

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO.1 OF 2019
IN
COMMERCIAL IP SUIT (L) NO.1105 OF 2019
WITH
LEAVE PETITION NO.374 OF 2019
IN
COMMERCIAL IP SUIT (L) NO.1105 OF 2019

Hindustan Unilever Limited

...Plaintiff

VS.

A.G. Shop Chemicals

...Defendant

.....

Mr. Hiren Kamod, a/w. Ms. Niyati Davawala, i/b. ALJ & Partners, for the Plaintiff/Applicant.

Mr. Gopal Ram, Proprietor of Defendant present.

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CORAM : S.C. GUPTE, J.

DATE: 22 NOVEMBER 2019

P.C.:

. This is a suit for infringement of a registered trade mark and passing off of goods. Since the Defendant carries on business outside the local limits of jurisdiction of this Court and the Plaintiff proposes to combine the cause of action of passing off with that of infringement, the Plaintiff prays for leave under Clause XIV of the Letters of Patent (Bombay). Leave Petition No.374 of 2019 is allowed by combining the cause of action of passing off with that of infringement. The Defendant appears in person and submits to a decree. The Defendant's identity is

verified by the Associate. Accordingly, there will be a decree on admission in terms of prayer clause (a) and (b), which are quoted below:

- (a) The Defendant by itself, its proprietor, partners, legal heirs, servants, agents, dealers, stockists, distributors and all persons claiming through it be restrained by a permanent order and injunction of this Hon'ble Court from infringing the Plaintiff's registered trade marks SURF/SURF EXCEL bearing the Registration Nos. 132479, 553096, 693542, 1065243, 1486106 and 1486108 all in Class 03 by using the impugned mark SURF XL Power and/or any other trade mark identical with or deceptively similar to the Plaintiff's registered trade mark bearing the Registration Nos.132479, 553096, 693542, 1065243, 1486106 and 1486108 all in Class 03 in respect of the goods covered by the Plaintiff's aforesaid registrations and/or the like goods or in any other manner whatsoever;
- (b) The Defendant by itself, its proprietors, partners, legal heirs, servants, agents, dealers, stockists, distributors and all persons claiming through it be restrained by a permanent order and injunction of this Hon'ble Court from manufacturing, packaging, selling, exhibiting for sale, advertising, printing or otherwise dealing in detergents and/or the like goods bearing the impugned mark SURF XL Power and/or any other trade mark identical with or

deceptively similar to the Plaintiff's said well-known trade mark "SURF/SURF EXCEL" so as to pass off or enable others to pass off the Defendant's detergent as and for the Plaintiff's well-known detergent or in any other manner whatsoever.

2. In view of the decree passed today, the Court Receiver appointed to stand discharged without passing accounts. The Court Receiver's costs, charges and expenses shall be paid by the Plaintiff. The Plaintiff shall pay such charges within three weeks of their intimation by the Receiver's office. There will be no order as to costs.

3. Decree to be drawn accordingly.

(S.C.GUPTE, J.)