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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 658/2026
DWD PHARMACEUTICALS LTDPlaintiff

Through: Mr. Karan Bajaj, Ms. Aastha Arora
and Mr. Rupin Bahl, Advs.

versus

CELSIUS HEALTHCARE PVT LTDDefendant

Through: None

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

% **05.06.2026**

I.A. 15979/2026 (Section 149 CPC, 1908)

1. By virtue of the present application, the plaintiff seeks extension of time for filing the deficient court fee.

2. Learned counsel for the plaintiff submits that since the deficient court fees has already been filed, the present application has become infructuous.

3. Accordingly, the present application is disposed of.

I.A. 15977/2026 (Section 12A CCA, 2015)

4. By virtue of the present application, the plaintiff seeks exemption from instituting pre-litigation mediation.

5. Considering the averments made therein as also since the plaintiff is seeking an *ad-interim* relief, in view of the judgments passed by the Hon'ble Supreme Court in *Yamini Manohar v. T.K.D. Krithi* 2024 (5) SCC 815 and by a Division Bench of this Court in *Chandra Kishore Chaurasia vs. R. A. Perfumery Works Private Limited* 2022:DHC:4454-DB, the plaintiff is exempted from instituting pre-litigation mediation.

6. Accordingly, the present application is allowed and disposed of.



I.A. 15978/2026 (for exemption)

7. Allowed, subject to all just exceptions.

8. The application is disposed of.

I.A. 15976/2026 (for additional documents)

9. By virtue of the present application, the plaintiff seeks leave to file additional documents at a belated stage.

10. For the reasons stated in the present application, the present application is allowed and the petitioner is granted liberty to file additional documents at a later stage, *albeit*, strictly as per the provisions of the Commercial Courts Act, 2015 and Delhi High Court (Original Side) Rules, 2018.

11. Accordingly, the present application is allowed and disposed of.

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12. By virtue of the present plaint, the plaintiff seeks grant of a decree of permanent injunction for infringement of trademarks, passing off, unfair competition, delivery up and damages.

13. Let the plaint be registered as a suit.

14. Upon filing of the process fee, issue summons of the suit to the defendant through all permissible modes returnable before the learned Joint Registrar on 24.08.2026.

15. The summons shall state that the written statement be filed by the defendant within a period of *thirty days* from the date of the receipt of the summons. Written statement be filed by the defendant along with affidavit of admission/ denial of documents of the plaintiff, without which the written statement shall not be taken on record.

16. Replication thereto, if any, be filed by the plaintiff within a period



of *fifteen days* from the date of receipt of written statement. The said replication, if any, shall be accompanied with affidavit of admission/denial of documents filed by the defendant, without which the replication shall not be taken on record within the aforesaid period of *fifteen days*.

17. If any of the parties wish to seek inspection of any document(s), the same shall be sought and given within the requisite timelines.

18. List before the learned Joint Registrar for marking exhibits of documents on 24.08.2026. It is made clear that if any party unjustifiably denies any document(s), then it would be liable to be burdened with costs.

19. List before the Roster Bench on 05.10.2026

I.A. 15975/2026 (*Order XXXIX rule 1 & 2 CPC, 1908: Stay*)

20. By virtue of the present application, under *Order XXXIX Rules 1 & 2* of the CPC, the plaintiff seeks grant of an injunction for infringement of its ZEST family of trademarks particularly DIZEST registered under *Class 5* in the year 1995 against the defendant.

21. As per pleadings, the plaintiff herein is a company incorporated and registered under the Companies Act, 1956, engaged in the business of manufacturing and marketing a wide range of pharmaceutical formulations. The plaintiff, though has been using the ZEST trademark since the late 1980s however, the earliest registrations thereon is of the year 1993. Whereafter, the plaintiff has adopted several trademarks wherein ZEST is the common and prominent part. The plaintiff is the proprietor of the trademarks ZEST, DIZEST, ENERZEST, ZESTCAL, CALIZEST, FERIZEST, HOMOZEST, ZESTVIT, ZESTINURON, etc. and other ZEST formative marks in India.



22. For carrying on with its business activities, the plaintiff adopted the ZEST trademarks, the earliest registrations being in the year 1983, which are being continuously and uninterruptedly used by it till date. In fact, the plaintiff has also, upon application, been granted registration for the said trademarks and its variations in India under Class 5 as enumerated at *paragraph 15* of the plaint.

23. The plaintiff has been making significant investments *qua* advertising its products under the said trademarks and generated considerable income. The plaintiff also maintains an extensive online presence through its websites namely *www.goldiee.com*, through its agent's website *www.goldieeonlinestore.com* as also on its Facebook and LinkedIn pages.


24. The defendant is a company incorporated and registered under the Indian Laws, and is having its registered office in Delhi. It operates a website namely *www.celsiushealthcare.com*, as per which it is engaged in the business of manufacturing and selling pharmaceutical products in India.

25. It was around the third week of February, 2026 that the plaintiff, through its market representatives became aware of the impugned trademark being used for identical pharmaceutical products being digestive aid. Further search revealed that the defendant is operating a website being *https://www.celsiushealthcare.com/product-details/dizest-capsule* wherein products bearing the impugned trademark are widely available.

26. A search of the Trade Marks Registry revealed that the defendant is the registered proprietor of the impugned trademark CELSIUSDIZEST





registered under Class 5 on a ‘*proposed to be used*’ basis, *qua* which cancellation proceedings are currently pending before this Court. Further, the defendant also attempted to register the mark DYZEST bearing no. 1939651 in Class 5, which is ‘*abandoned*’ as per the records and the

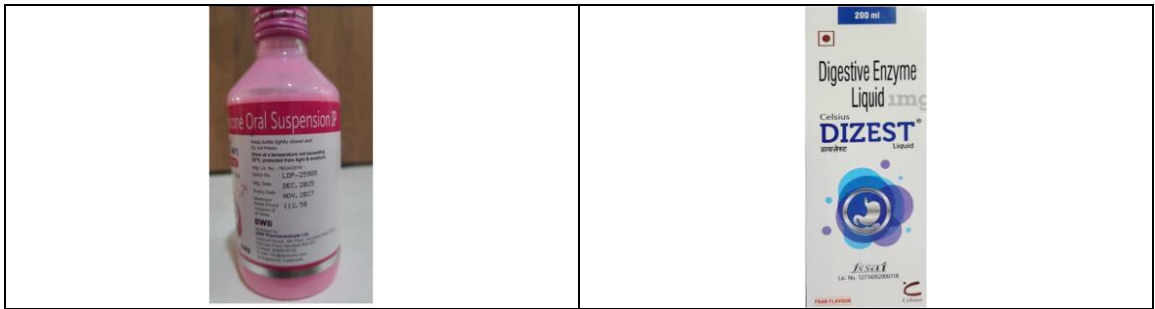
DYZEST (label)/  bearing no. 2499247 in Class 5, which was refused.

27. Since the defendant is still continuing with the usage of the ZEST family of trademarks, the plaintiff has instituted the captioned suit against the defendant wherein the present application has been filed.

28. This Court has heard the submissions advanced by learned counsel for the plaintiff and gone through the pleadings as also perused the documents on record.

29. Based on what is before this Court, given hereinbelow is the comparative table of the competing marks of the parties:-


<u>Plaintiff’s Trademark and Product</u>	<u>Defendant’s Impugned Mark and Product</u>
<u>DIZEST</u> <u>ZEST</u>	CELSIUS <u>DIZEST</u>
	



30. The same *prima facie* reflects that the defendant has left no stone unturned to come as close as possible. There are hardly any differences between the DIZEST trademark of the plaintiff and the CELSIUS **DIZEST** trademark of the defendant, particularly since the entire trademark of the plaintiff has been incorporated in the impugned mark. The manner of adoption, the manner of writing the same, and the manner it is projected therein, and that too for the very same products and in the similar line of trade by the defendant shows the ulterior motive in adopting the same.

31. Although, the defendant is also a registrant of the impugned mark, however, considering that it is a subsequent registration, and the defendant itself has filed numerous applications on a '*proposed to be used*' basis, since it is evident from the pleadings and documents on record, the plaintiff has been able to show that it is passing off its products as that of the plaintiff.

32. Moreover, since it is a matter of fact that the defendant has previously sought registrations of the mark DYZEST and DYZEST

(label)/  and later got the impugned trademark CELSIUS **DIZEST** registered under the same Class, that too on a '*proposed to be used*' basis as also since it is operating in the same line of business and is dealing in the same trade channels, with an identical customer base, and lastly very



much existing within the presence of the same market therefore, there is more than one chance of causing confusion amongst not only the members of the trade but also the members of the general public.


33. Lastly and pertinently, though the cause of action stated in the plaint arose way back in February, 2026, however, since the products involved herein are pharmaceutical preparations, this Court needs to exercise higher degree of care and caution and any likelihood of confusion in the minds of the general public as also the members of trade, and it could severely detrimental to the public health and safety. It is thus that the present application is being taken up for hearing and granting an order therein.

34. The plaintiff being the prior adopter and the prior user as also the prior registrant of the trademark DIZEST, has better rights than those of the defendant. The plaintiff has been able to make out a case for protection of its trademarks against the defendant.

35. Also, the *balance of convenience* and probabilities tilt in favour of the plaintiff for grant of an *ex parte ad interim* injunction in its favour and against the defendant. So much so, as per the existing circumstances the plaintiff has been able to make out a *prima facie* case in its favour and against the defendant as well. Therefore, allowing the defendant to continue using the CELSIUSDIZEST is likely to cause *irreparable harm, loss and injury* to it.

36. In view of the aforesaid, as also keeping in mind the existing position of law, till the next date of hearing, the defendant, its directors, employees, servants, agents, distributors, partners, franchises, representatives, suppliers, affiliates, subsidiaries, franchisees, licensees, representatives, group companies, and assigns are restrained from



manufacturing, selling and/ or offering for sale or in any manner using the impugned marks, DIZEST/ CELSISUSDIZEST/ DYZEST/  or any other mark which contains or is deceptively and confusingly similar to the plaintiff's ZEST, DIZEST and ZEST family of marks as a trademark or part of a trademark, trade name or part of a trade name, corporate name, e-mail, domain name or part of a domain name or in any manner whatsoever which would amount to passing off of the plaintiff's ZEST, DIZEST and ZEST Family of Trademarks

37. Upon the plaintiff taking requisite steps within a period of *one week* issue notice to defendant through all permissible modes returnable before the learned Joint Registrar on 24.08.2026.

38. Reply, if any, be filed within a period of *four weeks* from the date of service. Rejoinder thereto, if any, be filed within a period of *two weeks* thereafter.

39. The provisions of *Order XXXIX Rule 3* of the CPC be complied with forthwith.

40. List before the Court on 05.10.2026.

**SAURABH BANERJEE, J
(VACATION JUDGE)**

JUNE 5, 2026/Ab