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MP-2297-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA,
ACTING CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE PRADEEP MITTAL

ON THE 1st OF JULY, 2026

MISC. PETITION No. 2297 of 2025

JINDAL STEEL AND POWER LIMITED

Versus

JP STRUCTURES PRIVATE LIMITED AND OTHERS

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Appearance:

Shri Naman Nagrath, learned Senior Advocate alongwith Shri Rohan Harne, Shri Suyash Vyas, Manish Kharband & Shri Shivanshu Kumar, Advocate through Video Conferencing for the petitioner.

Shri Harsh Pathak, Shri Mohit Choubey, & Ms.Divy Krishna Bilaiya, learned counsel for the respondent No.1.

Shri Anshuman Singh, learned counsel for the respondent No.2.

Shri Karpe Prakhar Mohan and Shri Anmol Shrivastava, learned counsel for respondents No.3 & 4 through Video Conferencing.

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WITH

MISC. PETITION No. 4294 of 2025

M/S ZETWERK MANUFACTURING BUSINESS PVT.LTD

Versus

JINDAL STEEL AND POWER LIMITED ORS AND OTHERS

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Appearance:

Shri Anshuman Singh, learned Advocate for the petitioner.



Ms.Divy Krishna Bilaiya, Shri Mohit Choubey & Shri Harsh Pathak, learned counsel for the respondent No.2.

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ORDER

Per. Vivek Rusia, Acting Chief Justice

Since common question of law and issue involved in these writ petitions are similar, therefore, they were heard analogously and are being decided by this common order. For the sake of clarity, facts of Misc. Petition No.2297/2025 are enumerated hereunder.

2. In this petition under Article 227 of the Constitution, the petitioner/plaintiff has challenged the order dated 27/2/2025 passed by the Commercial Court, Bhopal in Commercial Suit No.26/2024 [*Jindal Steel & Power Limited Vs. J.P. Structures Pvt. Ltd. and others*] whereby the application of the respondent No.1/Defendant No.1 under Order 1 Rule 10 CPC has been allowed, and it has been observed that the application of the petitioner under Order XXVI Rule 9 CPC for appointment of local Commissioner has become infructuous.

3. The petitioner is a Public Limited Company and is a leading manufacturer, distributor and seller of steel products TMT rebars which are marketed under the registered trademarks "JINDAL", "JINDAL PANTHER" and "PANTHER", which enjoy statutory protection under the Trade Marks Act, 1999. Whereas, the respondent No.1 (J.P. Structures Pvt. Ltd.) is engaged in the business of real estate construction and provides its services as a contractor to third parties.

4. According to the petitioner, during May, 2024 it came to know



through its market representatives that counterfeit TMT rebars bearing the mark "JINDAL TMT" were being used in the construction of one of its clients (M.P. Building Development Corporation) for the purpose of the Government Medical College at Budhni, District Sehore, Madhya Pradesh. The said construction work had been awarded to the respondent No.1 under a work order dated 10/4/2023, wherein only approved brands including the petitioner's "JINDAL PANTHER" TMT bars were permitted to be used.

5. It is alleged that respondent No.1, despite having knowledge of the approved brands and having earlier procured genuine JINDAL PANTHER TMT bars from the petitioner's authorized dealers, deliberately procured counterfeit TMT bars from unauthorised sources at substantially lower prices and used the same in the execution of the government project with an intention of earning unlawful profits. The petitioner asserts that the counterfeit products procured by the respondent No.1 for the purpose of construction of Medical College did not originate from the petitioner and were deceptively similar to its registered trademarks, thereby constituting infringement of trademark rights and passing off. According to the petitioner, such conduct has not only caused financial loss to it, but has also seriously damaged its goodwill and reputation in the market.

6. The petitioner issued a legal notice dated 04.06.2024 to the respondent No.1 calling upon it to discontinue the use of counterfeit products, disclose the source of procurement and compensate it. The petitioner also lodged criminal complaints against the respondent No.1 before the police authorities seeking investigation into the alleged counterfeit



supply. The petitioner's investigation revealed that in August, 2023 and May, 2024 the respondent No.1 purchased genuine Jindal Panther TMT bars from the authorized distributors, namely, M/s Metalexperts India Pvt. Ltd. and M/s Gupta & Sons and the same were supplied for construction of Medical College, Budhni which leads to conclusion that respondent No.1 was aware of authorized source of the product. However, the respondent No.1 just to earn illegal profit chose to purchase product from unauthorised source. The respondent No.1 also allegedly failed to disclose the names of its suppliers at that stage.

7. Consequently, the petitioner instituted Commercial Suit No.26/2024 [*Jindal Steel & Power Limited Vs. JP Structures Pvt. Ltd.*] before the Commercial Court, Bhopal seeking permanent injunction of restraining infringement of trade mark, passing off, damages of Rs.2 crores and rendition of accounts.

8. During pendency of the suit, respondent No.1 filed an application under Order I Rule 10 CPC contending that it was merely a *bona fide* purchaser of the TMT bars and had procured the same from respondents Nos.2 to 4, namely M/s Zetwerk Manufacturing Business Pvt. Ltd., M/s Jain Steel Syndicate Pvt. Ltd. and M/s Piyush Steel respectively, who had assured it regarding the genuineness of the products. On the basis of the said disclosure, the petitioner sought impleadment of the said suppliers in the civil suit and further that it being neither necessary party nor proper party be deleted from the array of defendants. An application for appointment of a local commissioner was also filed under Order 26 Rule 9 CPC by the



petitioner.

9. Thereafter, by the impugned order dated 27.02.2025, the Commercial Court accepted the application filed by respondent No.1 under Order I Rule 10 CPC and deleted respondent No.1 from the array of defendants holding that it was merely a *bona fide* purchaser and not liable for trademark infringement or passing off. Aggrieved thereby, the present petition has been filed. The Commercial Court also observed that since application under Order 1 Rule 10 CPC has been allowed and respondent No.1 has been directed to be removed from array of parties, the application under Order 26 Rule 9 CPC has rendered infructuous.

SUBMISSIONS OF THE PETITIONER

10. Learned senior counsel appearing for the petitioner submits that the Commercial Court committed a patent error in deleting the respondent No.1 from the array of parties, despite there being specific pleadings and allegations in the plaint regarding its active role in procuring, supplying and using counterfeit TMT rebars bearing deceptively similar trademarks. It is submitted that respondent No.1 was not a mere end-user but was the principal contractor which was responsible for execution of the government project. It had participated in the tender process knowing fully well that only approved brands, including the petitioner's JINDAL PANTHER TMT bars, were permitted to be supplied. Having initially purchased genuine products from the petitioner's authorised dealers, the respondent No.1 subsequently procured counterfeit products from unauthorised sources solely to earn illegal profits.



11. It is further argued by learned senior counsel that respondent No.1 deliberately concealed the names of its suppliers despite repeated demands by the petitioner through legal notices and disclosed them only after institution of the suit while seeking deletion from the proceedings. Such conduct clearly demonstrates lack of bona fides and active participation in the alleged infringement. Learned counsel submits that the Commercial Court has erroneously accepted the unsubstantiated plea of respondent No.1 that it was a *bona fide* purchaser without there being any evidence on record. Such a defence could have been adjudicated only after trial upon appreciation of evidence and not at the preliminary stage while considering an application under Order I Rule 10 CPC. It is further contended that the Commercial Court has travelled beyond the scope of Order I Rule 10 CPC by recording findings on the merits of the dispute and virtually adjudicating the principal issue involved in the suit. At the stage of deciding an application for deletion of parties, the Court was only required to examine whether respondent No.1 was a necessary or proper party for effective adjudication of the controversy.

12. It is further argued that the findings of the Commercial Court that only manufacturers or dealers can be liable for trademark infringement, are contrary to provision under Section 29 of the Trade Marks Act, 1999. The Act makes any unauthorized use of a registered trademark in the course of trade actionable, irrespective of the aspect whether the person is a manufacturer or otherwise. Learned counsel further submits that respondent No.1 had commercially benefited by procuring cheaper counterfeit products



while quoting rates based upon genuine branded products in the government tender. The exact quantum of profits earned by respondent No.1 can be determined only after rendition of accounts during trial, and therefore the Commercial Court erred in holding that no profit had been earned from use of the infringing goods.

13. It is also submitted that deletion of respondent No.1 would seriously prejudice the petitioner's case as respondent No.1 is the principal beneficiary of the illegal transaction and the decree, if ultimately passed, would become incapable of effective execution in its absence. Lastly, it is contended that respondent No.1 is a necessary and proper party against whom substantial reliefs have been claimed in the plaint and whose presence is indispensable for complete and effective adjudication of the issues involved. Thus, the impugned order is liable to be set aside.

SUBMISSIONS OF THE RESPONDENTS

1 4 . *Per contra*, learned counsel appearing for respondent No.1/defendant supports the impugned order and submits that respondent No.1 is merely a civil contractor engaged in the execution of construction work and it is neither the manufacturer, nor trader nor marketer of the TMT bars in question. It is submitted that respondent No.1 procured the TMT bars from the reputed vendors, namely respondent Nos.2 to 4, after exercising due diligence and upon receiving assurances regarding the authenticity and quality of the products. According to respondent No.1, all materials supplied under the government project were subjected to testing from laboratory by the competent authorities and were found to conform to the prescribed



standards under IS Code 1786. It is further contended that respondent No.1 had no intention to infringe the petitioner's trademark or pass off counterfeit goods as genuine products and had acted throughout in good faith while relying upon the representations made by the suppliers.

15. Learned counsel submits that respondent No.1 neither manufactured nor marketed the impugned products and, therefore, no cause of action survives against it. The real dispute, if any, lies between the petitioner and the manufacturers or suppliers of the TMT bars, who have already been impleaded in the suit. It is argued that respondent No.1 is entitled to the protection available under Sections 30 and 135 of the Trade Marks Act, 1999, as it acted as a bona fide purchaser without any intention to deceive or violate the petitioner's trademark rights. It is lastly submitted that the Commercial Court has rightly exercised its jurisdiction under Order I Rule 10 CPC in deleting the respondent No.1 from the proceedings since its presence is not necessary for adjudication of the controversy and no interference is warranted by this Court in exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

16. We have heard the parties and perused the record.

17. The Original defendant/ respondent No.1 filed an application under Order I Rule 10 CPC contending that it was merely a *bona fide* purchaser of the TMT bars and had procured the same from respondents Nos.2 to 4, namely M/s Zetwerk Manufacturing Business Pvt. Ltd., M/s Jain Steel Syndicate Pvt. Ltd. and M/s Piyush Steel respectively, who had assured it regarding the genuineness of products. On the basis of the said disclosure,



the petitioner sought impleadment of the said suppliers in the civil suit and it being neither a necessary party nor a proper party be deleted from the array of defendants. Admittedly, before deciding the said application, the notices ought to have been issued to the respondents no. 2 to 4 who were proposed to be impleaded as defendants in the suit. On this ground, the impugned order is unsustainable in law, and the matter is liable to be remanded back to the commercial court for fresh adjudication. The proposed defendant has the right to oppose their impleadment in the suit. Hence, we are refraining ourselves in commenting on any observations on the merit of the case.

18. Therefore, the order dated 27/2/2025 passed by the Commercial Court, Bhopal in Commercial Suit No.26/2024 [Jindal Steel & Power Limited Vs. J.P. Structures Pvt. Ltd. and others] whereby the application of the respondent No.1/Defendant No.1 under Order 1 Rule 10 CPC has been allowed, is hereby set aside. The parties are directed to appear before the Commercial Court, Bhopal on 01.08.2026. The learned Commercial Court, Bhopal shall decide the application after giving opportunities to the proposed defendants.

19. In view of the above order, Writ Petition No. 4294/2026 is also allowed. Let a copy of the order be kept in the record of Writ Petition No. 4294/2026.

(VIVEK RUSIA)
ACTING CHIEF JUSTICE

(PRADEEP MITTAL)
JUDGE