

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****INTERIM APPLICATION NO.1 OF 2019
IN
COMMERCIAL IP SUIT NO.1451 OF 2019
WITH
LEAVE PETITION NO.207 OF 2019
IN
COMMERCIAL IP SUIT NO.1451 OF 2019**

Ultratech Cement Ltd. And Anr. ...Plaintiffs
vs.
Avtar Paints Pvt. Ltd. ...Defendant

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Mr. Ashutosh Kane, a/w. Mr. Chirayu Biyani, i/b. W.S. Kane & Co., for
the Applicants/Plaintiffs.

Ms. Pinki Chakraborty, a/w. Mr. Sushil Shukla, for the Defendant.

Mr. Sunil Dond, representative of the Court Receiver present.

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CORAM : S.C. GUPTE, J.

DATE: 6 JANUARY 2020

P.C.:

. This interim application has been taken out in a trademark infringement suit. By an ad-interim order dated 5 November 2019, ad-interim reliefs were granted in terms of prayer clauses (a) and (c). Prayer clause (a) seeks a temporary injunction restraining the Defendant from infringing the 2nd Plaintiff's registered trademarks listed in Exhibit "A" to the plaint, whereas prayer clause (c) seeks appointment of a Court Receiver for taking custody of infringing goods. The Court

Receiver has carried out his mandate in terms of prayer clause (c) and seized the goods. The matter has, thereafter, appeared on a couple of occasions, where ad-interim orders were extended till the next date at the request of the Defendant. Even today, learned Counsel for the Defendant seeks time to file a reply to the interim application.

2. Since the Defendant carries on business outside the local limits of the jurisdiction of this Court and the Plaintiffs propose to combine cause of action of passing off with that of infringement, the Plaintiffs have filed a leave petition. There is no opposition to the leave petition. The leave petition is, accordingly, allowed by granting leave under Clause XIV of the Letters Patent to the Plaintiffs to combine the causes of action.

3. The Defendant to file its reply to the interim application within a period of four weeks from today. Rejoinder, if any, within two weeks thereafter. The interim application to come up for hearing after six weeks.

4. In the meantime, there will be an ad-interim injunction in terms of prayer clauses (a) and (b) pending the hearing and final disposal of the interim application.

(S.C.GUPTE, J.)