

JSN

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT (L) NO.175 OF 2016

Ultra Tech Cement Limited & Another	... Plaintiffs
<i>Versus</i>	
Salasar Cement & Others	... Defendants

Dr. Veerendra Tulzapurkar, Senior Advocate, with Mr. Amit Jamsandekar, Ms. Alka Parelkar, Esha Trivedi i/b. M/s. V.A. Associates for the Plaintiffs.

Mr. Satyantant Basu, with Mr. Devasis Mitra, Ms. Devrupa Dey Mitra i/b. M/s. Legal Assistance for Defendants.

CORAM: G.S. PATEL, J
DATED: 21st April 2016

PC:-

1. The Suit is settled. Learned Advocate for the Defendants has instructions obtained telephonically in the course of the day today from Defendant No.2, Mr. Sumit Singh to submit to a decree in terms of prayer clauses (a) and (b) of the Suit which read as follows:

(a) that the Defendants by themselves, their servants, agents and distributors or representatives or any person claiming through or under them and the like be restrained by a perpetual order and injunction from in any manner in relation to any of its goods from using the marks **“Ultra Hi-Tech CEMENT The People’s Choice”/“Ultra Hi-Tech CEMENT**

Everyone's Choice"/"Ultra-Hi-Tech Cement"

or any mark containing the aforesaid impugned marks/words together with or by themselves or with any other word or device and/or any other deceptively similar marks or the impugned marks being **Exhibit H1-H3**, and/or the words **"Everyone's Choice"** and **"The People's Choice"** by itself or in combination with any other word or device and/or other deceptively similar words written in a stylized manner or in any manner which is identical with and/or deceptively similar to all the registered and well known



trademarks bearing No. 1244745



bearing No. 1326528/*The Engineer's Choice*" trademarks or parts thereof bearing Registration Nos. 1575299, 1544648, 1544649, 1340606, 1525671, 1525672, 1908355, 1908356, 2080447, 2080448, 2080449 and 2103267 so as to infringe the Plaintiffs said registered trademarks or part thereof;

(b) that the Defendants by themselves, their servants, agents, representatives or any person claiming through or under them and the like be restrained by a perpetual order and injunction of this Hon'ble Court from using the mark **"Ultra Hi-Tech CEMENT The People's Choice"/"Ultra Hi-Tech CEMENT Everyone's Choice"/"Ultra-Hi-Tech Cement"**, or any mark containing the aforesaid impugned marks/words together with or by themselves or with any other word or device and/or any other deceptively similar marks or the

impugned marks being **Exhibit H1-H3**, and/or the words **“Everyone’s Choice”** and **“The People’s Choice”** by itself or in combination with any other word or device and/or any other deceptively similar words written in a stylized manner or in any manner and/or any other deceptively similar mark to the Plaintiff’s “



/UltraTech CEMENT with Sun



Device”, *The Engineer’s Choice*” **“UltraTech CEMENT The Engineer’s Choice,** and **“The Engineer’s Choice”**, trademarks or parts thereof so as to pass off and/or enable others to pass off the Defendants’ goods as and for the goods of the Plaintiffs or in some way connected with the Plaintiffs;

2. It is clarified that as regards prayer (b), the words “*with any other word or device*” are necessary in respect of the relief in passing of as they are part of the injunction against deceptively similar marks.

3. In view thereof, Dr. Tulzapurkar for the Plaintiffs on instructions does not press for the Plaintiffs’ claim for damages or for other reliefs in prayer clause (d) of the Suit.

4. The suit is decreed in terms of prayer clauses (a) and (b) set out above. Drawn up decree is dispensed with. All concerned to act on an authenticated copy of this order.

5. The Plaintiffs' Notice of Motion (L) No.727 of 2016 does not survive and is disposed of accordingly.

6. It is clarified that there is no injunction against the Defendants from using the word "Cement".

(G. S. PATEL, J.)