

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
NOTICE OF MOTION (L) NO.366 OF 2018
IN
SUIT (L) NO.215 OF 2018**

Narendrakumar and Co. ... Applicant/Plaintiff
versus
Aachi Masala Foods (P) Ltd. and Anr. ... Defendants

Dr. Birendra Saraf with Ms. Kavita Srivastava i/by M/s. S.K.Srivastav and Co., for Plaintiffs.
Mr. Hiren Kamood i/by Mr. Mahesh Mahadgut, for Defendants.

CORAM: S.J. KATHAWALLA, J.

DATE: 13th MARCH, 2018

P.C.:

1. Heard the learned Advocates for the parties. The Notice of Motion is allowed in terms of prayer clauses (a), (b) and (c) which are reproduced hereunder :

“(a) That pending the hearing and final disposal of the Suit, this Hon’ble Court be pleased to order a temporary order and injunction restraining the Defendants by themselves, their directors, affiliates, assigns, associates, agents, servants, employees, dealers, distributors and all other persons claiming through or under the Defendants from in any manner infringing the Plaintiff’s Copyright and Trademark (label) in the said artistic work comprised in the trade dress/packing/label shown at Exhibits E-1 to E-3 to the Plaint or any other work which is a reproduction of the said artistic work of the Plaintiff or substantial work thereof or in any other manner

whatsoever;

(b) that pending the hearing and final disposal of the suit, this Hon'ble Court be pleased to order a temporary order and injunction of this Hon'ble Court restraining and prohibiting the Defendants by themselves, their directors, affiliates, assigns, associates, agents, servants, employees, dealers, distributors and all other persons claiming through or under them, in any manner from using the impugned trade mark/dress/label "Aachi Kashmiri CHILLI POWDER" or any other product under the impugned trade dress/mark and/or label (being Exhibit K to the Plaint) so as to infringe the Plaintiff's registered trademark at Exhibit D-1 to D-6 to the Plaint;

(c) that pending the hearing and final disposal of the suit, this Hon'ble Court be pleased to order a temporary order and injunction of this Hon'ble Court be granted, restraining the Defendants by themselves, their directors, affiliates, assigns, associates, agents, servants, employees, dealers, distributors and all other persons claiming through or under the Defendants, in any manner from manufacturing, packaging, selling, exhibiting for Sale, advertising, printing or otherwise dealing with their product "Aachi Kashmiri CHILLI POWDER" or any other product in the impugned trade dress/packing/label shown at Exhibit K or any other packing/trade dress which is identical or deceptively similar to the Plaintiff's copyright and trademarks (label) in the said artistic work comprised in the trade dress/packing/label shown at Exhibits E-1 to E-3 to the Plaint so as to pass off or enable others to pass off the Defendant's product as the product of the Plaintiff;"

2. The Defendants shall restrict themselves only to the label set out at page 303 of the Plaint and no other label. The parties agree that no reasons be given in support of this order. The Notice of Motion is accordingly disposed of.
3. Written Statements to be filed within a period of four weeks from today. Place the Suit for Framing of Issues on 16th April, 2018 after the ad-interim matters.

(S.J.KATHAWALLA, J.)