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

\+ CS(COMM) 1182/2025

DABUR INDIA LIMITED .....Plaintiff

Through: Mr. Sandeep Sethi, Senior Advocate along with Mr. R. Jawahar Lal, Mr. Anirudh Bakhru, Ms. Meghna Kumar and Mr. Krisna Gambhir, Advocates.

versus

PATANJALI AYURVED LIMITED & ANR. .....Defendants

Through: Mr. Rajiv Nayar, Senior Advocate, Mr. Jayant Mehta, Senior Advocate, with Mr. Rahul Sahay, Mr. Rishabh Pant, Ms. Neha Gupta, Mr. Abhijeet Kr. Pandey, Ms. Osheen Verna and Mr. Pratham Arora, Advocates for Defendant Nos.1 & 2.

CORAM:
HON'BLE MR. JUSTICE TEJAS KARIA

O R D E R

% 06.11.2025

I.A. 27470/2025 (Exemption)

1. Exemption is allowed, subject to all just exceptions.

2. The Application stands disposed of.

I.A. 27469/2025 (Exemption from pre-institution Mediation)

3. This is an Application filed by the Plaintiff seeking exemption from instituting pre-litigation Mediation under Section 12A of the Commercial Courts Act, 2015 ("**CC Act**").

4. As the present matter contemplates urgent interim relief, in light of the judgment of the Supreme Court in ***Yamini Manohar v. T.K.D. Krithi***, 2023

SCC OnLine SC 1382, exemption from the requirement of pre-institution Mediation is granted.

5. The Application stands disposed of.

I.A. 27472/2025 (Extension of time to file Court Fees)

6. The present Application has been filed by the Plaintiff under Section 149 read with Section 151 of the Code of Civil Procedure, 1908 ("**CPC**"), seeking exemption from payment of Court Fees at the time of the filing of the Suit.

7. Considering the submissions made in the present Application, time of two weeks is granted to deposit the Court Fees.

8. The Application stands disposed of.

I.A. 27473/2025 (seeking leave to file certain documents on a pen drive)

9. This Application has been filed by Plaintiff seeking permission to place on record a pen drive containing the Impugned Advertisement in the Suit dated 16.10.2025 as well as the earlier advertisement issued by the Defendants dated 11.12.2024.

10. In facts and circumstances as stated in the Application, the same is allowed. The pen drive be taken on record.

11. Accordingly, the Application stands disposed of.

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12. Let the Plaint be registered as a Suit.

13. Issue Summons. The learned Counsel for the Defendants accepts Summons.

14. The Summons shall state that the Written Statement(s) shall be filed by the Defendants within 30 days from the date of the receipt of Summons. Along with the Written Statement(s), the Defendants shall also file an

Affidavit of Admission / Denial of the documents of the Plaintiff, without which the Written Statement(s) shall not be taken on record.

15. Liberty is granted to the Plaintiff to file Replication(s), if any, within 30 days from the receipt of the Written Statement(s). Along with the Replication(s) filed by the Plaintiff, an Affidavit of Admission / Denial of the documents of Defendants be filed by the Plaintiff, without which the Replication(s) shall not be taken on record.

16. In case any Party is placing reliance on a document, which is not in their power and possession, its details and source shall be mentioned in the list of reliance, which shall also be filed with the pleadings.

17. If any of the Parties wish to seek inspection of any documents, the same shall be sought and given within the prescribed timelines.

18. List before the learned Joint Registrar on 23.12.2025 for completion of service and pleadings.

I.A. 27471/2025 (Additional Documents)

19. The present Application has been filed on behalf of the Plaintiff under Order XI Rule 1(4) of the CPC as applicable to Commercial Suits under the CC Act, seeking leave to place on record additional documents.

20. The Plaintiff is permitted to file additional documents in accordance with the provisions of the CC Act and the Delhi High Court (Original Side) Rules, 2018.

21. Accordingly, the Application stands disposed of.

I.A. 27468/2025 (U/O XXXIX Rule 1 & 2 of CPC)

22. Issue Notice. The learned Counsel for the Defendants accepts Notice.

23. The present suit has been filed for permanent and mandatory injunction, damages for denigration, disparagement and defamation & unfair

competition, rendition of accounts and delivery up, etc.

24. The learned Senior Counsel for the Plaintiff made the following submissions:

24.1 The Plaintiff, Dabur India Limited, was founded in 1884. The Plaintiff became synonymous with ayurvedic medicine. The name 'DABUR' has achieved a secondary meaning. In 1896, the Plaintiff, established its first production unit and in 1919, the Plaintiff pioneered in establishing a research and development unit. In the early 1900s the Plaintiff identified nature based Ayurvedic medicines as its area of specialization and commenced mass production of Ayurvedic medicines. Over the past 140 years, the Plaintiff has grown into a large entity, manufacturing and marketing diverse range of wellness / healthcare products including Chyawanprash. The turnover of the Plaintiff for the Financial Year ("**FY**") 2024-25 was Rs. 12,563 crores.

24.2 'Chyawanprash', including the DABUR Chyawanprash Avaleha ("**Plaintiff's Product**"), is a classical Ayurvedic Drug / Medicine tailing under the definition under Section 3(a) of the Drugs and Cosmetics Act, 1940 ("**Drugs and Cosmetics Act**"). The recipe to manufacture Chyawanprash is reproduced in various authoritative publications titled Charak Samhita, Ayurveda Sar Sangraha, Sharangadhar Samhita, Ayurvedic Formulary of India, Rasa Tantra Sara Va Siddha Prayoga Samgraha, Ayurveda Kalpadruma, Rasa Tarangini, and many more which form part of the First Schedule of the Drugs and

Cosmetics Act. The Plaintiff is manufacturing 'Chyawanprash' as per formulae prescribed in 'Rasa Tantra Saar Va Siddha Prayog Sangraha' and the Plaintiff has a valid and subsisting manufacturing license issued by the AYUSH State Licensing Authority, Himachal Pradesh.

24.3 The Plaintiff being a pioneer in popularizing and ensuring availability of ayurvedic medicines across India, in 1949, commercially launched the Plaintiff's Product. The Plaintiff's Product is a market leader in the Chyawanprash category and presently enjoys a substantial market share of 61.10% as of September 2025. In view of the substantial time, money and manpower invested by the Plaintiff in advertising, publicizing and promoting, the Plaintiff's Product, nation-wide including through its website and social media platfoms, the Plaintiff's Product has acquired an enviable reputation and goodwill all over India. The Plaintiff has spent huge amount on promotion of the Plaintiff's Product. The revenue earned from the sale of the Plaintiff's Product in FY 2024-25 was ₹4,63,00,00,000.

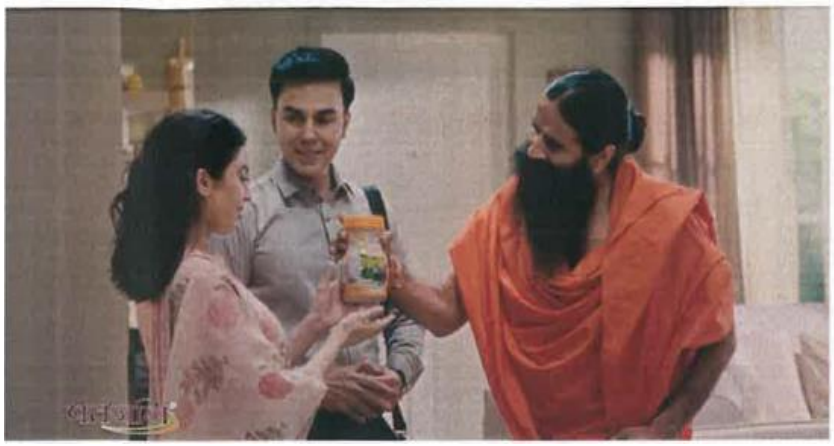
24.4 The Plaintiff's Product is very popular amongst consumers, viewers and the public. Thus, even the term or the very idea of mentioning Chyawanprash is primarily associated in the minds of public with the Plaintiff's Product. With decades of history, the Plaintiff's Product has, thus, earned widespread recognition for its health benefits, particularly in boosting immunity and promoting overall well-being of public.

24.5 Defendant No. 1, Patanjali Ayurved Limited, was founded by Mr.

Baba Ramdev and his associate, Mr. Balkrishna. Defendant No. 1 manufactures various cosmetics, ayurvedic medicines, personal care and food products. Mr. Baba Ramdev is the brand ambassador of Defendant No. 1, who claims to be an expert in Yoga, Veda and Ayurveda in India. Defendant No.2, Patanjali Foods Limited, was founded by Mr. Baba Ramdev and Mr. Balkrishna. Defendant No. 2 manufactures, markets and distributes various products of Defendant No. 1. Defendant No. 2 manufactures Patanjali Special Chyawanprash ("**Defendants' Product**").

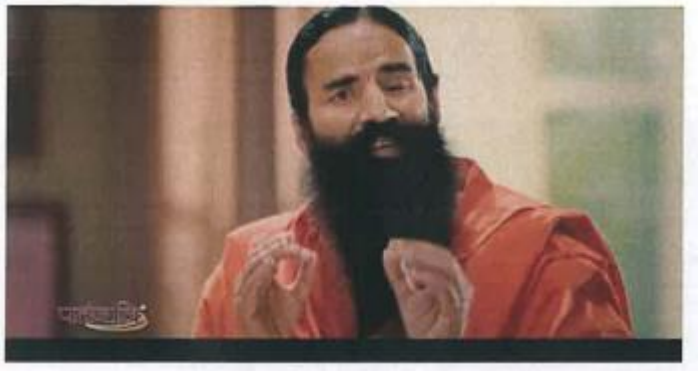
24.6 On or about 24.10.2025, the Plaintiff came to know that the Defendants had produced and telecast an advertisement regarding the Defendants' Product on the national Television Channel, Star Plus ("**Impugned Advertisement**"). The advertisement referred to all the Chyawanprash as 'dhoka' (deception in English). Upon further verification with the advertising agency and the Plaintiff requesting relevant data, the Plaintiff was informed that the Impugned Advertisement was released and uploaded by the Defendants on 16.10.2025 on their official YouTube, Channel 'Patanjali Ayurved' at URL: https://www.youtube.com/watch?v=y09wYT9PpFo, and Instagram Page 'Patanjali Ayurved' and at URL: https://www.instagram.com/reel/DP3xH91jS5zJ/?igsb=MWFtb#2N6bWVseTgzdQ= etc. Offending screenshots from the Impugned Advertisement are as under:

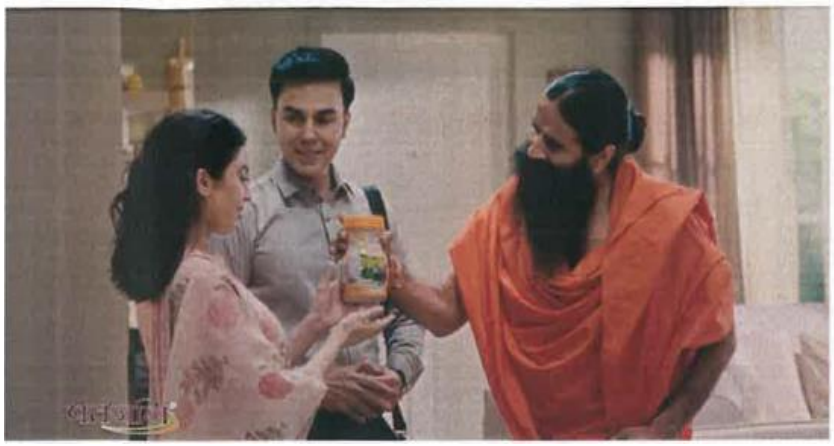
Screenshot 1: A mother is shown giving Chyawanprash to her child and saying- "Chalo, dhoka khao!".	
Screenshot 2: Father picks up the same jar of Chyawanprash for consuming but Baba Ramdev appears (as Sutradhar), and says "Adhikansh log Chyawanprash ke naam par dhokha khaa rahe hain!" **Translation:** "Most consumers are being deceived / duped (by all manufactures) in the name of Chyawanprash!"	 
Screenshot 3: Baba	

Ramdev then gives the Defendants' Product to the family instead of any other Chyawanprash and says "ayurved ki asli shakti chahiye to Patanjali Special Chyawanprash khaiye". Translation: "if you want 'original' power of Ayurveda, then eat Patanjali Special Chyawanprash"	

24.7 The complete Impugned Advertisement is as under:

Screenshot 1: Routine morning in a household, child is getting ready to leave for school and the father getting ready for work. To provide energy through the day, the mother gives a spoonful of "Chyawanprash" from a white/yellow container to her child & husband before they leave. Voice Over	

(VO): Chalo ... Dhoka Khao! **Translation:** Come on, get duped by other Chyawanprash!.	
Screenshot 2: Baba Ramdev (Yoga Guru and self-professed Ayurvedic expert), & protagonist of the TVC, makes an entry. VO: Adhikansh log Chyawanprash ke naam par dhokha khaa rahe hai... **Translation:** Most consumers are being duped / cheated in the name of "Chyawanprash"	 

Screenshot 3: After debunking other Chyawanprash as deceitful product(s), Baba Ramdev gives Patanjali Special Chyawanprash to the **Mother VO:** Ayurved ki asli shakti chahiye, toh Patanjali Special Chyawanprash khaiye! **Translation:** If you want the original benefit of Ayurveda, consume Patanjali Special Chyawanprash! Suggestion: Baba Ramdev gives expert advice that other Chyawanprash are not manufactured as per Ayurveda; hence they do not provide any health benefit, in fact they are 'Dhoka '~etray the faith consumers place on them.	

SCREENSHOTS 4 to 8: Sanskrit Text & manufacture of Chyawanprash is shown and Ramdev is shown consuming Patanjali Special Chyawanprash. Patanjali Special Chyawanprash placed· in a row and certain spices and herbs placed together & claim of 51 ayurvedic herbs is made. **VO:** Humne Rishiyo ke Vedo ke virasaat, aur vigyaan ke anusaar, 51 beshkeemti jaadi~bootiyo aur kesar yukt... Patanjali Special Chyawanprash banaya hai **Translation:** We, who possess the heritage and knowledge of the sages, have prepared Patanjali Special Chyawanprash containing 51 priceless	   

medicinal herbs and saffron . **Suggestion:** Only Patanjali Special Chyawanprash is made as per Ayurvedic texts, and all other Chyawanprash are Dokha / betray consumers.	
SCREENSHOTS 9 to 11: Baba Ramdev picking kesar and smelling it freshness; multiple herbs are packed in Patanjali Special Chywanprash. Human Body filled with pills I tablets portrayed. **VO:** Jo aapke shareer ko medical store banne se bachata hai... **Translation:** Patanjali Specail Chyawanprash prevents your body from becoming a medical store **Suggestion:** Only Patanjali i.e., the Defendants, possess	 

the knowledge of the great sages, to prepare Special Chyawanprash with 51 priceless medicinal herbs, which alone stops your body from becoming a medical store. Allopathy medicines have deleterious effect on health, & all other Chyawanprash in the market deceive / cheat consumers by making spurious product(s) in the name of Chyawanprash, and they do not provide immunity	
SCREENSHOT 12: Baba Ramdev is feeding Patanjali Special Chyawanprash to the kid (from Shot 1). **VO:** Aapke masoom baccho aur pariwar ki immunity ko badhata hail Translation: And boosts the immunity of your innocent infants,	

children and families! **Suggestion:** Only Patanjali Special Chyawanprash with 51 medicinal herbs boosts immunity, and all other Chvawanprash are Dhokha i.e. they betrav you!!	

24.8 Previously, the Plaintiff had filed a Suit titled as ***Dabur India Limited v. Patanjali Ayurved Limited and Anr***., being *CS(Comm.) No. 1195/2024 (***"Previous Suit"***)* against objectionable advertisements released by the Defendants. Vide order dated 03.07.2025, this Court had allowed the Plaintiff's application for grant of an interim injunction and Defendants were directed to remove certain objectionable lines from their advertisements. The Defendants preferred an appeal being ***Patanjali Ayurved Limited and Anr. v. Dabur India Limited***, *FAO(OS)(COMM) 140/2025* ("**Appeal**"), against the order dated 03.07.2025 passed by this Court in the Previous Suit. Vide order dated 23.09.2025, the Division Bench of this Court disposed of the Appeal as under:

> *"6. Accordingly, we dispose of this appeal in the following terms:*
>
> *(i) The injunction against the appellant using "Jinko Ayurved or Vedon ka gyaan nahi Charak, Sushrut, Dhanvantri aur Chyawanrishi Ki Parampara ke Anuroop, original Chyawanprash kaise bana payenge" is upheld.*

(ii) The appellant would delete the reference to the Chyawanprash "made with 40 herbs" and would refrain from using any other tagline or reference, directly or indirectly, to the respondent's Chyawanprash.

(iii) The appellant is, however, permitted to advise the consuming public, in its print or media advertisements, to prefer the appellant's Chyawanpash to "ordinary Chyawanprash". In other words, the reference to "ordinary Chyawanprash", as opposed to the appellant's Chyawanprash, and the advertisement of the latter as superior to the former, is permitted, provided it does not deride, or directly or indirectly refer to, the product of the respondent."

24.9 The manner, storyline of the Impugned Advertisement, overall message conveyed and intent of the Defendants in release of the Impugned Advertisement is directly contrary to the above decision as it derides the Plaintiff's Product and instils a negative impression in the minds of ordinary consumers about the Plaintiff's Product as well as the entire class of Chyawanprash available in the market that the products are 'Dhoka' i.e. fake / inferior products as it shows that the other manufacturers are defrauding / deceiving public, to make consumers believe that all Chyawanprash, including the Plaintiff's Product dupe the consumers, by selling a concoction, which has no medicinal benefits, to mislead public that only the recipe of Chyawanprash adopted by the Defendants from one of the authoritative books of Ayurveda is the original method / formulae and rest all others are 'deception'; thereby rubbishing and ridiculing recipes of Chyawanprash under all other Authoritative Ayurvedic books stipulated in the First Schedule of the Drugs and Cosmetics Act,

reference is made to the Plaintiff's Product by using the phrase 'Adhikansh log Chyawanprash ke naam par dhoka kha rahe hain' and disparaging the Plaintiff's Product by labeling the Plaintiff's Product as 'Dhoka' as the Plaintiff is the market leader in the Chyawanprash category with more than 61% market share and indisputably, most people consume the Plaintiff's Product.

24.10 In the Impugned Advertisement, the Defendants have made malicious, scurrilous, fallacious to their knowledge, and deliberate misstatements, denigrating or defaming classical ayurvedic medicine i.e., the entire class of Chyawanprash in general, in the market, constituting generic denigration and disparagement.

24.11 The Impugned Advertisement, begins with the voice over, 'Chalo... Dhoka khao! Adhikansh log Chyawanprash ke naam par Dhoka khaa rahe hai' to imply that most consumers today are being cheated and duped into consuming spurious and fake medical products in the name of Chyawanprash, hence, the Plaintiff's Products, as well as Chyawanprash manufactured by other manufactures, in their entirety are fraudulent and should be avoided or shunned, as the Plaintiff and all other manufacturers of Chyawanprash are playing fraud on consumers and betraying the consumers' trust and faith.

24.12 Hence, the necessary message sought to be conveyed is that the Chyawanprash other than the Defendants' Product do not provide real or original benefits such as immunity boosting, etc., and the manufacturers of other Chyawanprash do not possess

knowledge about preparation of Chyawanprash, including the Plaintiff's Products, which are not the real Chyawanprash. Such statements and representation are *ex-facie* false, malicious, disparaging and defamatory, to the entire class of Chyawanprash manufacturers, including Plaintiff.

24.13 The English meanings for the word 'dhoka' are betrayal, deceit, cheat, fraud, and deception. The specific word to use depends on the context, but these terms capture the core meaning of being tricked, betrayed, or lied to. Hence, in the Impugned Advertisement, the Defendants categorically make a statement that, 'Most consumers are being conned or defrauded or cheated and / or deceived' by all, manufacturers of Chyawanprash, including the Plaintiff. The said statement crosses the threshold of free commercial speech and honest marketing practices and is *per se* defamatory and disparaging of the entire class of Chyawanprash and hence, impermissible.

24.14 In the decision of ***Dabur India Limited v. Emami Limited,*** *2004 SCC OnLine Del 431*, it was held by this Court that the plaintiff being the market leader in the product Chyawanprash, disparagement of the product Chyawanprash even in generic terms would adversely affect the product of the plaintiff, even if there be no direct reference to the product of the plaintiff and only a reference is made to the entire class of Chyawanprash in its generic sense, even in those circumstances disparagement is possible.

24.15 In the decision of ***Dabur India Limited v. Colgate Palmolive***

India Ltd., *2004 SCC OnLine Del 718* and ***HUL v. Reckitt***, *2023 SCC OnLine Del 2133*, it was held that generic disparagement of a rival product without specifically identifying or pin pointing the rival product is equally objectionable. Clever advertising can indeed hit a rival product without specifically referring to it. No one can disparage a class or genre of a produce within which a complaining plaintiff falls and raise a defence that the plaintiff has not been specifically identified.

24.16 In the decision of ***Karamchand Appliances (P) Ltd. v. Adhikari Brothers***, *2005 SCC OnLine Del 1427,* it was held that disparagement even if generic would remain a disparagement and can be restrained at the instance of a party, who manufactures or trades in that class of goods. Comparative advertisement is permissible, so long as such comparison does not disparage or denigrate the Trade Mark or the products of a competitor. The Bombay High Court in ***HUL v. Gujarat Cooperative***, *2017 SCC OnLine Bom 2572,* has held that generic disparagement of rival product even without specifically identifying the same, is equally objectionable.

24.17 This Court in the decision of ***Zydus Wellness Products Ltd. v. Dabur India Ltd.,*** *2022 SCC OnLine Del 4593*, held that disparagement is an act of belittling someone's goods or services with a remark that is misleading. The law relating to disparaging advertisements is now well settled. It is open for a person to exaggerate and highlight the qualities and features of his own goods, but it is not open for a person to belittle and disparage the

goods of another.

24.18 This Court in ***Beiersdorf AG v. HUL***, *2024 SCC OnLine Del 3443*, held that serious statements of facts cannot, be untrue. The truthfulness of such assertions or statements of fact is to be strictly tested, and objection can be raised where the representations being made are absolutely false or misleading. The Karnataka High Court in the decision ***Eureka Forbes Limited v. Pentair Water India Pvt. Ltd.,*** *2006 SCC OnLine Kar 753*, held that the right to advertise does not permit one to go to the extent so as to cause damage or irreparable injury to the product of others.

24.19 This Court in ***Reckitt v. Wipro Enterprises***, *2023 SCC OnLine Del 2958*, held that an advertisement must not be false, misleading, unfair or deceptive, irrespective of whether it is extolling the advertised product or criticising its rival. Misrepresentation and untruth in advertisements is impermissible. It was not only, thereby, required to be accurate and true, but could also not convey an overall misleading message, seen from the standpoint of the customer.

24.20 This Court and the Supreme Court have passed various adverse orders against the Defendants highlighting the conduct of the Defendants for which the Defendants are facing various legal proceedings.

24.21 Hence, the Impugned Advertisement is disparaging the Plaintiff's Product and all other chyawanprash being sold in the market to in order to promote the Defendants' Product and

therefore the Impugned Advertisement should be taken down by the Defendants.

25. The learned Senior Counsel for the Defendants made the following submissions:

25.1 The present Suit is mala fide, misconceived and a grave abuse of the process of law and has been filed with the solitary aim of stifling competition and effectively seeking a gag order on the Defendant No. 2 restraining it from advertising the Defendants' Product. The Plaintiff is not entitled to any relief as sought in the Suit or any interim relief as sought in the Applications, all of which are liable to be dismissed.

25.2 Commercial advertising is recognized and protected as a facet of the fundamental right to freedom of speech and expression under Article 19(1)(a) of the Constitution of India, 1950 ("**Constitution**"). While evaluating commercial advertisements, the Courts have time and again given a broad and liberal interpretation to the aspect of freedom of speech and expression and have been cautious of imposing any fetter on the rights of a competitor to advertise its products through the medium of advertisements.

25.3 The Supreme Court in ***Tata Press Ltd. v. Mahanagar Telephone Nigam Ltd.***, *(1995) 5 SCC 139*, held that the public at large possesses a right to receive commercial speech. Article 19(1)(a) of the Constitution not only guarantees the freedom of speech and expression, but also protects the right of individuals to hear, read, and receive such expression. In matters concerning

the economic needs of citizens, decisions are often guided by information conveyed through advertisements. The protection under Article 19(1)(a) of the Constitution, thus extends equally to the communicator and the recipient of the speech. Indeed, the recipient of commercial speech may have a more significant stake in the information conveyed than the advertiser who issues it. Therefore, commercial speech must be recognised as forming an integral part of the freedom of speech and expression guaranteed under Article 19(1)(a) of the Constitution.

25.4 The Impugned Advertisement merely extols and propounds the Defendants' Product, which at best amounts to puffery and hyperbole. Under the law, a seller may puff up its product, highlight its product's positive attributes and claim that their product is better than the others or as the best. However, mere puffery is not actionable and does not amount to disparagement. The Impugned Advertisement simply highlights additional ingredients in the Defendants' Product which are in addition to the ingredients in the other Chyawanprash and encourages customers to opt for its product without mentioning or referring to, explicitly or implicitly, the Plaintiff and/or any other brand. Under the law, a certain amount of implied disparagement is inherent in commercial advertising, and so long as a competitor's product is not identifiably denigrated or disparaged as defective or undesirable, no action can lie against an advertisement.

25.5 In determining whether an advertisement is disparaging, the

Court must evaluate, the intent behind the advertisement, the manner in which it is presented, and the overall storyline and message it conveys. The Impugned Advertisement simply advertises the Defendants' Product as a healthier alternative and as having certain additional ingredients that are not available in other products. The use of the word 'Dhoka', when heard by a right thinking and reasonable viewer having imperfect recollection, is a part and parcel of the puffery in the advertisements, which the Defendants are entitled to. Further, the word 'Dhoka' is only heard twice in the entire advertisement, and the majority of the advertisement is about the qualities and distinguishing features of the Defendants' Product, rather than any other product or brand. Advertisements must be viewed from the point of view of an average right minded and reasonable consumer having imperfect recollection, whose perspective is used to assess the advertisement.

25.6 The principles that emerge from the judgments in the sphere of commercial advertisement are that the public at large expects a certain amount of hyperbole in advertisements and does not perceive its contents literally. An unfavourable comparison does not amount to denigration or disparagement. The test of disparagement is whether a reasonable man would take the claim as one which is made seriously or light heartedly. Reliance has been placed upon ***De Beers Abrasive Products Ltd. & Ors. v. International General Electric Co. of New York Ltd & Anr.*** *1975 (2) All ER 599* and ***Vodafone Group PLC & Anr.***

v. Orange Personal Communications Services Ltd. *1997 FSR 34.*

25.7 There are instances where the Plaintiff itself has engaged in comparative advertisements. The Plaintiff has also itself advertised the Plaintiff's Product as superior and having additional benefits over other Chyawanprash, manufactured by other competitors and available in market. The Plaintiff has been advertising it as offering "2x" and "3x" Immunity. None of the authoritative texts provide that a particular formulation would yield 2x / 3x immunity, which is a subjective statement and cannot be taken to be a matter of fact. Furthermore, such a statement is inherently comparative to other Chyawanprash and can be said to be a kind of misrepresentation of itself. Thus, there cannot be different parameters for the Plaintiff and different parameters for others.

25.8 This Court in ***Dabur India Ltd. v. Colortek Meghalaya (P) Ltd.****, 2010 SCC OnLine Del 391*, held that notwithstanding the impact that a telecast may have, since commercial speech is protected and an advertisement is commercial speech, an advertiser must be given enough room to play around in the grey areas in the advertisement brought out by it. A plaintiff ought not to be hyper-sensitive. This is because market forces, the economic climate, the nature and quality of a product would ultimately be the deciding factors for a consumer to make a choice. The intent and overall effect of the advertisement needs to be considered while deciding the issue of disparagement.

25.9 This Court in ***Marico Ltd v. Adani Wilmar Ltd***., *2013 SCC OnLine Del 1513*, held that the advertisements should be allowed to play in the gray area without being scrutinized about truthfulness of the statements made in the advertisement. Advertisements shall not be looked with a magnifying glass unless of course the claims made are found to be totally unsubstantiated and to have no basis in reason or logic.

25.10 This Court in ***Havells India Ltd. and Anr. V. Amritanshu Khaitan and Ors.***, *2015:DHC:2495*, held that A comparison, which is unfavourable to a competitor, does not necessarily mean that it is dishonest or unduly detrimental. Further, this Court in the decision of ***Zydus Wellness Products Ltd.*** (supra) held that mere indirect references, without a clear or identifiable comparison, are insufficient to establish a case of generic disparagement. An advertiser is entitled to the freedom to make general comparisons that emphasise the merits of its own product, and as long as such comparison does not specifically allude to any market leader, no objection can be sustained unless the representation made is demonstrably false or misleading.

25.11 It is an admitted case of Plaintiff that there is no mention, identification or reference to the Plaintiff's, the Plaintiff's Product or any other Chyawanprash in the advertisement. The advertisement simply advertises / markets the Defendants' Product and does not refer to and / or feature any other product / brand, either visually or verbally. There is no averment in the Plaint which points to any aspect of the Impugned

Advertisement that can be understood to have targeted the Plaintiff. There is no mention of 40 herbs in the Impugned Advertisement which was the contention in the Previous Suit filed by the Plaintiff, which is pending before this Court.

25.12 The Division Bench of this Court in the Appeal filed against the Order dated 03.07.2025 passed by this Court in the Previous Suit has allowed the Defendants to use the word 'ordinary' while describing the product of it's competitors. The Impugned Advertisement is in line with the liberty granted by the Division Bench of this Court in the Appeal. Reliance is placed on the decisions in ***Reckitt v. Wipro Enterprises***, (supra) and in ***Emami Ltd. v. Dabur India Ltd.***, *2025 SCC OnLine Cal 5487*.

25.13 Market share alone is not enough to imply targeting of the Plaintiff. Once an advertisement does not directly or indirectly make any reference to the Plaintiff or the Plaintiff's Product, the Plaintiff cannot claim the Plaintiff's Product being targeted solely because it holds a significant market share. Targeting, cannot be inferred merely from market dominance and must be expressed in a clear, direct and explicit manner resulting in identification by an average consumer / viewer having imperfect recollection. The Plaintiff cannot claim its product being targeted solely because it holds a significant market share.

25.14 The Plaintiff cannot be overly sensitive in such matters, as consumer choices depend on various factors, including market conditions, product quality, and economic considerations. Advertisers must be allowed a reasonable degree of creative

freedom, and ultimately, such battles ought not to be fought in a court of law, and the market forces must prevail.

25.15 Advertisements must be viewed as an ordinary consumer would perceive them, rather than with the specific intent of detecting disparagement. Words must be understood in their common and general sense, and not like provisions in a contract or testament. The court must consider an advertisement before it in its entirety rather than analysing it frame by frame, as sought to have been done by the Plaintiff. The principle expounded by the Courts is that as long as an advertisement promotes the advertised, an unfavourable comparison does not necessarily mean that the advertisement is disparaging. Thus, the Courts ought not to engage in excessive analysis or adopt an overly literal approach when assessing advertisements. Additionally, puffery is an exception, as it inherently involves exaggeration and embellishment. Since the average consumer does not take puffery literally, some level of untruth in such statements, if and where made, is acceptable as puffery is not subject to strict standards of truthfulness.

25.16 The allegation of the Plaintiff that the Defendants' Product does not contain 51 herbs or that it contains 47 herbs is merely to somehow cause prejudice as it is the admitted case of the Plaintiff that the Defendants' Product contains 55 ingredients and is manufactured based on one of the authoritative texts under the First Schedule to the Drugs and Cosmetics Act, 1940. Furthermore, the same is a subject matter of trial and detailed

examination of ingredients which cannot be done at this prima-facie stage. Thus, the formulation and ingredients of the Defendants' Product having been admitted by the Plaintiff and in view of the foregoing principles the contents of the advertisements meet the test of by and large truthfulness as held in a number of judgments and therefore no case of misrepresentation is made out.

25.17 The Plaintiff has sought to rely upon orders passed by the Supreme Court and this Court in certain other proceedings. The said proceedings are completely different and unrelated to the present Suit and the facts, circumstances and orders passed therein do not have any bearing on the subject matter of the present Suit whatsoever. The said proceedings did not pertain to disparaging advertisements. Further, the Plaintiff was not a party to any of the said proceedings. The Plaintiff, by referring to the said proceedings before the Supreme Court and this Court which are entirely distinguishable and therefore wholly irrelevant, is only trying to create wrongful prejudice and to somehow show the Defendants in poor light.

25.18 It is trite law that interim relief can only be in aid of the final relief, and therefore, no relief which is itself in the nature of a final relief can be granted at the interim stage. A bare perusal of the prayer clauses to I.A. 27468/2025 and the Plaint clearly shows that the prayers sought thereunder are identical in nature. Therefore, the prayers being identical, allowing the present Application despite the existence of several triable issues before

the court would amount to decreeing the suit at the interim stage itself.

25.19 The decisions in Dabur India Limited v. Emami Limited (supra), Dabur India Limited v. Colgate Palmolive India Ltd. (supra) and Karamchand ***Appliances (P) Ltd.*** *(supra)* relied on by the Plaintiff are distinguishable on facts and do not help the case of the Plaintiff.

26. The learned Counsel for the Defendants has filed their Written Submissions and a Compilation of Judgments sought to be relied upon by the Defendants, which are taken on record.

27. The learned Senior Counsel for the Plaintiff made the following rejoinder submissions:

27.1 None of the judgments cited by the Defendants pertain to a drug or medicine and they pertain to non-medicinal products. Further, on facts, none of the judgments cited by the Defendants pertain to usage of words like extremely negative description of competitors' products as used by the Defendants in the Impugned Advertisement and describing the competitor's products with words like Dhoka / Daily Deceptions.

27.2 This Court in ***Havells India Ltd.*** (supra), held that the comparison made in the advertisement should be factual, accurate and capable of substantiation. Advertisement should not unfairly denigrate, attack or discredit any other products, advertisers or advertisements directly or by implication. Statements of comparison with competitor's products should not be defamatory, libelous or confusing or misleading. All of these

observations by this Court helps the case of the Plaintiff rather than helping the case of the Defendants.

27.3 The decision of ***Zydus Wellness Products v. Dabur India Ltd,*** C.S. (Comm) No. 304 of 2022, is distinguishable on facts as the dispute in the case with respect to comparative advertisement whereas the present case is one of generic disparagement. The observations made in the judgment that untruthful disparagement is not permissible and that an objection can be raised where the representations being made are absolutely false or misleading support the case of the Plaintiff.

27.4 Even the decision in the case of ***Reckitt v. Wipro Enterprises***, (supra) is distinguishable on facts as the dispute in the case with respect to comparative advertisement whereas the present case is one of generic disparagement. Further the judgment held that the latitude of free commercial speech guaranteed by Article 19(1)(a) of the Constitution cannot be extended to misrepresentations. Representations of fact, if they are untrue, are impermissible. Even if the rival product was not specifically targeted, an indirect representation, which was sufficient to identify the product, was as good as direct targeting. An advertisement must not be false, misleading, unfair or deceptive, irrespective of whether it is extolling the advertised product or criticising its rival. Misrepresentation and untruth in advertisements is impermissible. These observations favour the case of the Plaintiff rather than the case of the Defendants.

27.5 The decision of this Court in ***Dabur India Ltd. v. Colortek Meghalaya (P) Ltd.***, (supra) relied on by the Defendants does not help the case of the Defendants as well. It was held in this judgment that advertisement must not be false, misleading, unfair or deceptive, if an advertisement extends beyond the grey areas and becomes a false, misleading, unfair or deceptive, it will not have the benefit of any protection under Article 19(1)(a) of the Constitution of India, 1950 and while hyped-up advertising may be permissible, it cannot transgress the grey areas of permissible assertion, and if it does so, the advertiser must have some reasonable factual basis for the assertion made, squarely covers the case of the Plaintiff and supports the submissions made by the Plaintiff.

27.6 The Defendants deliberately launched a campaign against the entire class of Chyawanprash with avarice and *mala fide* intent. The Impugned Advertisement has been issued in brazen disregard to the express directions of a Division Bench of this Court in ***Patanjali Ayurved Limited and Anr. v. Dabur India Limited***, FAO(OS)(COMM) 140/2025. In the earlier suit filed by the Plaintiff against the Defendants, a Learned Single Judge of this Court had restrained the Defendants from issue of the advertisements challenged therein. The Defendants appealed and while permitting the Defendants to compare their Chyawanprash with others, i.e., Ordinary Chyawanprash, this Court however, explicitly directed that, the comparitive advertisement is

permissible provided it does not deride, or directly or indirectly refer to, the Plaintiff's Product.

27.7 The Defendants while advancing arguments on the grant of *ad-interim* injunction, have admitted to the fact that the intent and purport of the advertisement is to portray that all other Chyawanprash as inferior, ineffective in comparison to the Defendants' Product, by usage of the words Dhoka and daily deceptions referring to the entire class of Chyawanprash.

28. A perusal of the Impugned Advertisement shows that the Defendants have tried to convey the message that all the manufacturers of Chyawanprash, are deceiving their customers. Calling all other Chyawanprash as 'dhoka' or deception amounts to commercial disparagement. Although the Plaintiff's Product has not directly been referenced in the Impugned Advertisement, generic disparagement of all the competing products by the Defendant is likely to cause harm to the Plaintiff as the Plaintiff is the market leader for sale of Chyawanprash. Whereas it is open to exaggerate the claims relating to the goods or services and embellish their virtues or benefits, it is not open to denigrate or disparage the goods of the others as a class in its entirety.

29. There is no quarrel with the proposition that comparative advertising is permissible. However, such comparison cannot extend to disparaging a competitor's product. It is open to an advertiser to highlight that a particular aspect or quality of its product is superior to that of a rival, provided that the overall message of the advertisement is not misleading. Any factual claim or representation made in an advertisement must be not only accurate, but also free from the potential to mislead. The assessment must be made from the perspective of the target consumers. An advertiser may compare a feature that

is of little practical relevance to consumers and, by emphasising it, create an impression that its product is superior to the competitor's.

30. If an advertisement crosses the permissible limits and becomes false, misleading, unfair, or deceptive, it ceases to enjoy the protection afforded by Article 19(1)(a) of the Constitution. The freedom of speech under Article 19(1)(a) of the Constitution does not extend to the dissemination of falsehoods or confer any right to defame, disparage, or denigrate a competitor. As with all freedoms protected under Article 19 of the Constitution, the right to commercial speech is also subject to reasonable restrictions under Article 19(2) of the Constitution. Since public interest is paramount, comparative advertising may be regulated under Article 19(2) of the Constitution when it is found to be misleading, unfair, or untruthful. No freedom is absolute, the Defendants cannot be granted liberty to disparage the products of it's competitors.

31. The law on comparative advertisement has been well settled by the plethora of judgments that have been relied upon by the Parties, all of which have been considered at length. The decision of this Court in ***Zydus Wellness Products Ltd. v. Dabur India Ltd.*** *(supra)*, summarizing the law on disparagement, has held that disparagement is an act of belittling someone's goods or services with a remark that is misleading. It is open for a person to exaggerate and highlight the qualities and features of his own goods, but it is not open for a person to belittle and disparage the goods of another.

32. Disparagement of a rival or competitor's product is wholly impermissible. While an advertiser may legitimately claim that its own product is superior to that of a competitor, it cannot attribute such superiority to any defect, shortcoming, or deficiency in the competitor's product. An

advertisement must not suggest that a competitor's products are inferior, undesirable, or of poor quality. The fine distinction between asserting that one's own product is better than another's, and alleging that the other's product is worse than one's own, must always be carefully maintained. The decisions of ***De Beers Abrasive Products Ltd. & Ors. v. International General Electric Co. of New York Ltd & Anr.*** *(supra)* and ***Vodafone Group PLC & Anr. v. Orange Personal Communications Services Ltd.*** *(supra)* relied upon by the Defendants will not help the case of the Defendants as the Defendants have gone beyond puffery in the Impugned Advertisement by calling the products of all of it's competitors as 'dhoka' / deception.

33. The advertisers are allowed creative liberty and allowed to play in the gray area, but while doing so they cannot disparage the products of it's competitors. Creative liberty and puffery are protected as free speech, but disparagement of a competitor's product cannot be allowed. The parties are free to promote their products terming them as better than any other alternative available in the market, but the moment that they go beyond permissible creative liberty and make statements which are false and misleading and of disparaging nature, they can be restrained. As has been in the decisions of this Court in ***Beiersdorf AG v. HUL*** *(supra),* ***Eureka Forbes Limited v. Pentair Water India Pvt. Ltd.*** *(supra)* and ***Reckitt v. Wipro Enterprises*** *(supra),* an advertisement must not to be false or misleading or of a nature which is misleading to the customers. The decisions in ***Dabur India Ltd. v. Colortek Meghalaya (P) Ltd.*** *(supra)*, ***Havells India Ltd. and Anr. V. Amritanshu Khaitan and Ors.***, *(supra),* ***Marico Ltd v. Adani Wilmar Ltd****, (supra)* ***Reckitt v. Wipro Enterprises****, (supra)* and ***Emami Ltd. v. Dabur India Ltd.*** *(supra),* does not help the case of the Defendants as the Defendants

have deliberately used false, misleading and disparaging statements calling all the Chyawanprash except for the Defendants' Product as 'dokha'.

34. From the perspective of the consumer, watching the Impugned Advertisement, the message conveyed is that the Plaintiff's Product, and all other Chyawanprash in the market are deceptive, and therefore not a classical Ayurvedic product. The consumers ought not to settle for deception, when the Defendants' Product, the only true / non deceptive Chyawanprash is available. Section 3(a) of the Drugs and Cosmetics Act defines ayurvedic medicine and in terms thereof, all ayurvedic medicines must be manufactured in accordance with the formulae prescribed in the authoritative books of ayurvedic systems of medicine, specified in the First Schedule of the Drugs and Cosmetics Act.

35. The intent and overall effect of the Impugned Advertisement is to negatively portray other Chyawanprash in the market, including, the Plaintiff's Product and to denigrate the entire category as deception. The test of an advertisement constituting disparagement has to be seen from the point of view of an ordinary reasonable man, i.e., what would be the impact / impression of the advertisement on said reasonable and ordinary person of average intelligence.

36. To convey a message through the Impugned Advertisement, that only the Defendants' Product is genuine and everyone else's product is deceptive, is incorrect and disparages the entire class of Chyawanprash in general. Anybody who manufactures an Ayurvedic product by following the statute and the scriptures as enlisted in the statute, cannot be denigrated as deceptive, when the statute considers it to be as good and permissible ayurvedic drug, i.e., Chyawanprash in the present case. Therefore, the Defendants cannot

deride the Plaintiff or other manufacturers, who manufacture Chyawanprash strictly as per the enlisted ayurvedic scriptures.

37. As long as the Plaintiff or any other manufacturer of Chyawanprash, has a drug license and manufactures as per the Ayurveda books as detailed in the Drugs and Cosmetics Act, they cannot be said to be deceiving the public. This is clearly a false statement, and does not fall within puffery. Acclamation of one's products and even stating that they are better than those of the rival is not actionable. However, false representation as to the quality or character of the competitor's products would fall in the category of disparagement and action can be taken against the such an advertisement.

38. The Impugned Advertisement relates to an Ayurvedic formulation, namely Chyawanprash. Therefore, for an average viewer of the Impugned Advertisement featuring Mr. Baba Ramdev, a well-known authority on yoga and Vedic practices, and his assertion that only the Defendants' Product is genuine Chyawanprash is likely to create a strong impression. Such a statement would naturally lead viewers to accept it as true and disregard other brands of Chyawanprash. In evaluating the overall impact of the Impugned Advertisement, it is necessary to consider factors such as the stature and influence of the endorser. Consequently, both in its tone and underlying intent, the Impugned Advertisement seeks to disparage the entire category of Chyawanprash products.

39. The decisions in relied upon by the Plaintiff, ***Dabur India Limited v. Emami Limited (supra), Dabur India Limited v. Colgate Palmolive India Ltd***. *(supra),* ***Karamchand Appliances (P) Ltd.*** *(supra),* ***HUL v. Gujarat Cooperative*** *(supra)* have held that generic disparagement of the competitor's products without specifically targeting a competitor would also adversely

effect the competitor. If the defendant is disparaging a whole class of products, the act of the defendant will adversely effect it's competitors. Although the Defendants in the Impugned Advertisement have not particularly targeted the Plaintiff's Product, the Defendants have referred to every other Chyawanprash other than the Defendants' Product as 'dhoka' and the Plaintiff being the market leader for the product Chyawanprash is likely to be adversely effect by the disparaging nature of the Impugned Advertisement.

40. A *prima facie* case has been made out on behalf of the Plaintiff for grant of an *ad-interim* injunction. 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.

41. A false advertisement campaign would cause irreparable loss to the Plaintiff while stopping broadcast of an advertisement referring to the Plaintiff's Product or the products of other competitors as 'deceptive' may not have any material effect on the Defendants, considering that it is free to advertise its product without reference to the competitor's products as deceptive.

42. Accordingly, till the next date of hearing, the following directions are passed:

i. Accordingly, till the next date of hearing, the Defendants, their, directors, proprietors, partners, associates, assigns or assignees in interest, heirs, successors or successors in interest, permitted assigns, sister concerns or group companies, distributors, dealers, wholesalers, retailers, stockiest, agents and all others acting for and on their behalf are restrained from issuing, broadcasting, or

telecasting or in any manner or form, disseminating the Impugned Advertisement in any other advertisements in any media form whatsoever, including electronic media, social media and / or print media and / or dissemination in any other form, by referring to Chyawanprash as 'dhoka'/ 'deception' and not having any medical value or attribute or benefit and / or in any other manner whatsoever disparaging or denigrating Chyawanprash in general, including the Plaintiff's Product.

ii. The Defendants shall take down / block / disable the Impugned Advertisement from from all electronic medium including national television channels, over the top platforms or any form of streaming system, and all other digital mediums including and print mediums and platforms on the World Wide Web / Internet, Newspapers, all of their social media accounts, including but not limited to https://www.youtube.com/watch?v=y09wYT9PpFo, and https://www.instagram.com/reel/DP3xH91jS5zJ/?igsb=MWFtb#2N6bWVseTgzdQ= within 72 hours of receipt of this Order.

43. Let the Reply to the present Application be filed within four weeks after service of Notice. Rejoinder thereto, if any, be filed before the next date of hearing.

44. List before this Court on 26.02.2026.

TEJAS KARIA, J

NOVEMBER 6, 2025/ *'A'*