

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 10.12.2020

Pronounced on : 23.12.2020

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

O.A.No.491 of 2020
and
A.No.2400 of 2020
in
C.S.(Comm.Div) No.427 of 2015

Hindustan Unilever Limited,
101, Santhome High Road,
Chennai - 600 028.

Represented by its Assistant Legal Counsel.

... Applicant/Applicant/Plaintiff
(in both Applications)

Vs.

1.Roopa Industries
Rep by Mr.Satish Honnahalli
Gadag Industrial Area,
Kanaganahalli Road,
Betageri, Gadag,
Karnataka.

2.New Hindustan Petro Chemicals
Gadag, Karnataka – 582 120.

... Respondent/Respondent/Defendant
(in both Applications)

Prayer in O.A.No.491 of 2020:- This Original Application filed under Order XIV Rule 8 of Original Side Rules read with Order XXVI Rule 1 and 2 and Section 151 of C.P.C., praying to grant an injunction restraining the respondents, their distributors, stockiest, servants, agents, retailers, representatives or any other person claiming under them from respondents, their distributors, stockiest, servants, agents, retailers, representatives or any other person claiming under them from filing any application for registration of any trademark/device/logo/label under the Trade Mark Act, 1999 and / or the Copyright Act, 1957 which is identical / deceptively similar to the Applicant's well known registered trademarks WHEEL or ACTIVE WHEEL, and / or its trade dress / artistic label filed as Complaint Document No.3, pending disposal of the suit.

Prayer in A.No.2400 of 2020:- This Application filed under Order XIV Rule 8 of Original Side Rules read with Section 151 of C.P.C., praying to direct the respondents to withdraw various trademark and other applications for Double Whale and Double Wheel or any other mark/label/device/logo similar/deceptively similar to Applicant's well known registered trademarks WHEEL / ACTIVE WHEEL and / or its trade dress / label filed as Complaint Document No.3, including Appl.Nos.3741185, 4363471, 4622450, 4622451 made before the Trademark Registry.

For Applicant : Mr.Satish Parasaran, Senior Counsel

For Respondents : Mr.ARL.Sundaresan, Senior Counsel

COMMON ORDER

These Applications have been filed by the Plaintiff to grant an order of injunction restraining the Defendants from applying for registration of any trademark / device / logo / label either under the Trade Marks Act, 1999 or under the Copyright Act, 1957 and for direction to the Defendants to withdraw their Application for 'Double Whale' and 'Double Wheel'.

2.This Court had earlier passed orders in O.A.Nos.555 to 557 of 2015 and 488 to 490 of 2020 granting protection to the Plaintiff. It is also to be noted that the Defendants have the benefit of registration of their artistic work for the label 'Double Wheel' and also for the trademark 'Double Wheel'. It is for the Plaintiff to join proceedings before the appropriate authorities and raise objections or seeking rectification of the registered mark of the Defendants.

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3.The Court cannot prevent the parties from approaching the statutory authority on presenting applications for registration. Right to object such registration is inherent. The Court will be over stepping its jurisdiction, if an order of injunction is granted directing the Defendants

to not even apply for registration. I therefore hold that the orders sought cannot be passed in both these Applications and both the Applications are dismissed.

4.I would however, grant liberty to the Plaintiff to approach the concerned authorities and raise objections with respect to the registrations, if any already granted to the Defendants in the manner prescribed and in the manner known to law and as by established procedure and in accordance with rules and regulations.

23.12.2020

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Index : Yes / No
Internet : Yes / No
Speaking order : Yes / No

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C.V.KARTHIKEYAN, J.

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Pre-delivery order made in

O.A.No.491 of 2020 and A.No.2400 of 2020

in
C.S.(Comm.Div) No.427 of 2015

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