ITEM NO.23 COURT NO.13 SECTION IX-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

PETITION FOR SPECIAL LEAVE TO APPEAL (C) NO(S). 29662-29663/2025

[Arising out of impugned final judgment and order dated 10-10-2025 in IA(ST) No. 28251/2025 25-07-2025 in IA(ST) No. 28251/2025 passed by the High Court of Judicature at Bombay in Commercial Appeal from Order No.6 of 2025]

KIRLOSKAR PROPRIETARY LIMITED Petitioner(s)

VERSUS

KIRLOSKAR BROTHERS LIMITED Respondent(s)

IA No. 262589/2025 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

Date : 17-10-2025 This matter was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE MANOJ MISRA
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Petitioner(s) :Mr. Mukul Rohatgi, Sr. Adv.
Mr. Balbir Singh, Sr. Adv.
Mr. Tushar Ajinkya, Adv.
Ms. Pratiksha Sharma, AOR
Ms. Sukanya Sehgal, Adv.
Ms. Misha Matlani, Adv.
Ms. Ritu Choudhary, Adv.
Mr. Mukesh Kumar, Adv.

For Respondent(s) :Dr. A M Singhvi, Sr. Adv.
Mr. Hiren Kamod, Adv.
Mr. Nishad Nadkarni, Adv.
Mr. Nirupam Lodha, Adv.
Mr. Ashif Navodia, Adv.
Mr. Kshitij Parashar, Adv.
Mr. Gautam Wadhwa, Adv.
Ms. Jaanvi Chopra, Adv.
Mr. Yash Johri, Adv.
M/S. Khaitan & Co., AOR

Mr. C. Aryama Sundaram, Sr. Adv.
Mr. Abhishek Gupta, Adv.
Mr. Ankit Acharya, AOR
Mr. Ayush Jain, Adv.

UPON hearing the counsel the Court made the following

O R D E R

1. **Heard learned counsel for the parties.**

2. **The first respondent instituted a suit wherein he had prayed for temporary injunction, *inter alia*, in the following terms:**

> **"(F) During the pendency of the present suit, this Hon'ble Court by way of temporary injunction may kindly be pleased to restrain the Defendant from creating any third-party interest whatsoever including granting license/user of the Trademarks covered under the Agreements detailed and listed in para 16 and 42(N) of the Plaint and/or making any assignment thereof in favour of any third party.'**

3. **The aforesaid prayer was accepted by order of the trial court dated 9th January 2025 against which appeal was preferred before the High Court by the petitioner herein, which is pending. By order dated 25th July 2025, the High Court stayed the order of the Trial Court dated 9th January 2025 insofar as it allowed the interim injunction application (Ex.128) in terms of prayer (F). However, it was provided that though appellant may create license in respect of Kirloskar mark in accordance with Articles of Association in favour of its member companies, but it shall not assign the mark to other Kirloskar group of companies for use in respect of similar/overlapping business of Kirloskar Brothers.**

4. **The aforesaid order dated 25th July 2025 was corrected/modified by order dated 10th October 2025 whereby in addition to assignment even licensing to group companies was injuncted.**

5. **The submission on behalf of the petitioner is that the order passed by the High Court dated 25th July 2025 is inconsistent inasmuch as on the one hand the order notices that there was non-exclusive license in favour of the plaintiff, and there existed no dispute as regards ownership of Kirloskar trade mark with the petitioner, yet it retrained the proprietor of the trade mark (i.e., the petitioner) from assigning it. It has also been argued that the term assignment may imply transfer of rights whereas licensing is limited to creating a privilege. In that sense, the order dated 25th July 2025 was not so harsh on the petitioner as is the modified order (i.e., order dated 25th July 2025 read with order dated 10th October 2025).**

6. **Based on the aforesaid submissions, it has been prayed that for now the order dated 25th July 2025 as modified by order dated 10th October 2025 must be stayed to the extent it restrains the petitioner from licensing the Kirloskar mark to other Kirloskar Group Companies for use in respect of similar/ overlapping business of Kirloskar Brothers.**

7. **Per contra, the learned senior counsel for the respondent (plaintiff) submitted that the appeal of the petitioner is pending before the High Court and, therefore, expression of opinion on merits of the case may not be appropriate at this stage. It has also been submitted that it had been a long-standing practice of the group that competing interests are not created within the group and the clarification order dated 10th October 2025 only serves the said purpose. In such**

circumstances, it is submitted that there is no justification to interfere with the impugned order particularly when the appeal is pending for consideration before the High Court.

8. **Having regard to the rival submissions, at this stage, we do not deem it necessary to express any opinion on the merits of the rival contentions, however, we are of the *prima facie* view that the order dated 10th October 2025, which expands the scope of the restraint imposed earlier *vide* order dated 25th July 2025, ought not to have been passed when the appeal is pending for consideration and full facts in respect of any earlier licensing of such Kirloskar mark within the group companies have not been discussed.**

9. **Accordingly, we deem it appropriate to issue notice, returnable on 4th November 2025. List on 4th November 2025 for hearing. In the meantime, the parties may exchange their affidavits/ written submissions.**

10. **In the meantime, we deem it appropriate to stay the effect and operation of the order dated 10th October 2025 by which the earlier order dated 25 July 2025 was modified.**

11. **I.A. No.264927/2025 shall be considered on the next date. In the meantime, the parties are at liberty to file response to the said I.A.**

(KAVITA PAHUJA)
ASTT. REGISTRAR-cum-PS

(CHETNA BALOONI)
COURT MASTER (NSH)