

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

***APPEAL FROM ORDER NO.564 OF 2015
ALONG WITH
CIVIL APPLICATION NO. 705 OF 2015***

Shri Shriniwas Yambayya Pulgam,
R/o. 1467, Daji Peth, Solapur. ... Appellant/applicant

v/s

M/s.Pulgam Textiles,
R/o. 1468/69, Daji Peth, Solapur. ... Respondent

Mr.Pankaj Das for the appellant/applicant.

Mr.Samir Kumbhakoni for the respondent.

Coram: N.M. Jamdar, J.

Dated: 21 July 2016

P.C.:

The Appellant challenges the order passed by the learned District Judge, Solapur, below Exh.5 in Regular Civil Suit No.1 of 2013. The Respondent has filed the suit for restraining the Appellant from using the trademark 'M/s.Pulgam Textiles Show Room' or any other trade mark or trade name, similar to or deceptively similar to the word 'M/s.Pulgam Textiles Show-Room'.

2 In this suit, an application was taken out by the Respondent for

temporary injunction. The learned District Judge, after going through the evidence on record, *prima facie* noted that the trade mark was registered in the name of the Respondent in the year 2009 and there is likely to be confusion in the mind of the consumers, which may cause damage to the reputation of the Respondent/Plaintiff, so also there was an infringement of the trade mark. The application was allowed on 4 May 2013. Thereafter, the present appeal was filed on 27 March 2014. An application for condonation of delay was allowed on payment of cost. Thereafter the matter was placed on board for removal of office objections and in due course the matter has reached hearing.

2 The order of injunction is now operating for more than three years. At this stage, I am not inclined to interfere with the impugned order. It is informed, on instructions, that the suit is at the stage of framing of issues. This being the suit under the Trade Mark Act, the use of discretion by the learned District Judge is not perverse and that temporary injunction is granted, suit will have to be given priority. The order of injunction is operating.

3 The learned District Judge will make an endeavour to dispose of the suit on or before 31 December 2016. All contentions of the parties on merits are kept open and the suit will be decided uninfluenced by the grant of temporary injunction in the suit.

4 The appeal from order is accordingly disposed of. The civil application is disposed of.

(N. M. Jamdar, J.)