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

Date of Decision:-13th December, 2023.

+ **CS(COMM) 389/2023, I.As. 11027/2023 & 18715/2023**

HALDIRAM INDIA PVT. LTD

..... Plaintiff

Through: Mr. Neeraj Grover, Mr. Kashish Sethi, Ms. Ayushi Chandra, Ms. Ritu Khandelwal, Advs.

versus

**SHREE HARI SHARNAM FOODS AND
BEVERAGES P. LTD. & ANR.**

..... Defendants

Through: Mr. Vivek Raj Singh Adv. Counsel
For D-1 (M. 9015198051)
Mr. Manoj Singh, Adv. for D-2.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUDGMENT

Prathiba M. Singh, J.

1. This hearing has been done through hybrid mode.
2. The present suit has been filed by the Plaintiff- Haldiram India Pvt. Ltd. under Section 134 of the Trade Marks Act, 1999 relates to the Plaintiff's mark 'HALDIRAM' and 'HALDIRAM BHUJIAWALA'.
3. The Plaintiff is the registered proprietor multiple registered trade marks, as provided at paragraph 11 of the plaint, including the 'HALDIRAM BHUJIAWALA' with the HRB logo in a 'V' shape, registered under registration no. 285062 dated 29th December, 1972 in class 30. The said mark is extracted below:



4. The plaintiff avers that the Defendant No.1-Shree Hari Sharnam Foods and Beverages Pvt. Ltd., operating a food outlet in Bihar, was using the names 'HALDIRAM' and 'HALDIRAM BHUJIWALA' on the premises without any authorisation.

5. Vide order dated 1st June, 2023, an *ex-parte* injunction was granted against the Defendants in the following terms.

"I. The defendant no.1, its directors, agents, servants, representatives are restrained from selling, conducting, offering for sale, stocking, advertising, directly or indirectly dealing in any food items, Indian sweets, namkins, and/or any other allied/cognate goods and/or any other goods or restaurant services under the marks "HALDIRAM BHUJIWALA",



and/or

and/ or

"HALDIRAM'S" and /or



and the



trade dress/get up of and/or any other marks either identical or deceptively similar to the marks of the plaintiff, except by way of lawfully selling the pre-packed goods manufactured by the



defendant no.2 in compliance of the Settlement Agreement dated 3rd May, 2016.

II. The defendant no.1, its directors, agents, servants, representatives are restrained from using the mark “HALDIRAM” as part of names of their social media pages, e-mail IDs, and/or in any manner representing their restaurant as “HALDIRAM BHUJIWALA”,



and/or

III. The defendant no.1, its directors, agents, servants, representatives are restrained from reproducing the



impugned artistic work and/or any other artistic work having similar get-up, lay out,



colour combination, to the plaintiff's logo in any manner, including but not limited to such reproduction on packing boxes, napkins, menu cards, websites and/or social media pages.”

6. The Defendant No.1 filed the written statement, asserting that it had entered into an agreement with the Defendant No.2 dated 3rd May, 2016 which purportedly granted it permission to use the name ‘HALDIRAM



BHUJIWALA’ and

logo in respect of packaged food products.

7. The Plaintiff's grievance is that the Defendant No.2 did not have the right to permit Defendant No.1 to use the Plaintiff's marks except on



packaged food products. Thus, use in respect of a food outlet was impermissible.

8. However, subsequently a contempt application bearing *I.A. 18715/2023* was also filed. Vide order dated 25th September, 2023, the following order was passed:

“3. Ld. Counsel for the Defendant No. 1 submits that he has already cautioned his client about the subsisting injunction order that has been passed, and the Defendant No. 1 has already complied with the said injunction order by removing the billboards and the other infringing materials.

4. It is made clear that the Defendant No.1 is only permitted to sell prepackaged products manufactured by Defendant no.2.

5. Let a compliance affidavit be filed within one week.

6. The Defendant No. 1 and Defendant No. 2 shall also place on record the Super Stockiest/Distributorship Agreement entered into between them by the next date of hearing.”

9. In terms of the previous order, a compliance affidavit dated 4th October, 2023 has been filed by the Defendant to the following effect.

“AFFIDAVIT OF COMPLIANCE OF ORDER DATED 01.06.2023 ON BEHALF OF THE DEFENDANT NO. 1

I, Sh. Gopal Sharma Age 45 Years, S/o Sh. Vishwanath Sharma R/o Shukla Road, Purani Bazar, Muzaffarpur, Bihar-842001, do hereby solemnly affirm and declare as under:

1. That in my official capacity, I am the Director / Authorised Representative of the Defendant No.1 vide Board Resolution dated 23.08.2023 in the above-captioned matter and I am duly authorized and competent to swear this affidavit.

2. That on 01.06.2023, this Hon'ble Cour, passed an



ad- interim injunction Order under the provisions of Order 39 Rule 1 & 2 of CPC in the above-mentioned case, directing certain actions to be taken by the Defendant no.1.

3. That I am pleased to inform this Hon'ble Court that the ad- interim injunction Order dated 01.06.2023 under the provisions of Order 39 Rule 1 & 2 of CPC in the above- mentioned case has been diligently complied with by the defendant No.1.

4. That the compliance of the order dated 01.06.2023 has been executed in strict accordance with the court's directives. The photographs of the Defendant No.1's restaurant and the recent bill of his restaurant are herein annexed and marked as Document No. A and Document No. B respectively."

10. The photographs attached to the above affidavit demonstrate that the name 'HALDIRAM' and 'HALDIRAM BHUJIAWALA' and also the logos are no longer in use; instead, the Defendant No. 1 appears to be using the name 'Pranam Mithila'. It is submitted by Id. Counsel for the Defendant No.1 that the Defendant No.1 was, in fact, compelled to shut down the restaurant during lockdown.

11. The Defendant No.2 has also filed the written statement in the present suit. As per the written statement, the Defendant No. 2 claims rights under the agreement dated 3rd May, 2016 to sell his products under the name 'HALDIRAM BHUJIAWALA' and with the 'V' Logo. *Qua* Defendant No. 1, the Defendant No. 2 in its written statement has stated as under:

"It is pertinent to state that if Defendant No.1 is selling packed food products manufactured by Defendant No.2 under the mark "HALDIRAM BHUJIAWALA" i.e. after being procured from distributor/ stockist of being purchased directly from Defendant No.2, the answering Defendant has no objection to the same



**with respect to the said sale and distribution of
packed food products manufactured and supplied by
answering Defendant No. 2.”**

12. A perusal of the suit prayers in the present suit reveal that the reliefs are prayed only against Defendant No.1, whose restaurant has now closed down completely.

13. In view thereof, there is no point in keeping the present suit pending. Ld. Counsel for the Plaintiff does not press for any other reliefs, apart from a decree of permanent injunction against Defendant No. 1. Accordingly, the suit is decreed in terms of prayer clause paragraph 51(a), (b) & (c) of the plaint.

14. Insofar as the pleadings in this suit *qua* the Defendant No.2 are concerned, if the Plaintiff wishes to rely upon them, and has any grievance against the Defendant No.2, the Plaintiff is free to rely upon the said pleadings and avail of its remedies in accordance with law.

15. The present suit is disposed of in the above terms. Decree sheet be drawn accordingly. All pending applications are also disposed of.

**PRATHIBA M. SINGH
JUDGE**

DECEMBER 13, 2023/dk/dn