

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION NO.1314 OF 2019
WITH
COMIP SUIT NO.766 OF 2019**

Reliance Industries Limited & Anr. ..Applicants

IN THE MATTER BETWEEN

Reliance Industries Limited & Anr. ..Plaintiffs

Versus

Dhananjay Dinkarrao Khairnar & Anr. ..Defendants

Dr. Veerendra Tulzapurkar, Senior Advocate a/w Dr. Birendra Saraf, Ms. Alpana Ghone, Mr. Rohan Sawant, Mr. Amey Nabar and Mr. Sidesh Koti I/by M/s. A. S. Dayal and Associates, for the Applicants/Plaintiffs.

Mr. Subhradeep Banerjee I/by Darryl Paul Barreetto, for the Defendants.

Mr. Dhananjay D. Khairnar – Defendant No.1 and Ms. Rekha Rajendra Bhadane partner of Defendant No.2 are present.

CORAM : K. R. SHRIRAM, J.

DATE : 10th JUNE, 2019

P.C.

1] After the Notice of Motion was heard for almost three hours, while the Court started dictating order, Mr. Banerjee on instructions of Defendant No.1 and Ms. Rekha Rajendra Bhadane, partners of Defendant No.2 states that they submit to a decree in

terms of prayer clauses (a), (b) and (e) in the plaint, which read as under :-

- “a) That the Defendants by themselves, their servants, agents, distributors or representatives or any person claiming through or under them be restrained by a permanent order and injunction of this Hon'ble Court from using in any manner in relation to any of its goods and more particularly from using the impugned trademarks “JIOFIT” and “JOIFER” (being Exhibit “I-1” and “I-2” respectively) by itself or in combination with any other word or device or any other deceptively similar mark/s which is identical with or deceptively similar to the Plaintiffs' registered trademarks “JIO” or any part thereof or using impugned trading names viz. JIOFIT, JOIFER, JIO-4G and JIO-4EVER or any other deceptively similar name or names so as to infringe the Plaintiffs' said registered trademarks mentioned in paragraphs 11 and 14 of the plaint;
- b) that the Defendants by themselves, their servants, agents, distributors or representatives or any person claiming through or under them be restrained by a permanent order and injunction of this Hon'ble Court from using in any manner in relation to any of its goods and more particularly from using the impugned trademarks “JIOFIT” and “JOIFER” (being Exhibit “I-1” and “I-2” respectively) by itself or in combination with any other word or device or any other deceptively similar mark/s which is identical with or deceptively similar to the Plaintiffs' registered trademarks “JIO” or any part thereof or using the trading names viz. JIOFIT, JOIFER, JIO-4G and JIO-4EVER or any other deceptively similar name or names so as to pass off and/or enable others to pass off the Defendants' goods and services as and for the goods of the Plaintiffs' or in some manner connected with the Plaintiffs' ;
- c)
- d)
- e) an order for delivery up for destruction of all the items, goods, stationery, packing material etc. of the Defendants bearing the impugned trademarks Exhibits “I-1” and “I-2” hereto or any other mark deceptively similar or identical with the Plaintiffs' trade mark “JIO” or the impugned trading names ;”

2] Mr. Dhananjay D. Khairnar and Ms. Rekha Rajendra Bhadane state that there are only three partners to Defendant No.2 and third partner is Mr. Vivek Gulab Pawar and they have authority from Mr. Vivek Gulab Pawar to submit to a decree. Mr. Dhananjay D. Khairnar and Ms. Rekha Rajendra Bhadane state that for good order sake Mr. Vivek Gulab Pawar will file an affidavit affirming that Defendant No.2 submits to a decree in terms of prayer clauses (a), (b) and (e) in the plaint.

3] Within two weeks from today, Defendants shall give true and correct accounts to Plaintiffs of stock available with them and the stock given to wholesalers/distributors/retailers with the name, addresses and contact details of wholesalers/distributors/retailers.

4] Within four weeks from today, Defendants shall hand over packing materials, labels etc. bearing the impugned trademarks to Plaintiffs for destruction. Defendants are at liberty to remove the contents and deal with it as they deem fit, so long as Defendants do not represent to anybody the name of product that they are selling which is identical or similar to the impugned trademarks.

5] Mr. Banerjee on instructions states that Defendants will also apply to the registering authority for withdrawal of the impugned trademarks of JIOFIT and JIOFER. Statement accepted as undertaking by Defendant No.1, Defendant No.2 and all partners of Defendant No.2.

6] Defendants shall also return all their goods bearing impugned trademarks. The Court Receiver of this Court is appointed to take charge of all products, goods, articles and packing materials sold or to be sold under the impugned trademarks with all powers under Order XL Rule 1 of the Code of Civil Procedure, 1908.

7] The Court Receiver shall take charge of the impugned goods and remove contents in the packing material and hand over the packing materials to Plaintiffs for destruction.

8] The Court Receiver's charges Dr. Tulzapurkar states, will be borne by Plaintiffs.

9] Defendants shall also immediately and in any event before 11:00 a.m. tomorrow inform all its distributors/retailers/

wholesalers about this order and remove goods from self.

10] Defendants undertake not to sell or market or distribute or product containing the impugned trademarks/labels. Undertaking accepted.

11] Suit as well as Notice of Motion stand disposed of.

12] Refund of Court fees, if any, according to rules.

[K. R. SHRIRAM, J.]