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

\# **CNR No. DLHC010400292026**

\+ **CS(COMM) 940/2026, I.A. 23359/2026, I.A. 23360/2026, I.A. 23361/2026, I.A. 23363/2026, I.A. 23364/2026**

AKTIEBOLAGET VOLVO & ORS. .....Plaintiffs

Through: Mr.Pravin Anand, Ms. Vaishali, Mr.Siddhant and Mr. Shivang, Advocates.

versus

M/S POOJA LUBRICANT .....Defendant

Through: None.

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

O R D E R

% 24.09.2026

I.A. 23365/2026 (for exemption)

1. Plaintiffs shall file legible/original/certified/translated and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.

2. The application for exemption is allowed, subject to the plaintiffs granting inspection of the documents filed, as and when required to do so, or filing the original documents at the stage of admission/denial.

3. The application stands disposed of.

I.A. 23362/2026 (Under Section 12A of the Commercial Courts Act, 2015 for exemption from pre institution mediation)

4. By way of the present application filed under section 12A of Commercial Courts Act, 2015 read with section 151 of the Code of Civil Procedure, 1908 ('CPC'), the plaintiff seeks exemption from attempting pre-institution mediation.

5. The present suit is accompanied by an application under Order XXXIX Rules 1 and 2 of the CPC seeking urgent *ex parte* ad interim relief against the defendant's continuing use of marks alleged to infringe the plaintiffs' trade mark 'VOLVO'. Having regard to the facts and circumstances of the present case, and in light of the judgment of the Supreme Court in ***Yamini Manohar v. T.K.D. Keerthi***[1] and of a Division Bench of this Court in ***Chandra Kishore Chaurasia v. R A Perfumery Works (P) Ltd.***[2], the plaintiffs are exempted from attempting pre-institution mediation.

6. The application stands disposed of.

CS(COMM) 940/2026 and I.A. 23360/2026

1. Heard learned counsel appearing on behalf of the plaintiffs.

2. The plaint be registered as a suit. Summons of the suit as well as notice of the accompanying application bearing I.A. 23360/2026 be issued to the defendant by all permissible modes on filing of process fee. Affidavit of service be filed within two weeks.

3. Summons shall state that the written statement(s) shall be filed by the defendant within 30 days from the date of receipt of summons. Along with the written statement(s), the defendant shall also file affidavit(s) of

[1](2024) 5 SCC 815.
[2]2022 SCC OnLine Del 3529 (DB).

admission/denial of the documents of the plaintiffs, without which the written statement(s) shall not be taken on record

4. Liberty is given to the plaintiffs to file replication(s) within 15 days of the receipt of the written statement(s). Along with the replication(s), if any, filed by the plaintiffs, affidavit(s) of admission/denial of documents of the defendant, be filed by the plaintiff, without which the replication(s) shall not be taken on record. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

5. List before the Joint Registrar for further proceedings on 02.11.2026 in accordance with the extant rules.

6. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

7. Thereafter, list before this Court on the date to be assigned by the Joint Registrar.

<u>I.A. 23359/2026 (under Order XXXIX Rules 1 and 2 of CPC)</u>

1. Heard learned counsel appearing on behalf of the plaintiffs.

2. By way of the present application, the plaintiffs seek an *ex parte* ad interim injunction restraining the defendant, its proprietor, officers, servants, agents, affiliates, franchisees, distributors, stockists, representatives and all others acting for and on its behalf, from using the marks ‘MAX VOLVO’/ , ‘MAX VOLWO’/ , and their device forms, or any other mark deceptively similar to the plaintiffs’ registered trade mark ‘VOLVO’, in relation to lubricants and allied goods, including on third-party listings, social media and any other offline or online representation, so as to infringe Plaintiff No. 2’s registered trade marks bearing Nos. 1404133,

763291, 1384891, 3249588, 5826775 and 5777657, pass off the defendant's goods as those of the plaintiffs, or dilute and tarnish the said mark.

3. The plaintiffs further seek a direction to the defendant to file a statement of accounts and assets on affidavit, and a restraint against the defendant dealing with its assets.

4. Plaintiff No. 1, Aktiebolaget Volvo, is a public limited company organised under the laws of Sweden. It was incorporated on 05.05.1915, commenced assembling cars in April 1927 and trucks in 1928, and is stated to be a world leader in heavy commercial vehicles such as trucks, buses and construction equipment, as well as drive systems for marine and industrial applications. It established its Indian flagship company, Volvo India Pvt. Ltd. (now Volvo Group India Private Limited), in 1996, which operates from Jasola District Centre, New Delhi.

5. Plaintiff No. 2, Volvo Trademark Holding AB, is stated to have become the proprietor of the 'VOLVO' trade mark under a global deed of assignment executed by Plaintiff No. 1, and to have licensed the mark back to Plaintiff Nos. 1 and 3 for use in their respective businesses. Plaintiff No. 3, Volvo Car Corporation, designs, manufactures and sells premium cars. It launched the Volvo S80 and Volvo XC90 in India in September 2007 and carries on business through its subsidiary Volvo Auto India Pvt. Ltd. and a network of dealerships, including one at Mohan Cooperative Industrial Estate, Mathura Road, New Delhi.

6. It is the case of the plaintiffs that the trade mark and trade name 'VOLVO' was adopted in 1915. The word is not found in any authoritative English dictionary and is, therefore, a coined and inherently distinctive mark associated solely with the plaintiffs. In India, the plaintiffs are stated to have

sold Volvo Penta marine engines and spare parts since the early 1990s, trucks since 1998, buses since 2001 and cars since 2007. The mark also forms a prominent part of the corporate names of the plaintiffs group companies in India.

7. The plaintiffs operate the website *www.volvo.com*, created on 09.12.1995, and Plaintiff No. 1 operates *www.volvoce.com*, which carries information on the plaintiffs' industrial oils, greases and lubricant products sold under the 'VOLVO' mark and developed to support the performance of 'VOLVO' branded machines. Images of the plaintiffs' 'VOLVO' engine oil and hydraulic oil have been placed on record.

8. The plaintiffs claim over two dozen registrations for the 'VOLVO' series of marks in India, the earliest of which is stated to date back to 1975. For the purposes of the present application, reliance is placed on the following registrations standing in the name of Plaintiff No. 2, each of which covers goods in Class 4, which is stated to include lubricating oils, rust oils, lock lubricants, and industrial oils and greases:

S. No.	Trade Mark	Regn. No.	Date of Application	Classes	Status
1.	VOLVO	763291	20.06.1997	4	Registered
2.	VOLVO (device)	1404133	06.12.2005	1, 2, 3, 4, 6, 7, 9, 11, 12, 14, 16, 18, 25, 28, 35, 36, 37, 39, 41	Registered
3.	VOLVO PENTA	1384891	14.09.2005	4, 7, 9, 11, 12, 17, 35, 37, 38, 42	Registered

S. No.	Trade Mark	Regn. No.	Date of Application	Classes	Status
4.	VOLVO	3249588	12.02.2005	4, 7, 9, 11, 12, 17, 35, 37, 38, 42	Protection granted
5.	VOLVO	5826775	17.03.2022	4, 6, 7, 9, 12, 14, 16, 18, 20, 21, 25, 26, 28, 35, 36, 37, 39	Protection granted
6.	VOLVO	5777657	25.01.2022	4, 7, 9, 12, 36, 37, 39, 40	Protection granted

9. It is further submitted that the mark 'VOLVO' has been recognised as a well-known trade mark in India and included in the list of well-known trade marks maintained by the Trade Marks Registry, pursuant to the judgment of the Division Bench of the Bombay High Court in ***Aktiebolaget Volvo v. Volvo Steels Ltd.,***[3]. The plaintiffs have also placed on record a list of over sixty interim orders and final decrees passed in their favour against third parties who had adopted identical or deceptively similar marks, both for similar and dissimilar goods and services.

10. The defendant, M/s. Pooja Lubricant, is stated to be a sole proprietorship concern of one Mr. Ganesh (described as Mr. Ganesh Ana Ram in the defendant's trade mark application), operating from Sr. No. 158/3, Palkhi Marg, Uruli Dewachi, Tal-Haveli, Pune , 412308. According to the Goods and Services Tax portal, the defendant was registered on 16.04.2024 with its principal place of business at Wadki, Pune. The

[3]1998 PTC (18) 47 (Bom) (DB).

defendant is stated to be engaged in the manufacture and sale of lubricants and allied goods, including engine oil and gear oil, under the marks 'MAX VOLVO' and 'MAX VOLWO' (hereinafter, 'the impugned marks'), which are depicted as under:

11. The plaintiffs' knowledge of the defendant's activities is set out in paragraphs 30 to 37 of the plaint and in the affidavit of the plaintiffs' investigator. In April 2026, in the course of a market survey, the plaintiffs came across a listing on the trading platform IndiaMART at *https://www.indiamart.com/maxvolwo/*, displaying lubricant products under the impugned marks. On 05.04.2026, the plaintiffs' investigator visited the address reflected on the GST portal and was informed that the defendant had shifted to the address at Uruli Dewachi.

12. At those premises, which were described as an office-cum-warehouse, staff informed the investigator that the defendant was selling lubricants under the brand name 'MAX VOLVO' and was also manufacturing them under the brand name 'MAX VOLWO'. The investigator observed a stock of approximately 100 to 120 bottles/buckets of 'MAX VOLVO' and around 200 bottles/buckets of 'MAX VOLWO' products, was told that purchases were to be made in cash, and purchased a carton of 20 bottles of 'MAX VOLWO' branded lubricants for INR 3,900 paid in cash,

13. In June 2026, the plaintiffs discovered that the defendant, through its proprietor, had applied for registration of a trade mark vide Application No. 6519350 dated 10.07.2024, which has been objected to and remains

unregistered. The plaintiffs state that their Class 4 marks bearing Nos. 5826775, 1404133, 5777657 and 763291 have been cited against the said application under Section 11(1) of the Trade Marks Act, 1999 ('the Act'). The plaintiffs have also filed a protest letter dated 29.06.2026 before the Trade Marks Registry seeking refusal of the said application.

14. Towards the end of June 2026, the investigator contacted the defendant telephonically, whereupon the defendant's representative shared further images of 'MAX VOLWO' products over WhatsApp. On 03.07.2026, the defendant sent a handwritten quotation of INR 15,980 for 'Volwo Gold' branded products, and stated that the goods would be delivered to the address in Delhi furnished by the investigator upon receipt of his GST registration for the purpose of raising a formal invoice.

15. Before examining the plaintiffs' case, it is necessary to bear in mind that the proviso to Order XXXIX Rule 3 of the CPC requires the Court, where it proposes to grant an injunction without notice to the opposite party, to record its reasons for being of the opinion that the object of granting the injunction would be defeated by delay. The factors which must weigh with the Court in this regard were set out by a three-Judge Bench of the Supreme Court in ***Morgan Stanley Mutual Fund v. Kartick Das,***[4] in the following terms:

> *"36. As a principle, ex parte injunction could be granted only under exceptional circumstances. The factors which should weigh with the court in the grant of ex parte injunction are—*
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> *(a) whether irreparable or serious mischief will ensue to the plaintiff;*
>
> *(b) whether the refusal of ex parte injunction would involve greater injustice than the grant of it would involve;*
>
> *(c) the court will also consider the time at which the plaintiff first had*

[4](1994) 4 SCC 225.

notice of the act complained so that the making of improper order against a party in his absence is prevented;

(d) the court will consider whether the plaintiff had acquiesced for sometime and in such circumstances it will not grant ex parte injunction;

(e) the court would expect a party applying for ex parte injunction to show utmost good faith in making the application.

(f) even if granted, the ex parte injunction would be for a limited period of time.

(g) General principles like prima facie case, balance of convenience and irreparable loss would also be considered by the court."

16. More recently, in ***Bloomberg Television Production Services India Private Limited v. Zee Entertainment Enterprises Limited,***[5] the Supreme Court cautioned against a mechanical application of the three-fold test, and observed as under:

> *"5. ... While granting interim relief, the court must provide detailed reasons and analyze how the three-fold test is satisfied. A cursory reproduction of the submissions and precedents before the court is not sufficient. The court must explain how the test is satisfied and how the precedents cited apply to the facts of the case.*
>
> *xxx*
>
> *13. ... Merely recording that a prima facie case exists, that the balance of convenience is in favour of the grant of injunction and that an irreparable injury would be caused, would not amount to an application of mind to the facts of the case. The three-fold test cannot merely be recorded as a mantra without looking into the facts on the basis of which an injunction has been sought. ..."*

17. The mark 'MAX VOLVO' reproduces the plaintiffs' mark 'VOLVO' in its entirety. The prefix 'MAX' is a commonplace, laudatory expression which, in ordinary parlance, suggests the superlative quality of the goods. It does not detract from 'VOLVO' being the dominant and distinctive element of the impugned mark. Indeed, to a purchaser of lubricants, the prefix is more likely to suggest a premium variant of a 'VOLVO' product than a

separate trade origin. The mark ‘MAX VOLWO’ differs from ‘MAX VOLVO’ only in the substitution of the letter ‘W’ for the letter ‘V’. The two marks are visually near-identical and, when spoken, are practically indistinguishable, particularly since the sounds represented by ‘V’ and ‘W’ are commonly pronounced alike. A purchaser of average intelligence and imperfect recollection is, therefore, likely to perceive ‘MAX VOLWO’ as nothing but a variant of ‘VOLVO’.

18. The goods in question are also identical. The defendant deals in lubricants, including engine oil and gear oil, whereas each of the registrations relied upon covers goods in Class 4, stated to include lubricating oils and industrial oils and greases. The goods are sold through the same trade channels, including online platforms, to the same class of purchasers, namely vehicle owners, mechanics and workshops. Since the impugned marks are not identical with the registered mark in the strict sense, the case falls within Section 29(2)(b) of the Act, and this Court need not, at this stage, invoke the presumption under Section 29(3). The likelihood of confusion and association is, in any event, evident on a comparison of the marks. The following observations of the Supreme Court in ***Kaviraj Pandit Durga Dutt Sharma v. Navaratna Pharmaceutical Laboratories,***[6] are apposite:

> *“28. … In an action for infringement, the plaintiff must, no doubt, make out that the use of the defendant’s mark is likely to deceive, but where the similarity between the plaintiff’s and the defendant’s mark is so close either visually, phonetically or otherwise and the court reaches the conclusion that there is an imitation, no further evidence is required to establish that the plaintiff’s rights are violated. Expressed in another way, if the essential features of the trade mark of the plaintiff have been adopted*

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[5] 2024 INSC 255.

[6] AIR 1965 SC 980.

by the defendant, the fact that the get-up, packing and other writing or marks on the goods or on the packets in which he offers his goods for sale show marked differences, or indicate clearly a trade origin different from that of the registered proprietor of the mark would be immaterial; whereas in the case of passing off, the defendant may escape liability if he can show that the added matter is sufficient to distinguish his goods from those of the plaintiff."

19. As regards the time at which the plaintiffs first had notice of the acts complained of, the plaintiffs became aware of the IndiaMART listing in April 2026. The record, however, shows that the plaintiffs did not remain passive thereafter. The investigation continued through the site visit on 05.04.2026, the discovery of the defendant's trade mark application in June 2026, the filing of the protest letter dated 29.06.2026, and the quotation obtained on 03.07.2026 for supply of the goods in Delhi. The filing of a protest letter before the Trade Marks Registry is itself an assertion of the plaintiffs' rights and is inconsistent with any plea of acquiescence.

20. The time taken in instituting the suit is, not such as to disentitle the plaintiffs to interim relief, particularly when the infringement is continuing and, as held in ***Midas Hygiene*** (supra), mere delay is not sufficient to defeat the grant of an injunction. The plaintiffs have also fairly disclosed the relevant chronology, including the status of the defendant's trade mark application.

21. This Court is further of the view that the object of the injunction would be defeated if notice were to precede it. The record shows that the defendant deals in cash, holds a substantial stock of goods bearing the impugned marks at its office-cum-warehouse, has shifted its premises from the address reflected in its GST registration, and is prepared to despatch its goods across State lines, including to Delhi. In these circumstances, there is

a reasonable apprehension that advance notice would enable the infringing stock to be dispersed into the market before the matter can be heard. Such goods, once in circulation, cannot be recalled, and the resulting harm to the plaintiffs and to consumers would not be capable of redress by an order passed after the defendant's appearance.

22. The injury likely to be caused to the plaintiffs is not one which can be adequately compensated in damages. The continued sale of lubricants under the impugned marks threatens to erode the distinctiveness of a coined mark which the plaintiffs have used for over a century. Further, since lubricants have a direct bearing on the performance of vehicles, any deficiency in the quality of the defendant's goods is likely to be attributed to the plaintiffs, over whose quality control the goods do not pass.

23. On the other hand, the defendant's use of the impugned marks appears to be of recent origin, its registration under the GST regime dating to April 2024 and its trade mark application to July 2024, and the said application stands objected to. The injunction does not prevent the defendant from carrying on its business of manufacturing and selling lubricants under any other mark that does not infringe the plaintiffs' rights. The balance of convenience, therefore, lies in favour of the plaintiffs and against the defendant.

24. In view of the foregoing, the plaintiffs have made out a *prima facie* case for the grant of an *ex parte* ad interim injunction, the balance of convenience lies in their favour, and they are likely to suffer irreparable loss if the injunction is not granted.

25. Accordingly, till the next date of hearing, the defendant, its proprietor, officers, servants, agents, affiliates, franchisees, distributors, stockists,

representatives, and all others acting for and on its behalf, are restrained from:

(a) manufacturing, selling, offering for sale, supplying, distributing, advertising, displaying, or in any other manner dealing in lubricants and allied goods, including engine oil, gear oil, hydraulic oil, grease and coolant, or any other goods, under the marks 'MAX VOLVO'/ , 'MAX VOLWO'/ and , their device forms, 'VOLWO GOLD', or any other mark which is identical with or deceptively similar to the plaintiffs' registered trade mark 'VOLVO', so as to infringe the plaintiffs' registered trade marks bearing Nos. 1404133, 763291, 1384891, 3249588, 5826775 and 5777657;

(b) passing off its goods as those of the plaintiffs by the use of the impugned marks or any other mark deceptively similar to the plaintiffs' trade mark 'VOLVO'; and

(c) using the impugned marks, or any other mark deceptively similar to the plaintiffs' trade mark 'VOLVO', on any third-party listing, e-commerce or trading platform, social media, or in any other representation, whether offline or online.

26. The defendant shall take down all listings, advertisements and representations bearing the impugned marks, including the listing at *https://www.indiamart.com/maxvolwo/*, within one week from the date of service of this order.

27. Compliance of Order XXXIX Rule 3 of the CPC be made within one

week.

28. It is made clear that the observations made hereinabove are only for the purpose of deciding the prayer for *ex parte* ad interim injunction and are *prima facie* in nature. They shall not be construed as an expression of opinion on the merits of the case. It shall be open to the defendant, upon entering appearance, to seek variation or vacation of this order in accordance with law.

29. List before the concerned Joint Registrar on 02.11.2026 for completion of service and pleadings.

PURUSHAINDRA KUMAR KAURAV, J

SEPTEMBER 24, 2026
Nc/nk