

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 03.09.2018

Date of Decision : 18.09.2018

CORAM

THE HON'BLE MR.JUSTICE M.SUNDAR

O.A.Nos.1176 and 1177 of 2015
in
C.S.No.878 of 2015

1.Kanni Uvaraj
W/o.Uvaraj,
Old No.35, New No.32,
Tailor Estate 2nd Street,
Kodambakkam,
Chennai-600 024.

2.Poorvika Mobiles Private Limited,
No.30, Arcot Road,
Kodambakkam,
Chennai-600 024.

rep by its Director Uvaraj ... Applicants in
both applications

Vs.

Poorliya Mobiles World and Electronics,
No.58D, North Main Road,
Vallioor, Tirunelveli District,
Tamil Nadu-627 117

rep by its Proprietor, J.Muthukrishnan... Respondent in
both applications

O.A.No.1176 of 2015 is filed under Order XIV Rule 8 of Original Side Rules read with Order XXXIX Rules 1 and 2 of CPC seeking to grant an ad interim injunction restraining the respondent / defendant by themselves or their directors, men, partners, proprietors, stockists, dealers, servants, agents, franchises, successors in interest, licensees, assignees, representatives or any of them from in any manner infringing the applicant / plaintiff's registered trademark 'POORVIKA MOBILE WORLD' by use of the

trademark 'POORLIYA MOBILES WORLD' or POORVIKA /POORLIYA per se with or without any accompanying logo / artwork or any mark deceptively similar to that of the applicant's / plaintiff's registered trade mark or in any other manner whatsoever pending disposal of the suit and pass such further or other orders as this Court may deem fit and proper in the circumstances of the case and thus render justice.

O.A.No.1177 of 2015 is filed under Order XIV Rule 8 of Original Side Rules read with Order XXXIX Rules 1 and 2 of CPC seeking to grant an ad interim injunction restraining the respondent / defendant by themselves or their directors, men, partners, proprietors, stockists, dealers, servants, agents, franchises, successors in interest, licensees, assignees, representatives or any of them from in any manner infringing the applicant / plaintiff's copyright in the label 'POORVIKA MOBILE WORLD' by the use by the respondent / defendant of the mark POORLIYA MOBILES WORLD with or without any accompanying logo / artwork or any other deceptively similar trade mark label or by use of similar / identical colour scheme, art work, lettering style or in any other manner whatsoever pending disposal of the suit and pass such further or other orders as this Court may deem fit and proper in the circumstances of the case and thus render justice.

For Applicants : Mr.S.Balachandran
in both applications

For Respondent : Mr.S.Subbiah, Senior Counsel
for Ms.Elizabeth Ravi
in both applications

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COMMON ORDER

The general thumb rule in deciding interlocutory applications that the Court will refrain from going into the matter in great detail and prefer a prima facie approach had been applied with utmost rigor while this order was being penned. I abjure from analysing facts, data, details and dynamics in microscopic detail in search for answers with surgical accuracy.

2 As mentioned supra, though the aforementioned thumb rule is generic in deciding interlocutory applications, reason for applying the same with utmost rigor in the instant case is the admitted and undisputed facts outnumbered the facts in issue.

3 Therefore, I deem it appropriate to give an enumeration of undisputed facts infra with a panoramic view qua details regarding the same.

4 Before I do so, to be noted there are two plaintiffs and one defendant in the main suit. Plaintiffs 1 and 2 in the main suit are applicants 1 and 2 respectively in both these applications. Sole defendant in the main suit is the lone respondent in both these applications. From here on, parties are referred to by their respective ranks in the main suit for the sake of convenience and clarity.

Undisputed Facts :

5(a) First plaintiff is the registered owner of a

Trade Mark being Trade Mark No.1706433 vide Trade Mark registration certificate No.864020 dated 30.03.2010. The date of registration is 3.7.2008 and it has since been renewed. It is now valid upto 03.07.2028. This registered trade mark is a device mark and the same is as follows :

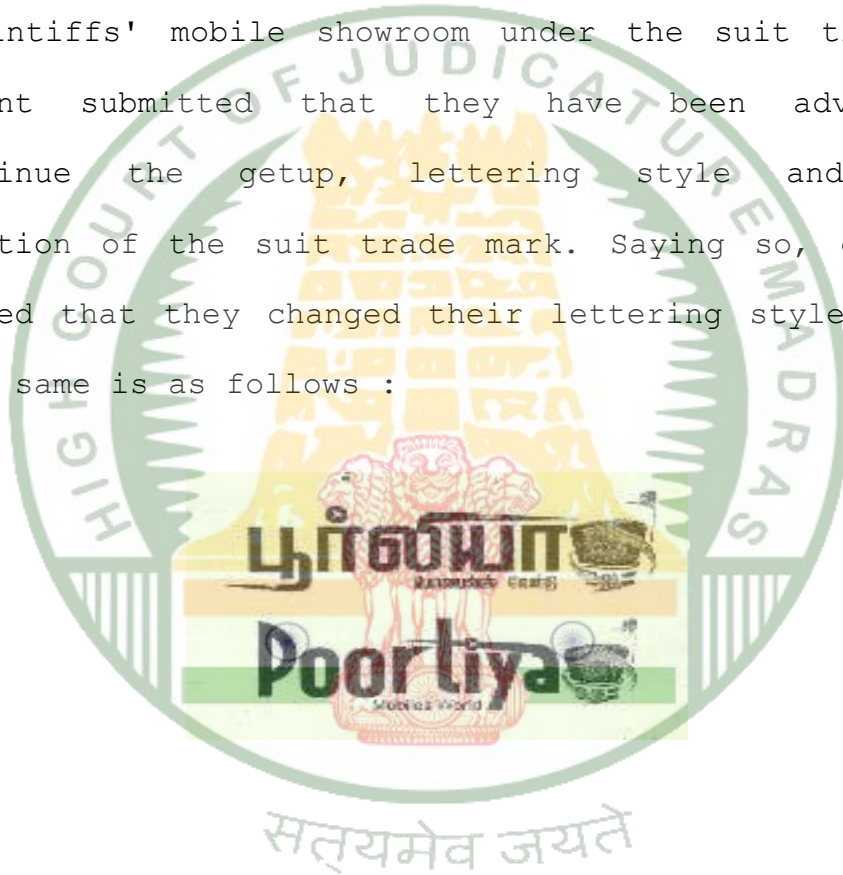


5(b) Aforesaid registration of device mark in favour of the first plaintiff is in Class 35 for exhibiting mobile phones for sales. Aforesaid registered trade mark in favour of first plaintiff shall hereinafter be referred to as 'suit trade mark' for the sake of convenience and clarity.

5(c) First plaintiff has licensed the second plaintiff to use the suit trade mark. Some time in December, 2014, plaintiffs came to know that defendant is using the mark 'Poorliya Mobile World'. Plaintiff caused a legal noticed dated 17.12.2014 to be issued. To be noted, this is cease and desist notice. To this, the defendant sent a reply dated 06.01.2015 [Date has obviously been wrongly given as 06.01.2014 in the reply notice as the

reply notice is a reply to 17.12.2014 cease and desist notice].

5(d) In the aforesaid reply notice, defendant categorically averred that defendant is not disputing the claim of plaintiffs with regard to goodwill and reputation of plaintiffs' mobile showroom under the suit trademark. Defendant submitted that they have been advised to discontinue the getup, lettering style and colour combination of the suit trade mark. Saying so, defendant submitted that they changed their lettering style, get up and the same is as follows :



5(e) Notwithstanding the aforesaid position, plaintiffs came across a invoice dated 16.02.2015 being defendant's invoice, wherein, the depiction of the mark remained unchanged.

5(f) Most importantly, after exchange of cease and desist notice and reply to the same, dated 17.12.2014 and 06.01.2015 respectively which have been alluded to

supra, defendant applied for registration of trade mark on 24.02.2015. Defendant applied for registration of two label marks (both in Class 35) claiming user from 12.12.2013, vide trade mark application Nos.2909077 and 2912586, dated 24.02.2015 and 27.02.2015 respectively. Two label marks for which registrations are sought are as follows :



5(g) The aforesaid trade mark registration applications were objected to by plaintiffs and the same are pending consideration in trade mark registry in the light of plaintiffs' objection.

5(h) To be noted, it is plaintiffs' categoric case that even the altered letter, style and get up given by defendant in the aforesaid reply notice dated 06.01.2015 is an infringement of plaintiffs' suit trade mark as well

as plaintiffs' copyright in the same.

5(i) Further to be noted, it is not in dispute that both plaintiffs and defendant are in the same line of activity, i.e., running multi brand showroom for mobile phones and accessories.

5(j) Under the aforesaid circumstances, the instant suit was presented by plaintiffs on 26.10.2015. The suit is inter-alia for injunctive reliefs complaining of infringement of suit trade mark and infringement of copyright in the same. Defendant has entered appearance, filed written statement and completed pleadings. As far as instant applications are concerned, O.A.No.1176 of 2015 is for injunctive relief qua infringement of suit trade mark and O.A.No.1177 of 2015 is for injunctive relief qua infringement of copyright in suit trade mark.

5(k) In this backdrop of undisputed facts, the instant two applications fall for consideration and I proceed to discuss the same under the caption 'Analysis' after setting out the rival submissions.

6 Rival Submissions :

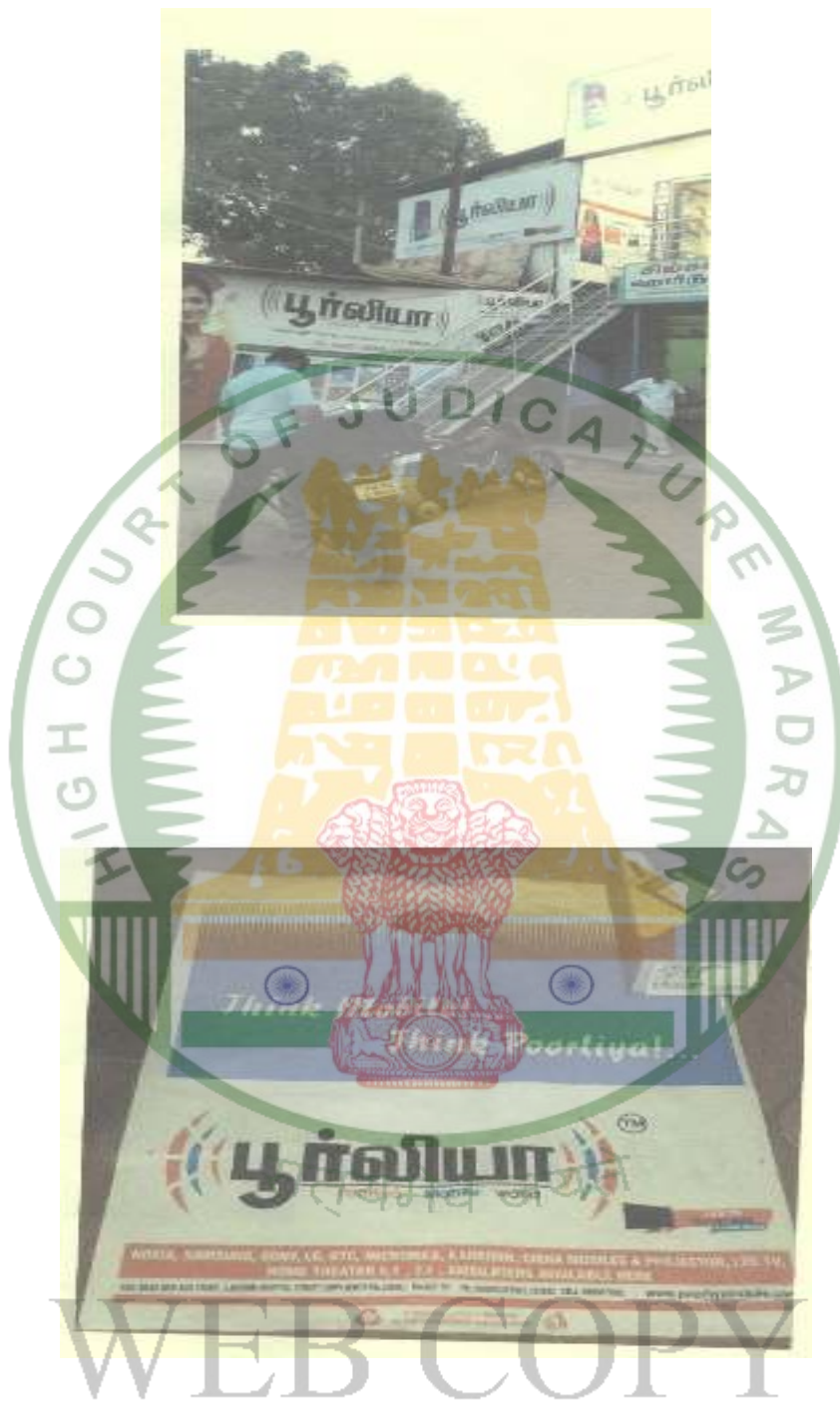
6(a) Submissions of plaintiffs in these two applications can be summarised as follows :

(i) Plaintiffs' registration of suit trade mark will reveal that plaintiffs are using the suit trade mark from 31.3.2004 in contradistinction to defendant's claim of user from 12.12.2013. Therefore, plaintiffs are entitled to injunctive reliefs on such admitted position on the basis of first in the market principle as well as prior user principle.

(ii) Defendant's application for registration of trade mark itself is after issue of cease and desist notice and reply to the same. To be noted, cease and desist notice is dated 17.12.2014, reply is dated 06.01.2014 and defendant's application for registration of trade mark is dated 24.2.2015. Defendant's admitted use of mark in the sign board in its shop, carry bags and packaging materials are as follows :

सत्यमेव जयते

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(iii) It is a clear case of slavish imitation. Besides suit trade mark and copyright in the same, even the tag line in Tamil and English have been slavishly copied and the following comparative table is a tell-tale mechanism in this regard:



(iv) Though there is pleading in the plaint that the suit trade mark is a well known trade mark within the meaning of Section 2(1)(zg) of Trade Marks Act, 1999, plaintiffs do not have any declaration to this effect from the appropriate authority. However, relying on the volume of sales and advertisement expenses, it was submitted that the suit trade mark is a very strong and popular mark with regard to multi brand showroom for mobile phones and

accessories. Year-wise details of turnover and advertisement expenses of plaintiffs are as follows :

S.No.	Year	Year wise Sales Turnover (Rs)	Advertisement Expenses (Rs.)
1	2003-2004	3,49,827	-
2	2004-2005	38,40,417	94,385
3	2005-2006	1,30,14,324	1,36,036
4	2006-2007	5,30,47,296	8,10,503
5	2007-2008	39,18,61,740	1,15,27,273
6	2008-2009	80,80,04,278	3,02,03,936
7	2009-2010	1,62,17,31,282	4,55,77,001
8	2010-2011	4,55,55,98,501	1,18,33,913
9	2011-2012	6,59,79,83,024	1,69,08,027
10	2012-2013	8,51,73,47,577	3,02,95,315
11	2013-2014	11,02,45,42,740	2,01,82,891

6(b) Defendant's submissions and their response to the aforesaid submissions can be summarised as follows :

(i) Defendant is having an outlet / showroom in Vallioor in Tirunelveli district. Plaintiffs did not have any presence in Vallioor on the date of filing of the suit. Therefore, plaintiffs cannot complain of infringement.

(ii) Defendant's depiction of alleged offending mark is not dishonest, but bona fide as defendant's daughter's name is 'Vinoliya'. 'Poornam' stands for perfection and therefore, defendant chose to combine 'Poornam' with the name of his daughter and therefore, they came up with 'Poorliya' after working out what according to

(iii) There may be some resemblance of defendant's mark in comparison to suit trade mark, but that is not deliberate, wilful or an act of fraud as alleged and it is attributable only to overlap in the imagination of artistic and computer design.

(iv) Defendant has now changed their mark and the changed mark that is now being used by the defendant in the sign boards and carry bags are as follows :





7 Analysis :

7(a) As alluded to supra in the prefatory paragraph of this common order, this analysis may not be an exercise of sifting all minute facts and examining the same in microscopic detail with surgical accuracy. I deem it appropriate to leave that exercise to be done in the trial of the main suit which will now be fast tracked by applying

shortened and swift time lines provided in the amended 'The Code of Civil Procedure, 1908' ('CPC' for brevity) as amended by 'The Commercial Courts Act, 2015' ('said Act' for brevity). As already mentioned supra, pleadings are complete and therefore, immediately after inspection of documents followed by admission and denial under Rules 3 and 4 of Order XI of amended CPC, there shall be Case Management Hearing under Order XV-A CPC. Therefore, sifting of data in greater detail shall be an exercise which shall be done in trial of the main suit which shall now stand expedited in the manner infra in the latter part of this order.

7(b) Pending such exercise, would plaintiffs be entitled to interim injunction is the question for which this analysis is required.

7(c) Registration of suit trade mark in favour of first plaintiff (second plaintiff is licensee under first plaintiff qua suit trade mark) is clearly without any disclaimer and there is no restriction qua territory. Plaintiffs have placed before this Commercial Division the Legal Use Certificate for the suit trade mark and a perusal of the same reveals that there are no restrictions qua territory. Under such circumstances, the contention of defendant that plaintiffs did not have a showroom in Vallioor where defendant has a showroom does not stand a moment's scrutiny. To be noted, on a demurer, though

plaintiffs did not have a showroom in Vallioor on the date of inception of suit, it is not in dispute that they now have a showroom in Vallioor.

7(d) With regard to suit trade mark, depiction of the suit trade mark and copyright therein, from the undisputed facts set out supra and rival submissions, it unfurls very clearly that defendant does not dispute that there is resemblance and similarity qua alleged offending mark of defendant. All that the defendant says is, such similarity is not intentional and it is not a wilful act. This takes us to whether adoption of the alleged offending mark by the defendant is bona fide. The reason given by defendant is that his daughter's name is 'Vinoliya' and he combined it with 'Poornam' which refers to 'perfection' and 'completeness' to coin 'Poorliya', but interestingly and intriguingly, there is no reference in the pleadings or in the submissions at the Bar to Section 35 of the Trade Marks Act, 1999. However, even if Section 35 is applied, the theory of defendant combining 'Vinoliya' and 'Poornam' to arrive at 'Poorliya' multi brand showroom of mobile phones and accessories, wherein first plaintiff is an established prior player with suit trade mark, i.e, 'Poorvika' is prima facie not convincing. The clear admission in the reply notice on the part of defendant as well as in the counter affidavit that there is similarity and the stand of defendant that they have made some changes to the mark that

is being used by defendant owing to such similarity brings into sharp focus, compelling possibility of deception and confusion owing to similarity. To be noted, it is not a case of a mark that is applied on a product with the same channel of sale, but it is a case of two showrooms dealing with the same products, i.e., mobile phones / accessories and both showrooms being multi brand showrooms.

7(e) The above is to be viewed in conjunction with the admitted position that defendant is clearly a latter entrant in the market having entered the market much later. To be noted, plaintiffs' date of user is 31.03.2004, whereas defendant is claiming user only from 12.12.2013. Defendant is clearly one decade and one year (11 years) latter entrant in the market qua plaintiffs. In this regard, learned counsel for plaintiff pressed into service a judgment of Hon'ble Supreme Court in **Neon Laboratories Ltd. v. Medical Technologies Ltd.**, reported in (2016) 2 SCC 672. This case was pressed into service for the principle that when a party is able to show that it had already been using a mark well before the attempted use of an identical or closely similar mark, an injunction is imperative if other determinants do not deter the same. This has been christened and named 'First in the market test' by Hon'ble Supreme Court. This has been elucidatively set out by Hon'ble Supreme Court in paragraph 12 of the

aforesaid **Neon Laboratories Ltd. case** and relevant portion of paragraph 12 reads as follows :

"12.....All that we would say in the present appeal is that since the respondent-plaintiffs have alleged, and have prima facie supported with proof, that they had already been using their trade mark well before the attempted user of an identical or closely similar trade mark by the appellant-defendant, the former would be entitled to a temporary injunction, in light of the abovementioned "first in the market" test. We find that the respondent-plaintiffs have made out a prima facie case...."

7(f) Besides this, plaintiffs submitted that phonetic similarity is unmistakable and inevitable between suit trade mark, i.e., 'Poorvika' and defendant's mark 'Poorliya'. In this regard, plaintiffs pressed into service time honoured and celebrated judgment of Hon'ble Supreme Court in **Ambal Andal** case, i.e., **K.R. Chinna Krishna Chettiar v. Shri Ambal & Co.**, reported in (1969) 2 SCC 131. Hon'ble Supreme Court quoted with approval the view of Madras High Court. This is in paragraphs 5 and 6 of **Ambal Andal** case, which read as follows :

"5.Now the words "Sri Ambal" form part of Trade Mark No. 126808 and are the whole of Trade Mark No. 146291. There can be no doubt that the word "Ambal" is an essential feature

of the trade marks. The common "Sri" is the subsidiary part, of the two words "Ambal" is the more distinctive and fixes itself in the recollection of an average buyer with imperfect recollection.

6. The vital question in issue is whether, if the appellant's mark is used in a normal and fair manner in connection with the snuff and if similarly fair and normal user is assumed of the existing registered marks, will there be such a likelihood of deception that the mark ought not to be allowed to be registered (see *In the matter of Broadhead's Application* [(1950) 57 RPC 209, 214] for registration of a trade mark). It is for the court to decide the question on a comparison of the competing marks as a whole and their distinctive and essential features. We have no doubt in our mind that if the proposed mark is used in a normal and fair manner the mark would come to be known by its distinguishing feature "Andal". There is a striking similarity and affinity of sound between the words "Andal" and "Ambal". Giving due weight to the judgment of the Registrar and bearing in mind the conclusions of the learned Single Judge and the Divisional Bench, we are satisfied that there is a real danger of confusion between the two marks."

If **Ambal Andal** principle is applied as litmus test to facts of this case, to my mind, in my considered opinion, that there is phonetic similarity is no conundrum.

7(g) Case Law pressed into service by plaintiff regarding lack of bona fides in adoption of alleged offending mark is **Midas Hygiene Industries (P) Ltd. v. Sudhir Bhatia** reported in (2004) 3 SCC 90. Relevant paragraph is paragraph 6 and the same reads as follows :

"6. In this case it is an admitted position that the respondents used to work with the appellants. The advertisements which had been issued by the appellants in the year 1991 show that at least from that year they were using the mark LAXMAN REKHA on their products. Not only that but the appellants have had a copyright in the marks KRAZY LINES and LAXMAN REKHA with effect from 19-11-1991. The copyright had been renewed on 23-4-1999. A glance at the cartons used by both the parties shows that in 1992 when the respondent first started he used the mark LAXMAN REKHA on cartons containing colours red, white and blue. No explanation could be given as to why that carton had to be changed to look almost identical to that of the appellant at a subsequent stage. This prima facie indicates the dishonest intention to pass off his goods as those of the appellants."

As alluded to supra, the reason given by defendant, i.e., daughter's name being Vinoliya and Poornam standing for perfection is least convincing and therefore, **Midas Hygiene Industries (P) Ltd.**, principle also operates in favour of plaintiffs.

7(h) While on case laws, it may be relevant to notice that learned Senior counsel for defendant pressed into service a recent judgment of Hon'ble Supreme Court in **Toyota Jidosha Kabushiki Kaisha Vs. M/s.Prius Auto Industries Ltd. and others** reported in **2018-3-L.W.452**. A careful perusal of the said **Prius Auto Industries Ltd.** case law would reveal that the same does not help the defendant in the instant case in any manner as it pertains to a passing off action and overseas territoriality. The triple test for passing off has been elucidatively explained and territoriality principle was examined with regard to name '**Prius**' and as to whether it having acquired goodwill in another jurisdiction in the World prior to registration in India is a determinant.

7(i) In the instant case, suit trade mark, as mentioned supra, is registered in India and it is valid throughout the territory of India without any exception or exclusion. As already mentioned supra, the submission of defendant that plaintiff did not have a showroom in Vallioor on the date of filing of the suit and that showroom was started post suit is therefore of no avail. In this view of the matter, the **Prius Auto Industries Ltd.** case does not advance the case of defendant in any manner.

7(j) Reverting back to **Neon Laboratories Ltd.**

case, three determinants / parameters for grant of injunction in interlocutory applications of this nature has

been very pithily and lucidly set out by Supreme Court in paragraph 12. To be noted, I have already extracted a portion of paragraph 12. I deem it appropriate to extract the entire paragraph 12 in this regard and the same reads as follows :

"12. Since we are confronted with the legal propriety of a temporary injunction, we must abjure from going into minute details and refrain from discussing the case threadbare, in order to preclude rendering the suit itself an exercise in futility and the decision therein a foregone conclusion. All that we would say in the present appeal is that since the respondent-plaintiffs have alleged, and have prima facie supported with proof, that they had already been using their trade mark well before the attempted user of an identical or closely similar trade mark by the appellant-defendant, the former would be entitled to a temporary injunction, in light of the abovementioned "first in the market" test. We find that the respondent-plaintiffs have made out a prima facie case. The two other factors in an interim injunction, namely, the balance of convenience and an irreparable loss, are both in favour of the respondent-plaintiffs, given the potential loss of goodwill and business they could suffer should an injunction be denied. The appellant-defendant has been injuncted from using the mark ~~ROFOL~~ since 2005, after having

launched products bearing the mark only in the previous year, so the balance of convenience is in favour of allowing the injunction to continue. In *Milmet [Milmet Oftho Industries v. Allergan Inc., (2004) 12 SCC 624]*, this Court had taken note of the fact that the unsuccessful litigating party had in the duration of the litigation started using another mark, and found that this would prima facie assume significance in assessing "irreparable loss". "

Neon Laboratories Ltd case therefore advances the case of plaintiffs qua persuasion for interim injunction.

7(k) This order shall be concluded by setting out time lines for swift trial as per the amended CPC as amended by said Act. Before such conclusion, I deem it appropriate to note three case laws which to the mind of this Commercial Division are relevant to the factual matrix of the instant case. One is, **N.R. Dongre Vs. Whirlpool Corporation** case reported in **(1996) 5 SCC 714**, where the Supreme Court upheld an order of injunction granted in favour of Whirlpool Corporation in respect of a trade mark of plaintiff therein by applying the principle 'long prior user'.

7(l) The second case law is **Laxmikant V. Patel Vs. Chetanbhai Sha** reported in **(2002) 3 SCC 65** wherein, Supreme Court held that when similar marks are adopted in the same line of activities, confusion will lead to diverting the

customers and clients of one to the other. In the light of the factual scenario herein, it is necessary that defendant is interdicted until disposal of the suit.

7(m) The third case law is, **United Biotech Pvt. Ltd. Vs. Orchid Chemicals & Pharmaceuticals Ltd.** reported in **(2012) 50 PTC 433**, where Delhi High Court held that deception and confusion are inevitable when two marks are structurally and phonetically similar.

7(n) Besides the aforesaid three case laws, it is necessary to articulate the litmus test that has been applied by this Commercial Division for comparing the suit trade mark with the defendant's trade mark. The litmus test applied is, I saw plaintiffs suit trade mark, took it away from the sweep of my eye, perused the defendant's mark a little later and asked myself a question whether a common man of average intelligence with imperfect recollection and ordinary prudence will be lulled into the belief that what he is seeing now is what he saw earlier. The answer is clearly in the affirmative. To my mind, it is an emphatic monosyllabic 'Yes' which requires no qualification and admits of no exception. In other words, I stepped into the shoes of a man who may not be discerning and attempted to answer this question which I posed to myself. Inspiration for me to apply this litmus test is time honoured and celebrated judgment of Hon'ble Supreme Court, i.e., Parle Judgement being **Parle Products (P) Ltd. Vs. J.P. and Co.,**

[(1972) 1 SCC 618]. Relevant paragraph is paragraph 9 and the same reads as follows :

"9. It is, therefore, clear that in order to come to the conclusion whether one mark is deceptively similar to another, the broad and essential features of the two are to be considered. They should not be placed side by side to find out if there are any differences in the design and if so, whether they are of such character as to prevent one design from being mistaken for the other. It would be enough if the impugned mark bears such an overall similarity to the registered mark as would be likely to mislead a person usually dealing with one to accept the other if offered to him. In this case we find that the packets are practically of the same size, the colour scheme of the two wrappers is almost the same; the design on both though not identical bears such a close resemblance that one can easily be mistaken for the other. The essential features of both are that there is a girl with one arm raised and carrying something in the other with a cow or cows near her and hens or chickens in the foreground. In the background there is a farm house with a fence. The word "Gluko Biscuits" in one and "Glucose Biscuits" on the other occupy a prominent place at the top with a good deal of similarity between the two writings. Anyone in our opinion who has a look at one of the packets today may easily mistake the other if shown on another day as

being the same article which he had seen before. If one was not careful enough to note the peculiar features of the wrapper on the plaintiffs' goods, he might easily mistake the defendants' wrapper for the plaintiffs' if shown to him some time after he had seen the plaintiffs'. After all, an ordinary purchaser is not gifted with the powers of observation of a Sherlock Homes. We have therefore no doubt that the defendants' wrapper is deceptively similar to the plaintiffs' which was registered. We do not think it necessary to refer to the decisions referred to at the bar as in our view each case will have to be judged on its own features and it would be of no use to note on how many points there was similarity and in how many others there was absence of it. "

8 Main suit was presented on 26.10.2015.

Instant interlocutory applications were moved along with the main suit. It is plaintiffs' say that they have been pressing interim orders in instant applications from then on relentlessly without any let up. A perusal of case file and record of proceedings regarding trajectory of hearings thus far is the tell-tale mechanism for the same. A careful and close perusal of case file in this regard reveals that plaintiff is not incorrect. Therefore, that there were no interim orders for nearly two years can be no ground to

determinants stand satisfied.

9 **Time lines :**

(a) As mentioned supra, pleadings are complete as the sole defendant has filed written statement;

(b) Next procedural steps are inspection of documents followed by admission and denial under Rules 3 and 4 respectively of Order XI of amended CPC as amended by said Act. Both parties, i.e., plaintiffs and defendant shall complete this exercise of inspection followed by admission and denial in four weeks from the date of pronouncement of this order in open Court with a buffer that this exercise of inspection followed by admission and denial shall be completed by the end of pooja vacation, i.e., by 21.10.2018;

(c) After reopening of Court post Pooja vacation, the main case shall be listed 25.10.2018 under the caption 'CASE MANAGEMENT HEARING' ('CMH' for brevity) under Order XV-A of amended CPC (as amended by said Act);

(d) On 25.10.2018, both parties shall be ready with draft issues, list of witnesses and proof affidavits, so that there is a productive CMH hearing on 25.10.2018 for the trial to be completed swiftly;

(e) To be noted, a perusal of CMH under Order XV-A CPC will reveal that time frame is six months, i.e., trial followed by written arguments under Order XVIII Rule 2 sub-rules 3A to 3F and oral arguments thereafter.

(f) Delivery of judgment will be within three months therefrom.

10 Owing to all that have been set out supra, there will be an order of interim injunction pending suit as prayed for in both applications for a period of one year from the date of pronouncement of this order.

11 Both these applications are ordered on the above terms. Considering the trajectory of litigation and nature of lis, parties are left to bear their respective costs for the present leaving the question of costs also to be decided in the main suit.

Sd/-M.S.J

18/09/2018

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//Certified to be a true copy//

Dated this the day of 2018

JJ 05.10.2018

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of