

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

**INTERIM APPLICATION NO. 1 OF 2019
IN
COMMERCIAL IP SUIT (L) NO. 1159 OF 2019**

Pramod Singh
Sole Proprietor of
M/s Pramo Life Science

....Applicant/Plaintiff

vs.

Ashwin Jain
Sole Proprietor of
M/s Roots Lifecare

...Defendant

Mr. Hiren Kamod i/b Mr. Ashok Kumar Singh, for Plaintiff.
Mr. Ashwin Jain, Defendant in person.

**CORAM : S.C. GUPTE, J.
DATE : 11 NOVEMBER 2019**

P.C. :

1. This commercial IP suit complains of infringement of copyright and passing off of goods.
2. Plaintiff claims to be a manufacturer and marketer of a pharmaceutical preparation of Sildenafil Citrate sold in the form of tablets under the trade marks 'Cobra-120' and 'Cobra-150' with a depiction by logo (picture) of a cobra. The Plaintiff claims to have conceived and adopted these marks for its pharmaceutical preparation 'Sildenafil Citrate Tablets' exclusively for overseas market. The Plaintiff has already applied for registration of the trade marks and his application is pending.

3. It is the grievance of the Plaintiff that the Defendant has copied the trade mark as well as the logo/picture with the colour scheme of the Plaintiff's tablets and has been passing off his goods as those of the Plaintiff.

4. The Plaintiff prays for interim relief in terms of perpetual injunction passed in commercial IP suit. The Defendant appears in person and submits to decree the suit in terms of prayer clauses (a) and (b).

5. There will be a decree accordingly in terms of prayer clauses (a) and (b) of the plaint, which are quoted below :

(a) Pending the hearing and final disposal of suit, that the Defendant by himself, his servants, dealers, distributors, stockists, franchisees, agents, sister concerns, subsidiaries, representatives, and/or successors in title, affiliates and/or assigns and all persons acting for and on their behalf be restrained by an order and injunction of this Hon'ble Court from manufacturing, selling, offering for sale, exporting, advertising, marketing and/or in any manner using directly or indirectly in relation to any pharmaceutical and / or medicinal preparation the impugned carton/label/packaging/trade dress for the product Cobra Gold 120 being Exhibits "D" to the Plaint or any other deceptively similar packaging/carton/label/trade dress to that of Plaintiff's packaging/trade dress being Exhibit "B" to the Plaint or which is reproduction and/or substantial reproduction of Plaintiff's artistic packaging for its product COBRA-120 so as to infringe the Plaintiff's Copyright in the

original artistic work contained in the said packaging shown at Exhibit "B" to the plaint and by reproducing the same in any material form or using the same or any colourable imitation thereof or otherwise howsoever.

(b) The Defendants by themselves, their servants, dealers, distributors, stockists, franchisees, agents, sister concerns, subsidiaries, representatives, and/or successors in title, affiliates and/or assigns and all persons acting for and on his behalf be restrained by a perpetual order and injunction of this Hon'ble Court from manufacturing, selling, offering for sale, exporting, advertising, marketing and or in any manner using or dealing in relation to any pharmaceutical and/or medicinal preparation bearing the impugned Trade Mark COBRA GOLD and/or any other deceptively similar mark to the Plaintiff's mark COBRA-120' and also the impugned packaging/trade dress for COBRA GOLD shown at Exhibits "D" to the Plaint or any other carton/label/packaging/trade dress which is reproduction and/or substantial reproduction of Plaintiff's artistic work in the strip of product 'COBRA-120' art Exhibit "B" to plaint so as to pass off the Defendants' goods as and for whose of the Plaintiff;

6. The Defendant undertakes to withdraw his trade mark application for the mark ' COBRA Gold ', being application no. 4184254, pending before the Registry of Trademarks. The application shall be withdrawn within a period of three weeks. An intimation together with particulars in

that behalf shall be furnished to the Plaintiffs. The commercial IP suit is disposed of in the above terms. In view of the disposal of the suit, the interim application does not survive and is disposed of.

(S.C. GUPTE, J.)