



2026:AHC:65474

Reserved on 6.2.2026
Delivered on 30.3 2026

HIGH COURT OF JUDICATURE AT ALLAHABAD
MATTERS UNDER ARTICLE 227 No. - 1258 of 2026

Five Fingers Exports India Private Limited

.....Petitioner(s)

Versus

Lohia Corp Ltd and another

.....Respondent(s)

Counsel for Petitioner(s)	: Mr. Anil Bhushan (Sr. Advocate), assisted by Mr. Abhishek Bhushan, Mr. Shashank Mishra, Mr. Himanshu Singh
Counsel for Respondent(s)	: Mr. Navin Sinha, Sr. Advocate, Mr. Tarun Agarwal, Sr. Advocate, Mr. Nipun Singh, Sr. Advocate, assisted by Mr. Devansh Mishra, Mr. Ayush Sharma, Mr. Sajal Awasthi, Mr. Sumit Suri and Mr. Anup Shukla

Court No. - 7

HON'BLE PIYUSH AGRAWAL, J.

1. Heard Mr. Anil Bhushan, Senior Advocate assisted by Mr. Abhishek Bhushan, Mr. Shashank Mishra, Mr. Himanshu Singh for the petitioner and Mr. Navin Sinha, Sr. Advocate, Mr. Tarun Agarwal, Sr. Advocate, Mr. Nipun Singh, Sr. Advocate, assisted by Mr. Devansh Mishra, Mr. Ayush Sharma,

Mr. Sajal Awasthi, Mr. Sumit Suri and Mr. Anup Shukla for the respondents.

2. By means of the present, the petitioner is praying for the following relief:-

1. "to issue a suitable order or direction for setting aside the impugned orders dated 13.01.2026 and 14.01.2026 passed by the Commercial Court, Varanasi in Original Suit No. 2 of 2026 (Annexure No. 5 to the petition).

2. to issue a suitable order or direction for staying the further proceedings of Original Suit No. 2 of 2026 (Lohia Corp u. Five Fingers Exports India Private Limited & Anr.) pending before the Commercial Court, Varanasi."

3. Mr. Anil Bhushan, learned Senior Counsel for the petitioner submits the petitioner -company was founded in the year 2011 and engaged in trading having its registered office at 448, Vellalore Road, Singanallur, Coimbtore -641005, Tamil Nadu, India. He submits that the petitioner Company has been incorporated as a private limited company on 06.07.2020 as a small micro company registered as MSME India and a registered Start UP and started its manufacturing business from 2020.

4. He submits that the petitioner company is specializes in making woven bag, non-woven bag, fabric production, straw making, flexo roll and bag printing machines and are committed to quality and innovation, and delivers comprehensive industrial solutions worldwide. He submits that the petitioner -company undertakes turnkey projects, including PP spun bond non-woven production lines, PP woven bag conversion lines, and drinking straw-making projects for Tetra Pack production units. In June 2022, launched the first high-

speed paper straw machine and U-shaped straw manufacturing setup in India, supplying to over 45 units and pioneering the straw division in the country. The petitioner -company has also launched advanced BCS Liner Insertion machine, featuring 8 new features that address all industry challenges. It offers 40% higher productivity and 90% reduced wastage. He submits that the petitioner -company is one of the largest manufacturer of premium PP Woven Bag Making Machines, some of which are -BCS Liner Insertion Machine, BCS liner Insertion Machine with Hemming, Gusseted Valve Bag Making Machine, Sheet Fed Liner Insertion Machine, Pinch Bottom Sealer Machine and Hemming Machine.

5. Learned Senior Counsel further submits that Respondent No. 1/Plaintiff, Lohia Corp considers itself as a globally recognized company and one of the best-known names in machines for woven plastics over four decades and it delivers end-to-end machinery solutions for the plastic woven fabric industry worldwide through its various offices situated in India and abroad. He submits that respondent -1 has applied for Patent "A DEVICE AND A METHOD FOR CONTROLLING THE MOTION OF A SPREADERBAR" on 03.02.2015 which was granted on 03.02.2023 as Suit Patent No. 4310032. He further submits that respondent no. 1 has instituted the Original Suit No. 2 of 2026 (Lohia Corp v. Five Fingers & Anr.) before the Commercial Court, Varanasi on 13.1.2026 and on the same day a report from Munsarim has been called upon and the application 8 C under Section 12 A was allowed vide order dated 13.1.2026 by which the plaintiff/respondent no. 1 was exempted from mandatory pre institution mediation.

6. Learned Senior Counsel for the petitioner further submits that by the impugned order, the Commercial Court has issued notice to the appellant and granted an interim injunction on the basis of allegation made in the plaint, observing that there is an infringement of plaintiff's patent rights and thereby restrained the petitioner from using Valve Bag Conversion Machine or any other machine from being manufactured, marked, sold, or used without authorization, either by itself or through any representative, employee, distributor, customer, stockiest, or agent, nor shall any part of the said machine be manufactured, sold or used without authorization.

7. Learned Senior Counsel further submits that petitioner - defendant's company is situated in Distt. Coimbtore, State of Tamil Nadu, therefore, the Commercial Court, Varanasi has no jurisdiction to issue notices of injunction to the petitioner . He further submits that without recording any reason for waiver of mandatory pre institution mediation under Section 12 A, the interim injunction cannot be granted.

8. Learned Senior Counsel further submits that no material has been brought on record to grant exparte interim injunction as there was no urgency for grant of ex-parte interim injunction. He further submits that in view of Order 39, Rule 3 CPC, the Court failed to record mandatory requirement for granting interim injunction.

9. Per Contra, learned senior counsel for the respondent submits that the impugned order passed by the Commercial Court does not suffer from any illegality or infirmity and has been passed strictly in accordance with the law upon due consideration of material available on record. It is contended that the respondent is the holder of a duly granted and

subsisting patent, which remains unchallenged. He further submits that the petitioner has been found to be prima facie infringing the said patent by manufacturing and installing machines embodying the patented features, including those covered under Claim 1. The Commercial Court, according to the respondent, has taken into account the existence of a prima facie case, balance of convenience, and irreparable injury, particularly in view of the imminent threat posed to the respondent's goodwill, reputation, and market share.

10. Learned senior counsel also submits that there has been full compliance with the mandate of Order XXXIX Rule 3 of CPC, as all requisite documents, including the plaint and supporting materials, were duly served upon the petitioner and proof thereof has been brought on record before the Court below. Further, on the question of jurisdiction, it is contended that the infringing machine has been installed and is being used at Varanasi by defendant no. 2, and thus, a part of the cause of action has arisen within the territorial jurisdiction of the Commercial Court, Varanasi. Consequently, jurisdiction is attracted under Section 20 of the CPC read with Section 48 of the Patents Act.

11. He further submits that the requirement of pre-institution mediation under Section 12A of the Commercial Courts Act stands duly exempted in the present case, inasmuch as urgent interim relief was necessitated to prevent continuing infringement and irreparable harm to the respondent. Hence, this petition is not maintainable in view of the availability of an efficacious alternative remedy of appeal under Order XLIII Rule 1(r) CPC read with Section 13 of the Commercial Courts

Act, and on this ground alone, the petition deserves to be dismissed.

12. After hearing learned counsel for the parties, the court has perused the record.

13. The record shows that the suit , being a commercial dispute of specified value, attracted the rigours of Section 12A of the Commercial Courts Act, 2015, which mandates pre-institution mediation, unless the suit contemplates urgent interim relief. In the present case, no material has been placed on record by the plaintiff-respondent to demonstrate any such urgency so as to warrant exemption from the statutory requirement. The Commercial Court has also failed to record any satisfaction or assign reasons as to how the case falls within the exception carved out under Section 12A. The grant of interim injunction, in the absence of compliance with the mandatory pre-condition or a reasoned exemption therefrom, vitiates the proceedings.

14. On the aspect of territorial jurisdiction, the respondent has contended that the presence of defendant no. 2 at Varanasi, installation and use of the allegedly infringing machine within the jurisdiction, and applicability of Section 20 CPC read with Section 48 of the Patents Act, confer jurisdiction upon the Commercial Court at Varanasi. It has further been argued that jurisdiction is a mixed question of fact and law. While the said submission carries legal weight, it remains incumbent upon the Court passing an ex-parte order to *prima facie* satisfy itself regarding jurisdiction. The impugned order, however, is silent on this crucial aspect. The absence of even a *prima facie* finding on jurisdiction renders

the order vulnerable, particularly when it results in restraining a party situated outside the territorial limits of the Court.

15. Furthermore, the nature of the injunction granted assumes significance. The order imposes a blanket restraint upon the petitioner from manufacturing, selling, or dealing with the machines in question. Such a sweeping restraint, especially in commercial and patent matters, has far-reaching civil and economic consequences. The law is well settled that ex-parte injunctions of such nature must be granted sparingly, upon recording cogent and compelling reasons. The impugned order falls short of this requirement.

16. As regards compliance with Order XXXIX Rule 3 of CPC, the respondent asserts that all necessary documents were duly served upon the petitioner and proof thereof has been filed before the Commercial Court. However, the requirement under law is not merely procedural compliance but also recording of reasons as to why notice could not be dispensed with. The impugned order does not disclose any compelling circumstance necessitating grant of injunction without notice.

17. The availability of an alternative remedy by way of appeal under Order XLIII Rule 1(r) CPC read with Section 13 of the Commercial Courts Act has also been pressed into service by the respondent to question the maintainability of the present petition. While it is true that an efficacious alternative remedy exists, it is equally well settled that supervisory jurisdiction may be invoked where the order impugned is patently without jurisdiction, suffers from procedural irregularity, or reflects manifest non-application of mind. The present case falls within such exceptional parameters.

18. Further, the Commercial Court, while proceeding to grant the ex-parte ad-interim injunction, has primarily relied upon the assertions made in the plaint and the documents filed therewith, without undertaking an independent judicial scrutiny and without recording any satisfaction with regard to the existence of a prima facie case, balance of convenience, and irreparable injury, three indispensable preconditions governing the grant of temporary injunction under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure. Though reference has been made to the existence of a registered patent in favour of the plaintiff and the alleged acts of infringement, there is no discussion as to the scope of the patent claims, the specific features of the defendant's product, or any comparative analysis to prima facie establish infringement. The satisfaction recorded, if any, appears to be implicit rather than explicit and falls short of the requirement of a reasoned order reflecting due application of mind, particularly in a matter involving serious civil consequences arising out of an ex-parte restraint order. The impugned order is conspicuously silent on these foundational requirements and appears to have been passed in a routine and mechanical manner.

19. In view of the cumulative deficiencies noted above, absence of reasoned findings on the threefold test, lack of recorded satisfaction regarding urgency under Section 12A, non-consideration of jurisdictional objections, and grant of a sweeping ex-parte injunction without adequate reasoning, this Court is constrained to hold that the impugned orders cannot be sustained in the eyes of law.

20. Accordingly, the impugned orders dated 13.01.2026 and 14.01.2026 passed by the Commercial Court, Varanasi in Original Suit No. 2 of 2026 are hereby set aside.

21. The matter is remanded to the Commercial Court concerned, who shall decide the application for interim relief afresh, by reasoned and speaking order, after affording due opportunity of hearing to all the stake holders, expeditiously, preferably within a period of one month from the date of production of certified copy of this order.

22. It is clarified that this Court has not expressed any opinion on the merits of the rival claims, including the issue of patent infringement, and all such questions are left open to be adjudicated by the Commercial Court independently, in accordance with law, without being influenced with any of the observation made herein above.

23. The petition is **allowed** accordingly.

(Piyush Agrawal,J.)

March 30, 2026
Rahul Dwivedi/-