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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 1173/2024 & I.A. 49305/2024, I.A. 49306/2024, I.A. 49307/2024, I.A. 49308/2024, I.A. 49309/2024, I.A. 49310/2024, I.A. 49311/2024

DHARAMPAL SATYAPAL LIMITED

.....Plaintiff

Through: Ms. Vaishali Mittal, Mr. Shivang Sharma, Ms. Saijal Arora and Mr. Siddhant Chamola, Advocates
Mob: 7496808680
Email: saijal@anandandanand.com

versus

YUGAL KISHOR & ORS.

.....Defendant

Through: Ms. Mamta Jha, Mr. Rohan Kumar Ahuja, Ms. Shruttima Ehersa and Ms. Aiswarya, Advocates for D-2.
Mob: 7978530049

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
23.12.2024

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CS(COMM) 1173/2024 & I.A. 49305/2024, I.A. 49306/2024, I.A. 49307/2024, I.A. 49308/2024, I.A. 49309/2024, I.A. 49311/2024

1. The present suit has been filed for permanent injunction restraining infringement and dilution of trademark, tarnishment, passing off, infringement of copyright injurious falsehood, spread of false information, unjust enrichment, damages, rendition of accounts, etc.



2. The present lawsuit is being filed before this Court against the defendant no. 1, who has created and published a video on the internet platform YouTube. The video gives the impression that it is an educational video about the origin of the plaintiff's "pan masala" and mouth freshener products under the mark "RAJNIGANDHA". However, the video contains false information, and the origin story is false. The defendant no. 1 attributes the conception of the plaintiff's brand, not to the plaintiff, but to a third party, a person named 'Mansukh Bhai Kothari', who has no relationship whatsoever with the plaintiff. The video then goes on to provide a story about how this person, Mr. Kothari was responsible, not just for the conception of the plaintiff's RAJNIGANDHA products but had also conceived of the innovative tin-box and plastic pouch packaging, which added tremendously to the fame and reputation of RAJNIGANDHA products across India.

3. It is submitted that the person to whom the creation of the brand RAJNIGANDHA has been attributed, Mr. Mansukh Bhai Kothari, is the founder of the Pan Parag Group, that sells the "Pan Parag" brand of pan masala in India. Late Mr. Kothari and the plaintiff are extremely distinct and have no relationship with each other. In fact, their products namely "RAJNIGANDHA" and "PAN PARAG" compete in the market for pan masala products in India.

4. It is submitted that furthermore, the video of the defendant no. 1 is titled "How Vimal Pan Masala is made Billion Dollar Company". The first three minutes of the video are dedicated to the false narrative of the plaintiff's RAJNIGANDHA products, as stated above. The remaining six minutes are dedicated to the success story of another group, which sells



another pan masala product under the trademark "Vimal". This company (Vimal Pan Masala Company) and its product under the trademark "Vimal" have no connection or relationship with the plaintiff. However, the video of the defendant no. 1 gives the impression that the plaintiff and this company are the same, and that the plaintiff's RAJNIGANDHA products belong to this third-party company.

5. It is submitted that defendant no. 1's video, which is allegedly based on "facts" and meant for the information of the masses, is full of wrong and false information, and does nothing to educate the public about the plaintiff, and the origins or success of its RAJNIGANDHA product.

6. It is submitted that defendant no. 1, has used the plaintiff's trademark



RAJNIGANDHA in its video.

These images are artistic works and are under the copyright protection of the plaintiff. The use of plaintiff's intellectual property is unauthorized and has been used for the creation of a video with false information.

7. It is submitted that the false information contained in the video made by the defendant no. 1 has the effect of undoing the many years of hard work of the plaintiff, and its predecessors, to create the renowned RAJNIGANDHA product. The video attributes the source of the plaintiff's trademarks and products under RAJNIGANDHA to third parties, and not the plaintiff. This damages the goodwill of the plaintiff and jeopardizes the very



essence of its trademarks, i.e., denoting that the products under the mark RAJNIGANDHA emanate from the plaintiff.

8. It is submitted that the dissemination of this false video to members of the public on YouTube, i.e., defendant no. 2, results in generation of revenue for the defendant no. 1. In the age of rapid creation and dissemination of content, for quick consumption of the masses, it is imperative that true and accurate information is presented to members of the public. It is impermissible for content creators such as the defendant no. 1 to use the intellectual property of the plaintiff, and present a false and misleading video, which dilutes the plaintiff's intellectual property, and also confuses the public about the true and accurate origin of the plaintiff's products.

9. It is submitted that the actions of the defendant no. 1 have resulted in infringement of the plaintiff's trademark and copyright. Furthermore, the exclusivity associated with the trademark RAJNIGANDHA has been diluted and these trademarks and products stand to be associated with third parties instead. Furthermore, the actions of the defendant no. 1 constitute unjust enrichment and injurious falsehood.

10. It is submitted that through this lawsuit, the plaintiff is seeking a permanent injunction from this Court, ordering the delisting of the video of the defendant no. 1, and a restraint on the defendant no. 1 from creating any further content which uses the above-mentioned intellectual property of the plaintiff to spread false information.

11. It is submitted that the plaintiff's trademark /brand 'RAJNIGANDHA' was adopted by the plaintiff's predecessors in the year 1983 in respect of pan masala. The plaintiff is registered as subsequent proprietor of this mark as since 25th February, 2002, by way of the Deed of Assignment dated



February 25, 2002, between M/s Swastik Fragrances and M/s Dharampal Satyapal Limited, validating the ownership of goodwill and title in the Rajnigandha trademarks.

12. It is submitted that RAJNIGANDHA, the plaintiff's flagship brand, is the world's largest selling premium flavored pan masala. Such is the strength of association between this trademark and the plaintiff, that the cross-roads on which the plaintiff's administrative office in Noida, Uttar Pradesh is situated, is officially named "Rajnigandha Chowk". Needless to state, any consumer, when exposed to a mouth-freshener or related product, under the trademark RAJNIGANDHA, will assume that the said product emanates from the plaintiff.

13. It is submitted that the fact that the area of the plaintiff's office is known to the public as "Rajnigandha Chowk" is evidence of the fact that RAJNIGANDHA is associated only with the plaintiff, and not with other groups of companies.

14. The plaintiff has registered several trademarks for its RAJNIGANDHA products. These include the following:

S. No.	Application No.	Mark Description	Class	Date of Application	Status
1.	402899	RAJNIGANDHA (WORD)	31	17/03/1983	Registered
2.	456862		31	14/07/1986	Registered
3.	456863		31	14/07/1986	Registered
4.	490907		31	11/05/1988	Registered



5.	1251686		31	27/11/2003	Registered
6.	1758488		34	27/11/2008	Registered
7.	1758487		31	27/11/2008	Registered
8.	2063714	RAJNIGANDHA	31	06/12/2010	Registered
9.	1251686		31	27/11/2003	Registered
10.	1620422		31	13/11/2007	Registered
11.	1607264		34	01/10/2007	Registered
12.	4945610		31	15/04/2021	Registered
13.	2466388		31	24/01/2013	Registered
14.	2938410	RAJNIGANDHA (word)	31	09/04/2015	Registered
15.	3646147	The Rajnigandha Master Blend	31	28/09/2017	Registered

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15. It is submitted that the trademark RAJNIGANDHA is a well-known trademark, and has been recognized to be so, by this Court of Delhi. It has also been entered as a well-known trademark in the list maintained by the Trade Marks Office.



16. It is submitted that the images are artistic works, by virtue of section 2 (c) of the Copyright Act, 1957. Plaintiff is the first owner and holder of such copyright by virtue of Section 17 of the said Act. Being the holder of copyright, plaintiff is entitled to exclusive rights in the said labels as per the provisions of Section 14 (c) of the said Act.

17. It is submitted that the plaintiff has also secured registration for copyright in the label of the RAJNIGANDHA products, as it constitutes original artistic and literary work of the plaintiff.

18. It is submitted that defendant no. 1, Mr. Yugal Kishore, runs a YouTube under the name "THE MOTIVATION CHANNEL". The channel is accessible from the link: <https://www.youtube.com/@TheMotivationalChannel>. The defendant no. 1's email id is yugalkishor.info@gmail.com.

19. It is submitted that defendant no. 1 describes his channel as presenting "short documentaries and success stories". Further, he claims that the videos created and showcased on his channel, adds value in the lives of the users who view them.

20. It is submitted that on 17th December, 2024, the plaintiff became aware that defendant no. 1 had created and uploaded a video on its platform



under the title "How Vimal Pan Masala Is Made Billion Dollar Company". This video is accessible from the link given below:

<https://www.youtube.com/watch?v=5GhmFklqBkY>

21. It is submitted that upon viewing the contents of the impugned video, the plaintiff no. 1 was shocked to learn that the video referenced the plaintiff's RAJNIGANDHA products, and attributed its origin not to the plaintiff, but to a third party.

22. It is submitted that while the video is about 9 minutes long, the first three minutes of the video provide a story on the origin of pan masala products under the trademark RAJNIGANDHA, and the conception of the tin-box packaging and the plastic pouch packaging of RAJNIGANDHA.

23. It is submitted that the impugned video seems to have been posted on 26th April 2024 and has gathered 1,780 views as of 18th December 2024.

24. It is submitted that to gain further traction, the defendant no. 1 has made YouTube Shorts [short video(s)] from the impugned video elaborated hereinabove. The defendant no. 1 makes available this video at the URL: <https://www.youtube.com/shorts/ld249ScS-Fc>, titled "Rajnigandha pan masala History | Success Story #cocacola #facts ifood #panmasala #vimal #vimalad" (hereinafter 'impugned video 2').

25. It is pertinent to mention here that the YouTube Shorts video was subsequently uploaded on 28th April 2024. Given defendant no. 1's use of the plaintiff's well-known trademark 'RAJNIGANDHA' in the description of the Shorts video, the same has garnered 2,751 views significantly more than the complete impugned video posted by it. This version amplifies the unauthorized and infringing use of the plaintiff's trademark. Such intentional usage of the plaintiff's trademark to attract more viewers not



only increases the reach of the infringing content but also causes irreparable harm to the plaintiff's goodwill and brand value.

26. It is submitted that defendant no. 1 has posted variants of the impugned video on the Instagram platform (https://www.instagram.com/the_motivational_channel) as well. The



defendant no. 1 knowingly, and willfully uses plaintiff's artwork as well as plaintiff's well known trademark 'RAJNIGANDHA' in the description of the video, which is titled 'Rajnigandha pan masala journey' as it is aware that the same will help in receiving additional views. The video is accessible at <https://www.instagram.com/p/C6WG7aMRwno/>.

27. It is submitted that in the impugned videos, the defendant no. 1 continues to give the impression that "Mr. Mansukh bhai" is the one who incorporated the business under the trademark 'RAJNIGANDHA'. Further, the videos open with a misstatement claiming that by 1980, the product being sold under the trademark 'RAJNIGANDHA' had become so famous in Lucknow that people started knowing Lucknow by the name of Rajnigandha, whereas, in actuality, the plaintiffs commenced the use of the trademark 'RAJNIGANDHA' in 1983.

28. It is submitted that the defendant no. 1 has used the plaintiff's



trademark RAJNIGANDHA, in its Impugned Videos. The use is without permission and authorization and the title and description of impugned videos show contain the plaintiff's trademark



RAJNIGANDHA and describe to the public that these videos are about the origin of the plaintiff's brand RAJNIGANDHA.

29. It is submitted that furthermore, the impugned video 1 of the defendant no. 1, which is titled "How Vimal Pan Masala is Made Billion Dollar Company" has multiple references to Vimal Pan Masala in the same video, without any attempt to clarify that the product RAJNIGANDHA and the product "Vimal" Pan Masala originate from different companies, which has the effect of associating the plaintiff's RAJNIGANDHA products with the Vimal Pan Masala Company.

30. It is submitted that no such association exists between the plaintiff, and the Pan Bahar group and the Vimal Pan Masala Company. However, the video has the effect of forming such an association. This results in the dilution of the distinctive character of the plaintiff's



RAJNIGANDHA trademarks.

31. It is submitted that consequently, the video results in confusing the products of the plaintiff with those of the third parties, and results in passing off.

32. It is submitted that dissemination of this false impugned videos to members of the public on YouTube results in generation of revenue for the defendant no. 1. In the age of rapid creation and dissemination of content, for quick consumption of the masses, it is imperative that true and accurate information is presented to members of the public. The title and description of impugned videos contain the plaintiff's trademark RAJNIGANDHA and describe to the public that these videos are about the origin of the plaintiff



brand RAJNIGANDHA. The plaintiff's intellectual property is, therefore, used as a medium by the defendant no. 1 to attract viewership for its social media handles. It is impermissible for content creators such as the defendant no. 1 to use the intellectual property of the plaintiff, and present a false and misleading video, which dilutes the plaintiff's intellectual property, and also confuses the public about the true and accurate origin of the plaintiff's products.

33. Learned counsel appearing for the plaintiff submits that after filing of the present suit and after giving advance service of the present suit to defendant no. 1, an email has been received from defendant no. 1, in the following manner:





Enrolment No.: D/2861/2018

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First Channel Building Plot No. 17 A Sector 16 A

Film City | Noida 201301 (UP) | India

Phone +91.120.4059300 | Fax +91.120.4243056 - 058

email@ascendandemand.com | www.ascendandemand.com

Registered Office:

B - 41, Nizamuddin East | New Delhi 110 013 | India

34. Learned counsel appearing for defendant no. 2 submits that the videos in question, are not available, on the YouTube.

35. Learned counsel appearing for the plaintiff expresses satisfaction and submits that since the defendant no. 1 has already apologized after filing of the present suit and has already taken down the infringing videos, the suit can be decreed in favour of the plaintiff and against defendant no. 1. She further submits that the plaintiff gives up its prayer for costs and damages.

36. Accordingly, considering the Email received from defendant no. 1 as reproduced hereinabove, and considering the fact that the videos in question have already been voluntarily removed by defendant no. 1, the present suit is decreed in favour of the plaintiff and against defendant no. 1, in terms of Para 71 (i) to (v).

37. Decree sheet be drawn up.

38. However, liberty is granted to the plaintiff to approach this Court seeking appropriate relief, in case any such infringing video is uploaded by the defendant no. 1 on any social media platform.

39. The present suit along with the pending applications, stands disposed of.

I.A. 49310/2024 (for extension of time to file Court Fees)



40. In view of the fact that the present suit is being decreed on the first date and there is a settlement between the parties even before the first listing of the present suit, exemption is granted to the plaintiff from filing Court Fees.

41. Application stands disposed of.

MINI PUSHKARNA, J

DECEMBER 23, 2024/ak