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

+ CS(COMM) 985/2024 & I.A. 44338/2024
MAHINDRA HZPC PRIVATE LIMITED
& ORS.

.....Plaintiffs

Through: Mr. Saikrishna Rajagopal, Dr.
Amitavo Mitra, Mr. Vivek Ayyagari,
Ms. Shruti Jain and Ms. Harsshita
Pothiraj, Advocates.

versus

SHRI RAM FARMS & ORS.

.....Defendants

Through: Ms. Renu Arora, Advocate for D-1 &
D-2 through Video Conferencing.
Mr. Bakshish Singh, Head Constable,
P.S. Sadar, Kapurthala, Punjab,
present in person.

CORAM:

HON'BLE MR. JUSTICE TEJAS KARIA

ORDER

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16.09.2025

CCP(O) 115/2024

1. *Vide* order dated 20.03.2025, it is recorded that the Head Constable, Mr. Bakshish Singh, P.S. Sadar, Kapurthala, Punjab (“**Head Constable**”) was present on the spot when the Commission was conducted by the learned Local Commissioner, Ms. Kirti Agarwal, Advocate on 11.11.2024. It is further noted that despite noticing that the learned Local Commissioner was obstructed and prevented from executing the Commission, the Head Constable refused to render any assistance to the learned Local Commissioner. Accordingly, the Head Constable was directed to file an



Affidavit responding to the allegations made against him.

2. *Vide* order dated 03.07.2025, this Court had issued Notice to Head Constable and directed him to file an appropriate Affidavit in terms of the earlier order dated 20.03.2025 and remain physically present or through Video Conferencing on the next date of hearing.

3. Pursuant to the directions passed by this Court, the Head Constable has filed an Affidavit dated 13.09.2025 and he is personally present before this Court. In Paragraph No. 7 of the said Affidavit, it is stated that no untoward incident had happened as alleged in the Report of the learned Local Commissioner. Upon inquiring from the Head Constable, he has responded in Punjabi that he had accompanied the learned Local Commissioner only to provide security.

4. The learned Counsel for the Plaintiff submits that in view of the Affidavit filed by the Head Constable there is a contradiction between the Report of the learned Local Commissioner and the Affidavit filed by the Head Constable. However, the Report of the learned Local Commissioner is clear that the learned Local Commissioner was prevented from taking samples as directed *vide* order dated 07.11.2024.

5. In view of the above, the Affidavit filed by the Head Constable, Mr. Bakshish Singh, P.S. Sadar, Kapurthala, Punjab is taken on record and his personal presence is dispensed with.

6. List on 19.01.2026.

I.A. 44332/2024

7. This is an Application filed under Order XXXIX Rules 1 & 2 read with Section 151 of the Code of Civil Procedure, 1908 seeking the following prayers:



- “(a) An order of interim injunction restraining the Defendants, their directors, affiliates, partners, related parties, employees, officers, agents, stockists, distributors, contractors, licensees, dealers and all other acting for and on its behalf from producing, selling, marketing, distributing, offering for sale, importing, exporting and in any other manner, directly or indirectly commercializing or dealing in potato variety as specified by them as 'SRF- C51' and/or any other potato products that infringe the subject matter of Plaintiffs' registered Plant variety "Colomba";*
- (b) An order of interim injunction restraining the Defendants, their directors, affiliates, partners, related parties, employees, officers, agents, stockists, distributors, contractors, licensees, dealers and all other acting for and in its behalf from producing, selling, marketing, distributing, offering for sale, importing, exporting and in any other manner, directly or indirectly commercializing or dealing in any products with the denomination/expression Colomba/Clomba or any other denomination which is identical/deceptively similar thereto in relation to its product in any manner, also either as a prefix or as a suffix or abbreviation, which violates the rights of Plaintiffs' in the denomination of its registered Plant variety "Colomba";*
- (c) An order of interim injunction restraining the Defendants, their directors, affiliates, partners, related parties, employees, officers, agents, stockists, distributors, contractors, licensees, dealers and all other acting for and in its behalf from using upon or in relation to its business or products, including as a denomination or trade name in marketing/promotional material the mark/denomination 'COLOMBA' or any other mark/ denomination that is deceptively or confusingly similar to Plaintiffs' mark/ denomination 'COLOMBA' in any manner amounting to passing off its goods as those of the Plaintiffs;*
- (d) An order to take down of YouTube video <https://www.youtube.com/watch?v=SfJU-w7GQBY> illegally promoting the sale of Defendants' variety SRF- C51 as being identical to Plaintiffs' registered variety COLOMBA;”*

8. On 07.11.2024, Summons were issued in the Suit and this Application was mentioned along with the Suit. It was directed that the Defendants shall file the Written Statement within a period of 30 days.



9. *Vide* order dated 24.07.2025, it is recorded that the Written Statement of Defendant Nos. 1 and 2 was not taken on record as the same was filed under objections and the objections were not removed within a period of 30 days, as per the Chapter IV Rule 3 of the Delhi High Court (Original Side) Rules, 2018. Accordingly, there is no defence of Defendant Nos. 1 and 2 on record.

10. The learned Counsel for the Plaintiff has submitted that the analysis of samples of the potato crop, in compliance of order dated 19.11.2024, was filed in a sealed envelope and the access of the same was given to the Parties *vide* order dated 13.08.2025. A copy of the same was also e-mailed to the learned Counsel for Defendant Nos. 1 and 2 on 11.09.2025.

11. Ms. Renu Arora, learned Counsel for Defendant Nos. 1 and 2, initially appeared through Video Conference and when a query was put up by this Court, her video was switched off and she was on mute. After some time, she again appeared through the Video Conference and submitted that a parallel hearing was going on so she had put this Court on mute and the video was also switched off. This conduct of the learned Counsel is contrary to the Electronic Evidence and Video Conferencing Rules, 2025 of the High Court of Delhi. Accordingly, Ms. Renu Arora, Advocate is barred to appear before this Court through Video Conferencing henceforth.

12. In view of the fact that no Reply or Written Statement has been filed by Defendant Nos. 1 and 2 and in view of the Report dated 29.05.2025 filed by the expert in a sealed cover stating that the samples provided to the expert which were procured from the Defendants by the learned Local Commissioner; when compared with the Plaintiff's sample, it could be concluded that the Plaintiff's sample and the Defendant's samples are either



from the same cultivator or share common parental lines.

13. Having considered the submissions advanced by the learned Counsel for the Plaintiff, the pleadings and the documents on record, a *prima facie* case has been made out on behalf of the Plaintiff for grant of an *ad-interim* injunction in terms of Paragraph Nos. 19(a) to 19(d). Balance of convenience is in favour of the Plaintiff and against the Defendants. Irreparable injury would be caused to the Plaintiff if an *ad- interim* injunction is not granted.

14. Accordingly, till the final disposal of the Suit, it is directed as under:

- i. Defendant Nos. 1 and 2, their directors, affiliates, partners, related parties, employees, officers, agents, stockists, distributors, contractors, licensees, dealers and all other acting for and on its behalf are restrained from producing, selling, marketing, distributing, offering for sale, importing, exporting and in any other manner, directly or indirectly commercializing or dealing in potato variety as specified by them as 'SRF-C51' and / or any other potato products that infringe the subject matter of Plaintiffs' registered plant variety 'COLOMBA';
- ii. Defendant Nos. 1 and 2, their directors, affiliates, partners, related parties, employees, officers, agents, stockists, distributors, contractors, licensees, dealers and all other acting for and in its behalf are restrained from producing, selling, marketing, distributing, offering for sale, importing, exporting and in any other manner, directly or indirectly commercializing or dealing in any products with the denomination / expression 'COLOMBA / CLOMBA' or any other denomination which is identical /



deceptively similar thereto in relation to its product in any manner, also either as a prefix or as a suffix or abbreviation, which violates the rights of Plaintiffs' in the denomination of its registered plant variety 'COLOMBA';

- iii. Defendant Nos. 1 and 2, their directors, affiliates, partners, related parties, employees, officers, agents, stockists, distributors, contractors, licensees, dealers and all other acting for and in its behalf are restrained from using upon or in relation to its business or products, including as a denomination or Trade Name in marketing / promotional material the Mark / denomination 'COLOMBA' or any other mark / denomination that is deceptively or confusingly similar to Plaintiffs' mark / denomination 'COLOMBA' in any manner amounting to passing off its goods as those of the Plaintiffs;
- iv. Defendant Nos. 1 and 2 shall take down of YouTube video <https://www.youtube.com/watch?v=SfJU-w7GQBY> for illegally promoting the sale of their variety 'SRF- C51' as being identical to Plaintiffs' registered plant variety 'COLOMBA'.

15. The Application stands disposed of.

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16. List before the Court on 19.01.2026.

TEJAS KARIA, J

SEPTEMBER 16, 2025

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