 357/2026

PSTGEMS PRIVATE LIMITED

.....Plaintiff

Through: Ms. Swathi Sukumar, Senior Advocate with Mr. Arpit Kalra, Mr. Rishabh Gupta, Mr. Kashish Vij and Mr. Prashni Kathuria, Advocates.

versus

DHARMESH MOHANBHAI KALSARIYA TRADING AS M/S POSITIVE MIND & ORS.

.....Defendants

Through:

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **06.04.2026**

I.A. 9142/2026 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

I.A. 9141/2026 (for pre-institution mediation)

3. This application is filed on behalf of the Plaintiff under Section 12-A of the Commercial Courts Act, 2015 read with Section 151 CPC seeking exemption from Pre-Institution Mediation.
4. Having regard to the facts of the present case wherein urgent relief is prayed for and in light of the judgment of Supreme Court in *Yamini Manohar v. T.K.D. Keerthi, (2024) 5 SCC 815*, as also Division Bench of this Court in *Chandra Kishore Chaurasia v. RA Perfumery Works Private Ltd., 2022 SCC OnLine Del 3529*, exemption is granted to the Plaintiff from



Pre-Institution Mediation.

5. Application is allowed and disposed of.

I.A. 9140/2026 (u/O XI Rule 1 (4) Commercial Courts Act, 2015 r/w Section 151 CPC)

6. This application is filed on behalf of the Plaintiff seeking leave to place on record additional documents.

7. Plaintiff, if it wishes to file additional documents at a later stage, shall do so strictly in accordance with provisions of the Commercial Courts Act, 2015.

8. Application is disposed of.

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9. Let plaint be registered as a suit.

10. Upon filing of process fee, issue summons to the Defendants through all permissible modes, returnable before the learned Joint Registrar on 13.05.2026.

11. Summons shall state that the written statements shall be filed by the Defendants within 30 days from the receipt of summons along with affidavits of admission/denial of the documents filed by the Plaintiff.

12. It will be open to the Plaintiff to file replications within 30 days from the date of receipt of written statements along with affidavits of admission/denial of documents filed by the Defendants.

13. If any of the parties wish to seek inspection of any documents, the same be sought and given the timeline prescribed in Delhi High Court (Original Side) Rules, 2018.

14. Learned Joint Registrar will carry out admission/denial of documents and marking of exhibits.



I.A. 9139/2026 (u/O XXXIX Rules 1 and 2 r/w Section 151 CPC)

15. This application is filed on behalf of the Plaintiff seeking *ex parte* ad interim injunction against the Defendants.


16. Issue notice to the Defendants through all permissible modes, returnable before Court on 20.07.2026.

17. Case of the Plaintiff as set out in the plaint is that Plaintiff is a Health Tech company, which provides online health consultancy services and offers for sale nutraceutical/pharmaceutical products for various health concerns. Plaintiff was founded in the year 2022 and within a year of its establishment, it has reached a valuation of approximately Rs. 100 crores. Currently, as of January, 2026, Plaintiff is valued at over USD 169.82 Million. Plaintiff is a well reputed and renowned name within Health Tech industry and being a consumer centric brand, it aims for 100% satisfaction of its customers through a variety of goods and services in the field of medicinal and Ayurvedic preparations under its registered house mark “POSITIVE GEMS,






18. It is stated that Plaintiff honestly and *bona fide* coined and adopted the mark POSITIVE GEMS and registered the top-level domain name <positivegems.com>. In September, 2022, Plaintiff conceived the logo




and device mark  continuously and extensively for its products. Under the aegis of the house mark, Plaintiff introduced and has been manufacturing a new range of nutraceutical/pharmaceutical products to




boost and nourish sexual health and wellness of its consumers. The mark POSITIVE GEMS is neither a dictionary word nor a generic term but is an original and unique creation of the Plaintiff and by virtue of extensive use and promotion, the trademarks POSITIVE GEMS/ **POSITIVE GEMS** have become uniquely and exclusively associated with the Plaintiff, leading to a formidable goodwill and reputation amongst the members of public. In order to protect its statutory rights in the prior adopted and prior used trademark POSITIVE GEMS, Plaintiff has filed several applications for registration under Classes 05 and 35 and the registrations are valid and subsisting. Details of registrations are as follows:-

S. No.	Application No.	Trademark	Class	Date of Application	User Claimed	Status
1.	5845410	POSITIVE GEMS	05	March 13, 2023	September 22, 2022	Registered
2.	6829833		05	January 29, 2025	September 22, 2022	Registered
3.	5845412	 POSITIVE GEMS	35	March 13, 2023	September 22, 2022	Registered
4.	5845411	POSITIVE GEMS	35	March 13, 2023	September 22, 2022	Registered




19. It is stated that under its house mark POSITIVE GEMS/ **POSITIVE GEMS**, Plaintiff introduced a new range of nutraceutical/pharmaceutical products under various brands/formative marks including 'POSITIVE GEMS LONG TIME' and 'GET WET LUBRI', which boost and nourish sexual health and wellness of the consumers.




Plaintiff has also obtained registrations in other formative marks as detailed below:-



PositiveGems Long Time / Long Time / Long Time Spray						
S.no.	Application No.	Trademark	Class	Date of Application	User Claim	Status
1.	6829827	Long Time	05	January 29, 2025	September 22, 2022	Registered
2.	6829829	Long-Time Delay Spray	05	January 29, 2025	September 22, 2022	Registered
3.	6829828	PositiveGems Long Time	05	January 29, 2025	September 22, 2022	Pending
4.	6763927	 / POSITIVE GEMS LONG TIME	05	December 19, 2024	May 31, 2023	Pending
5.	7066871	Long Time Spray	05	June 17, 2025	Proposed to be used	Pending
6.	7066872	Long Time Spray	35	June 17, 2025	Proposed to be used	Pending
7.	6925967	Long time	35	March 26, 2025	Proposed to be used	Pending
Positive Gems Get Wet Lubri / Get Wet Lubri						
8.	6772332	Get Wet Lubri (word)	05	December 24, 2024	May 03, 2024	Registered
9.	6829994	PositiveGems Get Wet Lubri	05	January 29, 2025	September 22, 2022	Pending



10.	6763928	POSITIVE GEMS GET WET LUBRI 	05	December 19, 2024	May 03, 2024	Pending
11.	6927451		05	March 27, 2025	Proposed to be used	Pending
12.	7111161	GET WET LUBRI device 	05	July 10, 2025	Proposed to be used	Accepted & Advertised
13.	7188460	Get Wet Lubri (word)	35	August 21, 2025	May 03, 2024	Pending

20. It is stated that Plaintiff is also a registered copyright holder of original artistic work subsisting in its exclusive logos  (Diary


No. 3360/2025-CO/A) and  (Diary No. 3359/2025- CO/A) and the logos are being used by the Plaintiff since 22.09.2022. Plaintiff is also the registered copyright holder of original artistic work subsisting in its

exclusive logos and trade dresses in  and  and is entitled to protect the copyright by virtue of provisions of the Copyright Act, 1957.

21. It is stated that Plaintiff has a top-level domain name registration for the domain name positivegems.com, which leads to a dedicated and



interactive website www.positivegems.com, where its digital storefront is accessible to consumers and potential consumers not only in India but across the world. The said website serves as an official digital platform through which consumers and potential consumers can obtain detailed information about the Plaintiff, its brand POSITIVE GEMS and its wide range of nutraceutical and pharmaceutical products marketed under the marks POSITIVE GEMS and formative variants thereof as well as purchase such products directly. POSITIVE GEMS branded products are also sold through the Mobile Application owned and operated by Plaintiff under the name POSITIVE GEMS which displays the house mark POSITIVE

GEMS/  **POSITIVE GEMS** and products are delivered by Plaintiff through the said application to customers pan India and in other jurisdictions.

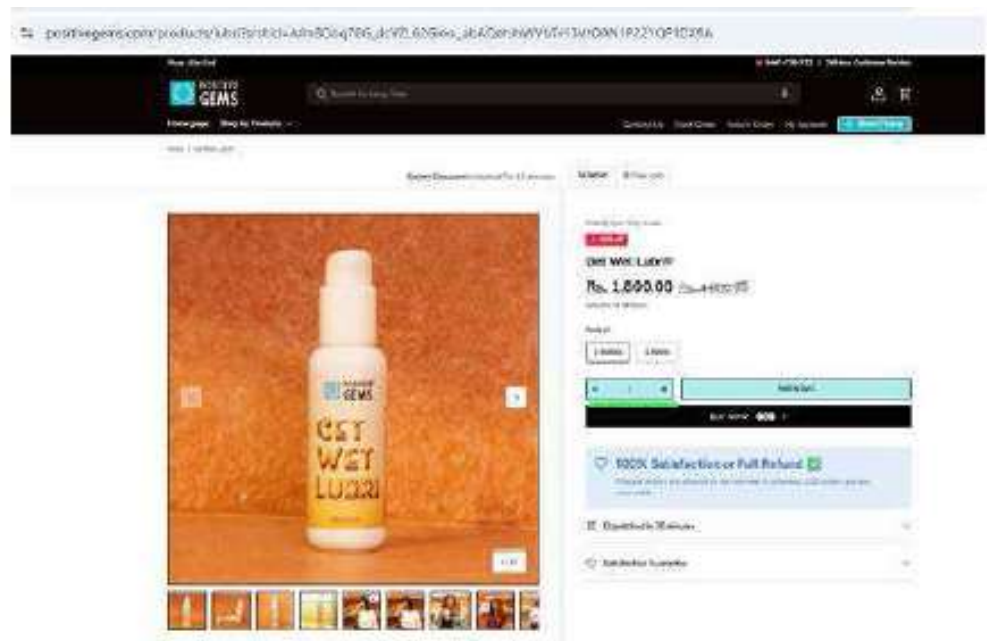
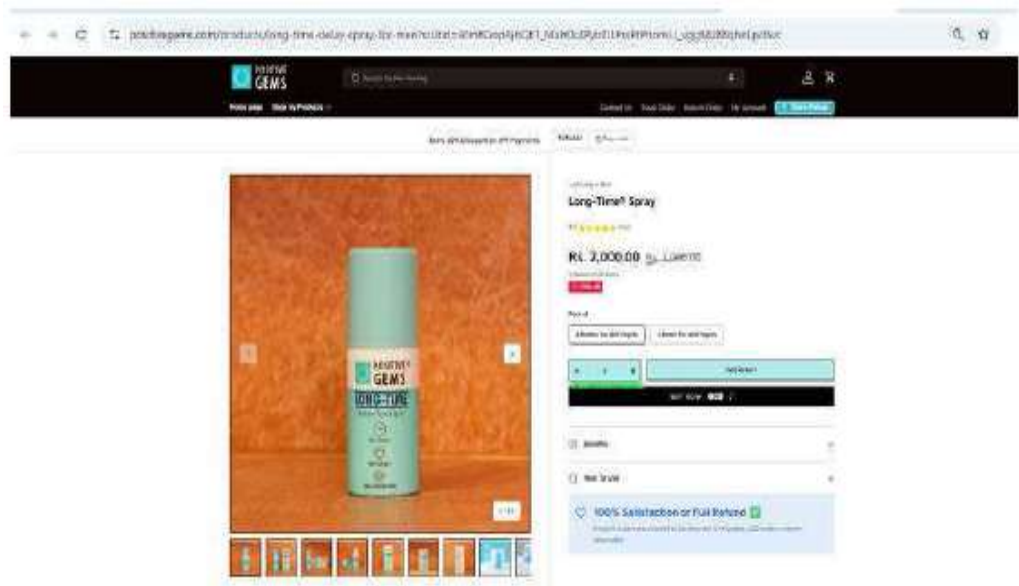
22. It is stated that Plaintiff's products under the trademarks/trade dress



POSITIVE GEMS LONG TIME/ & POSITIVE GEMS GET WET



LUBRI / are being sold through Plaintiff's official interactive website www.positivegems.com and are easily accessible to consumers not only in India, but all over the world. Screenshots of the official website of the Plaintiff displaying the product for sale are as follows:-



23. It is stated that Plaintiff has spent substantial amount of money on promotion of its products in India, as a result of which sales and revenue figures of Plaintiff Company in India for the products sold run into crores of rupees. Details of the sales turnover and expenditure incurred by Plaintiff are as follows:-



Date / Period	Revenue / Sales	Expenditure
2022 – 2023	Rs. 3,46,71,280	Rs. 2,60,40,300
2023 – 2024	Rs. 8,50,17,404	Rs. 1,56,58,255
2024-2025	Rs. 14,42,13,738	Rs. 3,36,97,894
April, 2025 – February 2026	Rs. 41,44,40,035	Rs. 12,56,45,429

24. It is stated that Plaintiff has built considerable reputation and goodwill globally as well as in the Indian domestic market through strategic alliances and global partnerships across the world. Plaintiff ranks among the top 100 partners of Bigfoot Retail, a billion-dollar company distributing over two lakh brands within India itself. With exclusive brand outlets and several others in pipeline across major cities like Delhi, Mumbai and Kolkata, Plaintiff has established a strong retail presence as well and its direct customer interaction through physical stores and an active online platform draws approximately 1.3 crore users annually, which reflects the widespread consumer trust in Plaintiff's brands. Plaintiff, in order to promote its products, regularly collaborates with public personalities to connect with the general public and public personalities such as Ms. Sunny Leone and Mr. Prem Chopra and 200+ influencers have endorsed Plaintiff's brands and product range, thereby adding immense value to Plaintiff's brand equity within the Indian market.

25. It is stated that Plaintiff has also obtained several certifications to guarantee, ensure and maintain high product quality standard including Drug License, Ayush License, Import-Export License and FSSAI License and Plaintiff's products are also registered with the Ministry of Consumer



Affairs, Food and Public Distribution. Plaintiff is also recognized by DUN & Bradstreet vide registration no. 738989691, which certifies Plaintiff's credibility to operate in international markets as a responsible and trustworthy entity.

26. It is stated that Plaintiff connects with its customers through social media networking websites such as Facebook and Instagram and has been featured/published in various articles and press releases, including but not limited to the Business Standard, Times of India, Economic Times, etc. Screenshot of the present number of followers on Plaintiff's social media pages as outlined in the plaint is as follows:-

Details	FACEBOOK	INSTAGRAM
Followers	15,000	1 Million

27. It is stated that Plaintiff's dedication to quality is evident through its collaborations with top-tier product quality and testing laboratories and product bearing Plaintiff's name undergoes testing by approved laboratories with reputation for testing products for renowned brands such as Tata, Mankind, Reliance, Cipla, Pfizer, Dr. Reddy's and others. This commitment ensures rigorous third-party testing, benchmarking and multiple quality checks before products reach consumers. Furthermore, Plaintiff operates a 24x7 non-profit healthcare helpline staffed by professional's product experts, assisting over 10,000 individuals monthly, thereby reinforcing goodwill and public trust.

28. It is stated that sometime around first week of December, 2025, during routine check of Plaintiff's trademarks, Plaintiff came across a pending trademark application bearing no. 7313178 filed under class 10 in



the name of Defendant No.1 for the mark “POSITIVE MIND”. Upon further checking, Plaintiff found that Defendant No.1 is marketing and selling counterfeit products under the marks “POSITIVE MIND/



”, “LONG TIME / **Long Time**” & “Get Wet Lubricant” through its website <https://positivemind.in/>. Further, Defendant No.1 is also marketing and selling its counterfeit product POSITIVE MIND LONG TIME SPRAY through third-party e-commerce website of Defendant No.2 i.e. <https://www.meesho.com/>, wherein the listing of the said product through URL <https://www.meesho.com/long-time-spreyfor-man/p/aq8pd8?ms=2&source=Meri+Shop>, is active and available. Screenshots of Defendant no.1’s website and listing of third-party e-commerce website of Defendant no.2 displaying fake/counterfeit POSITIVE MIND LONG TIME SPRAY products are as follows:-

Screenshots of Defendant No.1’s website






positiveMIND/products/herbal-long-time-spray-for-men-55-ml

positiveMIND

Home > SHOP BY PRODUCT > HQ

Herbal Long Time Spray



LONG TIME SPRAY

positiveMIND™
PositiveMind™ Herbal Long Time Spray for Men - 50 ml

Rs. 1,200.00 ~~Rs. 699.00~~ **50% OFF**

Currently, this item is out of stock

1 +

Buy it now

Secure Pack Herbal Safe Sex Return

Product Details

- ✓ Herbal Formula, Safe for Skin
- ✓ Helps with timing and control
- ✓ 50 ml - Bigger bottle, more use
- ✓ 100% Private & Discreet Delivery
- ✓ COD and Online Payments across India

positiveMIND/products/sexual-care/products/herbal-get-wet-lubricant

positiveMIND

Home > SHOP BY PRODUCT > HQ

Herbal Get Wet Lubricant



positiveMIND™
Herbal Get Wet Lubricant

Rs. 1,200.00 ~~Rs. 699.00~~ **50% OFF**

Currently, this item is out of stock

1 +

Buy it now

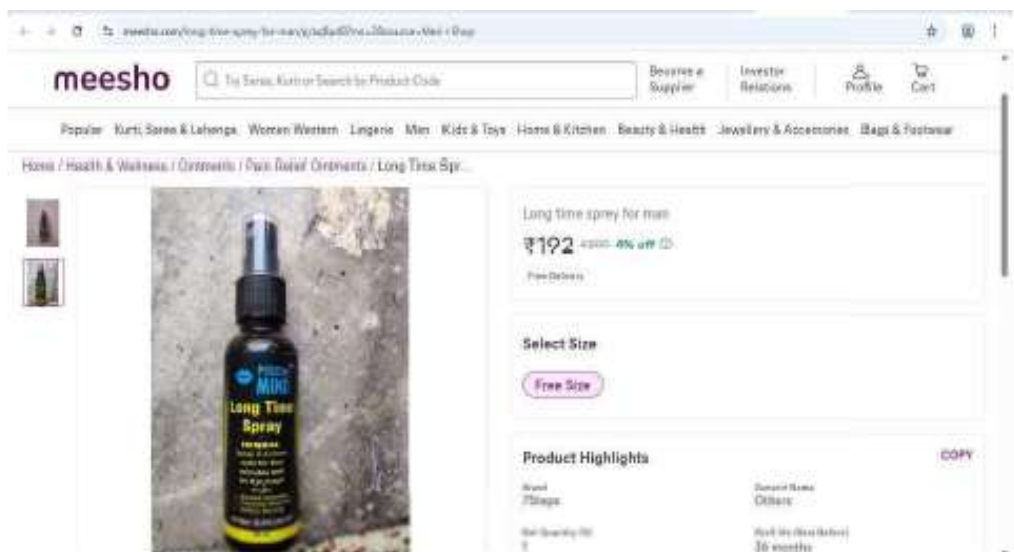
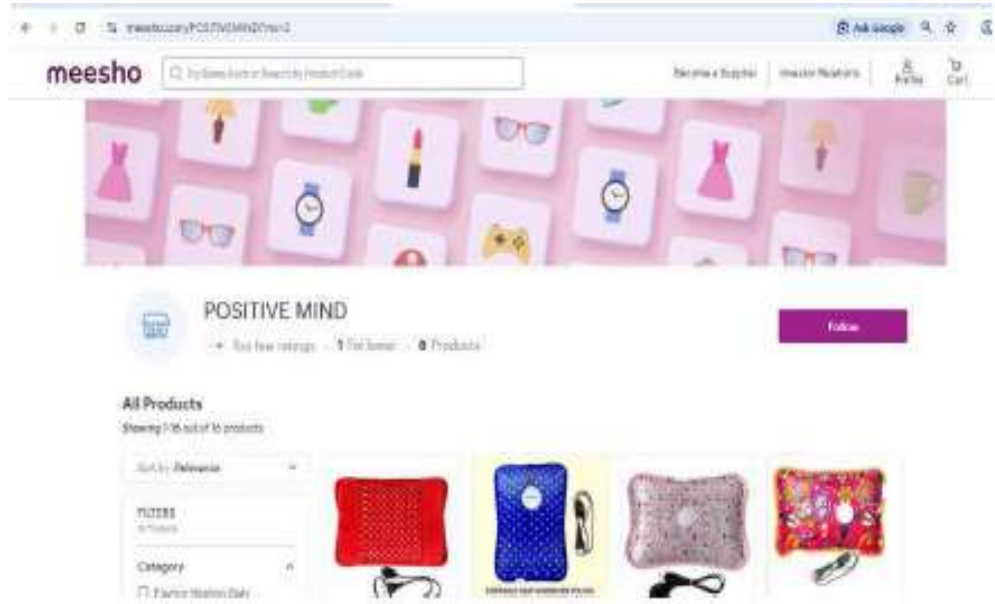
Secure Pack Herbal Safe Sex Return

Product Details

Shelf Life 1 Year
Product Type Sex Oil
Usage/Application Medical
Country of Origin Made in India
Packaging Type Plastic Bottle
Packaging Size 100 ml
Minimum order quantity: 1 Bottle



Screenshots of Defendant No.1's profile and listing on Defendant No.2's website




29. It is stated that in order to get counterfeit sprays for sexual wellness listed and sold on Defendant No.2's e-commerce platform, Defendant No.1 has fraudulently categorised its sexual wellness product as a "Pain Relief




Ointment”. Due to such fraudulent and *mala fide* activities like false categorisation and selling of counterfeit medical products, there is high likelihood of consumers getting duped of their hard earned money and harming their health.

30. It is stated that Plaintiff also came across an advertisement of Defendant No. 1’s impugned product, listed on Facebook and from the given social media handle, Defendant No. 1 has been operating, advertising and promoting its products under the name “POSITIVE MIND LONG TIME SPRAY”. Details of the advertisement along with respective Meta Ads Library ID are as follows:


Meta Ads Library ID	Snapshot of the Advertisement being run by Defendant No. 1
1195576392510849	

31. It is stated that on December 02, 2025, Plaintiff also made a trap



purchase by placing an order of the Counterfeit product i.e. “” on Defendant No. 1’s website and made advance payment for the same through Defendant No. 6’s payment gateway. However, despite following up several times with Defendant No.1 on WhatsApp at its contact no. 9726262712, regarding update on estimated date of delivery of the counterfeit product, till date Plaintiff has not received the said product. Such an instance of Defendant No.1 not delivering the product despite receiving the payment establishes that the said Defendant is duping customers and making unlawful monetary gains by showcasing its counterfeit products. Thereafter, Plaintiff made another attempt to purchase the infringing product through Defendant No. 1’s infringing listing vide URL <https://www.meesho.com/long-time-sprey-forman/p/aq8pd8?ms=2&source=Meri+Shop> as available on Defendant No. 2’s website <https://www.meesho.com/>. Plaintiff placed an order for the infringing



product “Positive Mind Long Time Spray/”, which was listed on Defendant No.2’s website, however, despite placing an order and making payment for the said product, it was again not delivered to Plaintiff.

32. It is stated that despite being aware of Plaintiff’s earlier trademarks




and business, Defendant No.1 in order to obtain proprietary rights over Plaintiff's mark, dishonestly adopted and applied for a deceptively similar



mark vide application no. 7313178 in class 10 dated October 30, 2025 on 'proposed to be used' basis with respect of medical instruments. It is therefore urged on behalf of the Plaintiff that interim injunction be granted in favour of the Plaintiff failing which irreparable harm shall be caused since Defendant No.1 is selling counterfeit products using identical/deceptively similar marks for identical goods and confusion amongst members of public is inevitable. If the sales are not enjoined, not only Plaintiff's reputation and goodwill will be damaged but irreparable harm shall be caused to public interest.

33. Having heard learned counsel for the Plaintiff and upon perusal of the documents, I am of the view that Plaintiff has made out a *prima facie* case for grant of *ex parte* ad interim injunction against the Defendants. Balance of convenience lies in favour of the Plaintiff and it is likely to suffer irreparable harm in case the interim injunction, as prayed for, is not granted.

34. Plaintiff is the registered proprietor of trademarks POSITIVE



GEMS/  POSITIVE GEMS /LONG TIME and GET WET LUBRI and other formative marks. Defendant No.1 is selling identical/deceptively similar products which are nutraceutical/pharmaceutical in nature and the trade channels as also consumer base are common. There is thus every likelihood of confusion amongst members of the public and potential customers and



looking at the nature of the products in question, if interim injunction is not granted, irreparable harm shall be caused to the Plaintiff. *Prima facie* Defendant No.1 is not only infringing the registered trademarks of the Plaintiff but is also guilty of passing off its goods by misrepresenting to the public that its goods have some association with the Plaintiff by use of identical/deceptively similar marks for identical goods. Resultantly, Defendant No.1 is not only damaging Plaintiff's formidable goodwill and reputation but also adversely impacting public interest by sale of counterfeit products.

35. Accordingly, the following directions are passed:-

(a) Defendant No. 1 and all others acting on his behalf are restrained till the next date of hearing from using the impugned marks "POSITIVE

MIND/ ", "LONG TIME/  & "GET WET LUBRICANT" and/or any other mark identical/deceptively similar to Plaintiff's registered trademarks

"POSITIVE GEMS" , ", "LONG TIME" & GET WET LUBRI", amounting to infringement and/or passing off ;

(b) Defendant No. 1 and all others acting on his behalf are restrained till the next date of hearing from using impugned label/trade dress,

 /  /  , which are deceptively similar



to Plaintiff's trade dress/logos



and



and/or any other trade dress/label identical/deceptively similar to Plaintiff's trade dresses, amounting to infringement of copyright;

- (c) Defendant No.2 is directed to delete the seller's profile of Defendant No. 1 and remove the listing <https://www.meesho.com/long-time-sprey-for-man/p/aq8pd8?ms=2&source=Meri+Shop> which is unauthorizedly selling counterfeit POSITIVE MIND LONG TIME products, within 36 hours from the date of receipt of this order;
- (d) Defendant No. 4 is directed to suspend, block and disable the Facebook page of Defendant No. 1 and remove/take down the advertisement of impugned product posted by Defendant No.1 on Facebook vide Meta Ads Library 1195576392510849, within 36 hours from the date of receipt of this order;
- (e) Defendant No. 5 is directed to take down the online store/website under domain <https://positivemind.in/> and xvcu0y-bt.myshopify.com and block any user account associated with the said domain, within 36 hours from the date of receipt of this order. Defendant No.5 shall disclose complete user details including KYC details, bank account details and transaction data in a sealed cover/password protected document, within three weeks from today; and
- (f) Defendant No.7 shall disclose KYC details of Defendant No.1 pertaining to mobile number +91 9726262712 in a sealed



cover/password protected document, within three weeks from today.

36. Plaintiff shall comply with the provisions of Order XXXIX Rule 3 CPC within a period of two weeks from today.

JYOTI SINGH, J

APRIL 6, 2026/YA