

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

+ **FAO(OS) No. 535/2009**

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Reserved on: 19th January, 2010

Decided on: 3rd March, 2010

M/s P.P. Jewellers Pvt. Ltd & Anr.

..... Appellants

Through:

Mr. Sudhir Chandra, Sr. Advocate with
Mr. Hemant Singh, Ms. Mamta R.Jha,
Mr. Rahul Gupta and Mr. Sumit Rajput,
Advocates

versus

M/s P.P. Buildwell Pvt. Ltd.

..... Respondent

Through:

Mr. Shailen Bhatia, Ms. Zeba
Tarannum Khan and Mr. Amit Jain,
Advocates

A N D

+ **FAO(OS) No. 534/2009**

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Reserved on: 18th January, 2010

Decided on: 3rd March, 2010

M/s P.P. Jewellers Pvt. Ltd.

..... Appellant

Through:

Mr. Sudhir Chandra, Sr. Adv. with
Mr. Hemant Singh and Ms. Mamta
Jha, Advs.

versus

M/s P.P. Prime Properties & Promoters Pvt. Ltd.

..... Respondent

Through:

Mr. V.K.Rao and Mr. Saket Sikri,
Advs.

Coram:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MUKTA GUPTA

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|----|---|-----|
| 1. | Whether the Reporters of local papers may be allowed to see the judgment? | Yes |
| 2. | To be referred to Reporter or not? | Yes |
| 3. | Whether the judgment should be reported in the Digest? | Yes |

MUKTA GUPTA, J.

1. The abovementioned appeals arise out of a common judgment dated 24th September, 2009 passed in IA No. 132/2005 in CS (OS) No. 19/2005 titled as “P.P. Jewellers Pvt. Ltd. vs. P.P. Buildwell Pvt. Ltd.” and I.A. No. 4048/2008 in CS (OS) No. 604/2008 titled as “P.P. Jewellers Pvt. Ltd. vs. P.P. Prime Properties and Promoters Pvt. Ltd.”, whereby applications under Order 39 Rules 1 and 2, CPC filed by the Appellant herein P.P. Jewellers Pvt. Ltd. (hereinafter called as “PPJPL”) were dismissed.

2. The Appellant had filed the abovementioned two suits against M/s P.P. Buildwell Pvt. Ltd. (hereinafter called as “P.P. Buildwell”) for passing off and against M/s P.P. Prime Properties and Promoters Pvt. Ltd. (hereinafter called as “P.P. Prime Properties”) for infringement of the trademark and passing off.

3. The brief facts resulting in bringing the abovementioned suits by PPJPL Plaintiff No. 1/Appellant No. 1 herein and M/s L.R. Builders Pvt. Ltd. Plaintiff No.2/ Appellant No. 2 herein in FAO (OS) No. 535/2009 and

PPJPL, the sole Plaintiff/Appellant herein in FAO (OS) No. 534/2009, are that Appellant No.1 herein is a well known manufacturer of jewellery, precious metals, their alloys and precious stones etc. They are one of the largest jewellery export houses in India and have won several export awards. PPJPL started its business in the year 1980 taking initials from the names of the brothers Pawan Gupta and Padam Chand, its two promoters. It has annual turnover of Rs. 262 crores and annual promotional expenses of Rs.6.03 crores in the year 2003-2004. It is claimed that the marks “PP”, “PP Jewellers” and “PPJ” have been continuously and extensively used by the Appellant No.1 and it consists of goodwill and reputation attained in the course of business, and thus, the trademark “PP” has come to be consistently and exclusively associated with the goods and business of the group of P.P. Jewellers. It was further contended by the Appellant that on 30th September, 1999, trade mark registry granted the registration word/mark “PP Jewellers” and logo “PPJ” in favour of Appellant No.1 in Class 14.

4. Learned counsel for the Appellants further states that the Appellant No.1 PPJPL subsequently diversified into the building construction and real estate business under the name of P.P. Towers promoted by the Appellant No.2 L.R. Builders Pvt. Ltd. which was incorporated in the year 1995 and in January, 1998 L.R. Builders commenced construction of its commercial

complex P.P. Towers, North Extension in Pitampura, New Delhi. Thereafter, it commenced construction of commercial complex at Rohini and Wazirpur under the name of “P.P. Towers” for which logo “PPT” was used. The Appellant No. 1 has also applied for registration of mark “PP” under class 37 relating to building construction on 27th August, 2004, however, the same is pending. The Appellant has also diversified into garment business in 2002 under the name and style of “PP Design Estate”. Thus, according to the Appellants, they have acquired an excellent reputation and goodwill and the trade mark “PP” is the constant distinctive component of all manner of use of its trade marks, trade names, domain names etc., such as “PP Jewellers”, “PP Design Estate”, “PP Towers”, “www.ppjewellers.org” and “www.pptowers.com”.

5. In FAO(OS) 535/2009, it is contended by the learned counsel for the Appellant that the Respondents “PP Buildwell”, a company engaged in the business of constructing commercial complexes like shopping malls with its office at Rohini in Delhi, brought out an advertisement in Navbharat Times Newspaper in the first week of December, 2004. The Respondents “PP Buildwell” issued offer for sale of commercial outlets at the proposed shopping mall, being constructed at Sector-9, Rohini (in the vicinity of the Appellant’s commercial complexes) and their invitation for booking for the

“North Ex. Mall”, shows a pictorial representation of a shopping mall in which the two towers display letters “P” on each front and side faces. Thereafter, the Appellant No. 2 started receiving queries from its clients and the public, enquiring about the proposed mall. It is alleged that the Respondent with their malafide intention are encashing on Appellant’s goodwill in the mark “PP” and thus, claim an injunction to restrain PP Buildwell from using the letters “PP” either as part of their corporate name or any other service in the form of space in commercial complexes.

6. With regard to FAO (OS) No. 534/2009, it is alleged that the Respondent “PP Prime Properties” issued an advertisement in Navbharat Times dated 26th January, 2008 with the logo “PP” in relation to its real estate business. It is alleged that “PP” adopted by PP Prime Properties is identical or deceptively similar to the letter/mark “PP” of the Appellant. It is further claimed that it amounts to infringement of the letter/mark “PP”, passing off, unfair competition, and thus, seeks an injunction to restrain the Respondent from using its trade mark “PP”.

7. As per the learned counsel for the Appellants the explanation of the Respondent “PP Buildwell” in using “PP” is quite vague besides being false. The Respondent has taken contrary stands in different pleadings in FAO (OS) No. 535/2009. Before the Registrar of Companies, the reason for adoption

given by the Respondent is that the first “P” has been taken from the surname of the two proposed directors being Puri and the second “P” has been taken from another proposed director Kamal Kumar, whose name is Pinky, while in the written statement filed by the Respondent before this Court, it is claimed that Puri is the surname of two of the directors of the Respondent Company namely Anita Puri and Sonia Puri and thus they are using the letter mark “PP”. In FAO(OS) No. 534/2009, the contention of the Respondents to use “PP” is also incorrect and has no basis. In the written statement, the reason of adoption of word “PP” is the initials of two promoters “Pankaj Sharma” and “Prince Dhingra”, whereas in the memorandum of association of the company, the names of the two promoters are Amit Dhingra and Vinod Mehra.

8. Learned counsel for the Appellant contends that lack of valid explanation for using the mark “PP” fortifies the plea of dishonest adoption and if the adoption of the mark itself is dishonest, it is evident that the same has been done to create confusion in the minds of the customers and is a clear case of passing off. Reliance in this regard is placed on the decision in the case of *N.R. Dongre and Ors. vs. Whirlpool Corporation and Ors* [AIR 1995 Delhi 300]; *Bata India Limited vs. M/s Pyare Lal & Co.* [AIR 1985

Allahabad 242] and Aktiebolaget Volvo of Sweden vs. Volvo Steels Ltd. of Gujrat (India)[MANU/MH/0076/1997 at para 39].

9. Learned counsel for the Appellant relies on the decision rendered by this Court in the case of *Larsen & Toubro Limited vs. Lachmi Narain Trades. & Ors [2008 (36) PTC 223 (Del.) (DB)]*, wherein this Court held that the test of “field of activity” is no more a valid question and the question is one of the real likelihood of confusion or deception among the consumers and the resultant damages to the plaintiff. It is further held that dissimilarity in some products in which the parties trade, does not make any difference insofar as the grant or refusal of injunction is concerned.

10. Relying on the decision in the case of *K.R. Chinna Krishna Chettiar vs. Sri Ambal & Co. and Anr. [AIR 1970 SC 146]*, it is contended that the essential features which distinguish the goods of the plaintiff have to be looked into in a case of passing off.

11. It is further contended by learned counsel for the Appellant that the learned Single Judge has erred in appreciating the law laid down by the Hon’ble Supreme Court in the case of *Kaviraj Pandit Durga Dutt Sharma vs. Navaratna Pharmaceutical Laboratories [AIR 1965 SC 980]* and in this regard, relies on para 28 of the decision wherein it has been held:

“Expressed in another way, if the essential features of the trade mark of the plaintiff have been adopted 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.”

12. Learned counsel for the Appellant further relies on the decision of this Court in the case of *B.K. Engineering Company, Delhi vs. U.B.H.I. Enterprises (Regd.), Ludhiana and Anr. [AIR 1985 Delhi 210]* and contends that the learned Single Judge erroneously distinguished the said decision wherein the issue was the two letter mark “B.K.” and this Court restrained the defendant from using “B.K.-81” on its market products. Following the principle laid down by this Court in the case of *Pankaj Goel vs. Dabur India Ltd [2008 (38) PTC 49 (Del.) (DB)]*, the appellants claim to be entitled to injunction.

13. Per contra, learned counsel for the Respondent has contended that “PP” is a weak registration mark and the Appellants cannot claim any right over the same. The registered trade mark of the Appellant No.1 is not “PP”, but “P.P. Jewellers” with “PPJ” as its logo. That even “PP Jewellers” and the logo “PPJ” have been registered in Class 14 and thus, the Appellant cannot

claim any right to the mark “PP” in Class 37 of the Trade Marks Act which relates to constructions. The Respondent “PP Buildwell” is a prior user of the mark “PP” in the construction Class and has also registered trade marks in the name of “PP Malls” and “PP Shopping Malls” under Class 37 and thus right, if any, to claim the trade mark, is of the Respondent and not of any other person. It is contended that this is a tactic of the Appellants to create a monopoly and it has sought registration of its mark “PP Jewellers Pvt. Ltd” and logo “PPJ” or “PP” in almost all the classes of the goods/services under the Trade Marks Act. The registered trade mark and the user of Respondents being “PP Jewellers” with logo “PPJ”, the Appellant cannot claim any exclusivity in the two letters “PP”. Though the Appellants claim to have started their business through Appellant No.2, that is, L.R. Builders Pvt. Ltd. in the year 1995 and in January 1998, the Appellant No.2 LR Builders claim to have commenced the construction of its commercial complex PP Towers, North Extension in Pitampura, New Delhi, however, the said claim is incorrect on its own showing, as the appellant in its application filed on 27th August, 2004 before the Registrar of Trade Marks, expressed its intention to use the said expression in relation to business activities of building construction in Class 37 and stated as “proposed to be used” whereas the Respondent PP Buildwell Pvt. Ltd. are in the field of construction since 2004,

the date of incorporation of their company being 2.8.2004. Moreover, the Respondent already has two registered trade-marks in the name of “PP Mall” and “PP Shopping Mall” in class 37. Thus, the Appellant can neither claim exclusivity nor that it is a prior user with regard to the trade mark “PP” in the field of construction.

14. Learned counsel for the Respondent contends that the letters “PP” are common to trade and the searches conducted show that as per the records of Registrar of Companies, 86 companies are existing with the letters “PP”. The searches conducted with the Registrar Trade Mark also show that even in class 14 where the Appellant has the registered trade mark of “PP Jewellers Pvt. Ltd” and logo “PPJ”, there are other people who have the registered trade mark of “PP”. Reliance in this regard is placed by the learned counsel for the Respondent on the decision in the cases of *S.B.L. Limited vs. Himalaya Drug Co. [AIR 1998 Del 126]*, *Aviat Chemicals Pvt. Ltd. and Anr. Vs. Intas Pharmaceuticals Ltd., [2001 PTC 601 (Del.)]*.

15. Learned counsel for the Respondent also relies on the decision in the case of *Kaviraj Pandit Durga Dutt Sharma vs. Navaratna Pharmaceutical Laboratories [AIR 1965 SC 980]* (Supra) relied upon by the learned counsel for the Appellant and contends that the said decision rather supports his contention, as it clearly holds that in the case of passing off, the Respondent

may escape liability if he can show that the added matter is sufficient to distinguish his goods from those of the Appellant.

16. Learned counsel for the Respondent relies on the decision in the case of ***Registrar of Trade Mark vs. Ashok Chandra Rakhit Ltd. [AIR 1955 SC 558]*** wherein it was observed as under:

“14. It is true that where a distinctive label is registered as a whole, such registration cannot possibly give any exclusive statutory right to the proprietor of the trade mark to the use of any particular word or name contained therein apart from the mark as whole.”

17. Learned counsel for the Respondent also places reliance on the following decisions:

Nestle's Products vs. Milkmaid Corporation [AIR 1974 Delhi 40]; Three – N – Products (P) Ltd vs. Pardesi General Store and Ors. [2000 PTC 489]; Cadila Healthcare Limited vs. Dabur India Limited [2008 (35) PTC 130]; Cadila Healthcare Limited vs. Dabur India Limited [2008 (38) PTC 617]; Roshan Lal Oil Mills Ltd. vs. Assam Company Ltd. [1996 PTC (16) 699]; Lakshmi Narayan Karva & Ors vs. Satyanarayanan Khubchand Karv [AIR 1975 Madras 112] and Harrods Limited vs. Harrodian School Limited {[1996] RPC page 714}.

18. The Respondent relying on ***Wander vs. Antox [1991 PTC 1] Para 9 and 13*** contends that the Respondent is in business since 2004 and would

suffer irreparable loss and injury if the injunction is granted against the Respondent.

19. Learned Counsel for Respondent in FAO(OS) No. 534/2009 in addition submits that in this appeal M/s L.R. Builders Pvt. Ltd. is not an Appellant and PPJPL does not claim to be in the business of real estate and thus is not entitled to any injunction. It is further contended that the graphical representation of the mark of Respondent is wholly dissimilar and different from that of the Appellant. The Respondent places the letters 'PP' in reverse as its logo and places the letters 'PP' in a hut while representing the name of its corporate entity "Prime Properties Pvt. Ltd.". The Respondent has also undertaken to use the words "PP" in their corporate name in a HUT. Reliance is placed on *Kaviraj Pandit Durga Dutt Sharma vs. Navaratna Pharmaceutical Laboratories [AIR 1965 SC 980]*; *Harrods Limited vs. Harrodian School Limited {[1996] RPC page 697}* and *Kedar Nath Gupta vs. J.K. Organisation [MANU/DE/0473/1998]*.

20. On a thoughtful consideration of the rival contentions, we are of the prima facie view that the Appellant not being a holder of registered trade mark "PP" no case for infringement is made out and thus no injunction is liable to be granted against the Respondent PP Prime Properties in FAO(OS) No. 534/2009 on this count. The only actionable claim by the Appellant being of

passing off, there has to be evidence to show that the Appellant is a prior user and has attained exclusivity in the mark “PP”. The registered logo of the Appellant in class 14 is not merely “PP” but specifically “PPJ”. The Appellant has filed for registration of its trade marks in a number of classes with the Registrar of Trade Marks for the registration of its firm in the name of “PP Jewellers Pvt. Ltd.” and not as “PP Towers” and logo “PPJ” or “PP”.

21. It is to be seen as to whether the goodwill attained by the Appellants in its name “P.P. Jewellers” or “PP Tower” or “PP Designs Estate” has entitled the Appellant to claim goodwill and exclusivity in the word mark “PP” so as to oust others from using it even in the business of construction. As the Appellant is not the only user of this word mark “PP”, relying on the decision of the Hon’ble Supreme Court in the case of *Reliance Industries Ltd. Vs. Reliance Polycrete Ltd reported as 1997 PTC (17) 581*, we are inclined to hold it in the negative. The Hon’ble Supreme Court in the said decision held:

“Reliance has become synonymous with the Appellant’s and their group Companies. In other words the Public or the common man associates the word “Reliance” on with the Appellants and their group Companies irrespective of what the field of activity or trade in which it is used. Mr. Nair is quite right that apart from showing that the Appellant-Company is incorporated in 1966, very conveniently it is not stated when the other Companies were incorporated. Very conveniently it is also not stated what activities are carried out by the other group Companies. Even otherwise by the time the Appellant-

Company was incorporated, there were already in existence at least 10 Joint Stock Companies with the word “Reliance” as their Corporate Name. Since then, there are in existence, only upto 1990, 167 Joint Stock Companies with the name “Reliance” as their Corporate Names. As pointed out by Mr. Nair the Bombay Telephone Directory has listed 92 Companies/firms with the name “Reliance”. Undoubtedly the Appellant-Company is a big Company having a large turnover. In the field of yarns and/or threads they may have acquired a distinctiveness in order to enable them to get a registered Mark in Class-23. However, there is no material or evidence to show that the word “Reliance” is associated by the public only with the Appellants or their group Companies in all fields of activities or trades. All the cases cited by Mr. Tulzapurkar were the cases where the word was not a common English word but an invented word which had come to be associated with the Appellant-Company. Those cases could therefore have no application to the present case, when the word is a common word in English language and where no material is placed before the Court to show that in all fields of activities or trades it has come to be associated only with the Appellants or their group Companies. In my prima facie view it does appear to be a case of too much self importance given to themselves by the Appellants. Fact that so many Joint Stock Companies and firms, having word “Reliance” as their Corporate/firm Name exist belies case that public/common man associates the word only with the Appellants or their group Companies, no matter what the field of activity.”

22. With regard to the letter marks observations in the case of ***British Petroleum Company Ltd vs. European Petroleum Distributors Ltd. [1968 RPC 54]***, are relevant:

“In considering whether or not the mark is “inherently adapted” to distinguish the goods it is relevant to ask oneself whether and to what extent if the proposed mark was not given a statutory protection, other producers of the goods would be likely in the normal course of events to wish to use the mark themselves. In the case of a mark consisting simply of letters of the alphabet the answer to this question must depend to a large extent on the number of letters and the rarity of the combination. In the “W. & G.” case (Du Cros’ Application) (1913) 30 R.P.C. 660 decided under the Act of 1905, the House of Lords considered the question in relation to a two-letter mark consisting of two common initial letters, W. & G. There the user was proved for some five years, but only in the London area. Registration was refused, but as I read the judgments – and in particular the speech of Lord Parker – that was not because the letters W. & G. were thought to be so inherently unadapted to distinguish the goods in question (taxi cabs) as to make registration in principle impossible, but because the user proved, especially as regards area, was thought not to be enough to justify registration in a case where the inherent distinctiveness of the mark was so slight. In Kerly on Trade Marks (9th Edn. (1996), paragraph 283) it is said that since the W. & G. case, two-letter marks are not registered. This case shows that as a mere matter of fact that is not so; but further I do not think that it is right to say that no two-letter mark ought ever to be registered. Of course, if the letters constitute a common combination, as they do in this case, the mark ought only to be registered on proof of user for a substantial time over the whole country, but no doubt proof of such user was given when the first B.P. mark was registered in 1921.”

23. Observations from Kerly’s Law of Trade Marks and Trade Names, Fourteenth Edition page 590 are also relevant:

“In considering all of the authorities below, it must be borne in mind that they were decided in relation to passing off or under older Trade Mark Acts, with the said, the general principles are as follows:

- (1) It must not be assumed that a very careful or intelligent examination of the mark will be made;
- (2) But on the other hand, it can hardly be significant that unusually stupid people, “fools or idiots”, or a “moron in a hurry” may be deceived.
- (3) If the goods are expensive or important to the purchasers and not of a kind usually selected without deliberations, and the customers generally educated persons, these are all matters to be considered.
- (4) If some parts of the mark are common, one must consider whether people who know the distinguishing characteristics of the opponents’ mark would be deceived.

24. Reliance is also placed on the decision of this Court in the case of *S.B.L. Ltd. vs. Himalaya Drug Co. [AIR 1998 Delhi 126 para 25]* wherein it is held:

“25. To sum up:-

- (1) The crucial tests to be applied for judging an infringement action or a passing off action in the field of medicinal and pharmaceutical preparations remain the same as are applicable to other goods. However, in the case of preparations trading whereof is governed by statutory rules or regulations, additional considerations become relevant. They are: (i) the manner in which the trade is carried on, such as sales being made only by authorized or licensed vendors who will be educated, also having special knowledge of medicines and pharmacy (ii) the class of persons who would be the purchasers, whether they would be

accompanied by doctors' prescription and would in all probability remain in touch with doctor while consuming the medicine purchased. The court would ask – Is there such a similarity between the two trade marks that a doctor or a chemist or the both by some carelessness in expression, some obscurity in handwriting, some slip of recollection or some careless mistake not expected of a trained professional like doctor or chemist might lead to the one being confused for the other? Regard shall be had not to the hypothetical possibilities but to ordinary practical business probabilities as applied to the circumstances of an individual case.

(2) The decision on the question of likelihood of deception is to be left to the Court.

(3) Nobody can claim exclusive right to use any word, abbreviation, or acronym which has become publici juris. In the trade of drugs it is common practice to name a drug by the name of the organ or ailment which it treats or the main ingredient of the drug. Such organ, ailment or ingredient being publici juris or generic cannot be owned by anyone for use as trade mark.

(4) Whether such feature is publici juris or generic is a question of fact.

(5) If the two trade marks by two competing traders use a generic word or an expression public Jurisdiction common to both the trade marks it has to be seen if the customers who purchase the goods would be guided by the use of such word expression or would ignore it and give emphasis to prefixes or suffixes or words used in association therewith. The primary question to be asked is what would remain in the memory or customer? The surrounding circumstances such as the presentation of goods, colour scheme and lettering style etc., used on the packing also assume significance.”

25. Thus, applying the tests as stated above, it is clear that the business activity involved in the present case is office spaces and show rooms etc. in

shopping malls. The properties sought to be purchased by the buyers are highly expensive and would require thorough inquiries and various rounds of negotiations before entering into agreements and thus the likelihood of deception is minimal.

26. There is yet another aspect, as to whether the balance of convenience lies in favour of the Appellant and against the Respondents. The Respondents are not yet to commence the business but are already into the business. The Respondent P.P. Buildwell since the year 2004 and Respondent P.P. Prime Properties since 2007, the date of incorporation of the company being 23rd March, 2007, no case for grant of temporary injunction is made out. Reliance in this regard is placed on a decision in *Wander Ltd. & Anr vs. Antox India (P) Ltd [1991 PTC 1 Vol. XI]* wherein it was observed as under:

“9. Usually, the prayer for grant of an interlocutory injunction is at a stage when the existence of the legal right asserted by the plaintiff and its alleged violation are both contested and uncertain and remain uncertain till they are established at the trial on evidence. The Court, at this stage acts on certain well settled principles of administration of this form of interlocutory remedy which is both temporary and discretionary. The object of the interlocutory injunction, it is stated is to protect the plaintiff against injury by violation of his rights for which he could not adequately be compensated in damages recoverable in the action if the uncertainty were resolved in his favour at the trial. The need for such protection must be weighed against the corresponding need of the defendant to be protected against

injury resulting from his having been prevented from exercising his legal rights for which he could not be adequately compensated. The court must weigh one need against another and determine where the “balance of convenience lies.” The interlocutory remedy is intended to preserve in status quo, the rights of parties which may appear on a prima facie. The court also, in restraining a defendant from exercising what he considers his legal right but what the plaintiff would like to be prevented, puts into the scales, as relevant consideration whether the defendant has yet to commence his enterprise or whether he has already been doing so in which latter case considerations somewhat different from those that apply to case where the defendant is yet to commence his enterprise, are attracted.”

27. In the present case, the learned Single Judge has sufficiently protected the interest of the Appellants by directing the respondents to maintain the accounts of volume of business conducted by each of them during the pendency of the suits and file half yearly statements in this Court.

28. It is well settled that in an intra-court appeal, this Court would interfere with the judgment of the learned Single Judge and disturb the findings only if the same are perverse.

29. We do not find any infirmity in the impugned judgment. Needless to state that the observations made above are only an expression of opinion for the purpose of grant/refusal of injunction and will have no bearing on the final

outcome of the suits which will be decided on their own merit uninfluenced by the said observations.

30. The appeals are dismissed. No order as to costs.

(MUKTA GUPTA)
JUDGE

(MADAN B.LOKUR)
ACTING CHIEF JUSTICE

MARCH 03, 2010
‘raj’