

I. A No. GA 1 of 2021
APOT No. 48 of 2021
with
CS No. 44 of 2021
IN THE HIGH COURT AT CALCUTTA
In appeal from its
ORDINARY ORIGINAL CIVIL JURISDICTION
CIVIL APPELLATE JURISDICTION
(Commercial Division)

Ananta Shayan Kanoria

Versus

Parag Pathak

Before:

The Hon'ble Justice I. P. MUKERJI

And

The Hon'ble Justice MD. NIZAMUDDIN

Date: 22nd March 2021

Appearance:

Mr. Rudraman Bhattacharya, Advocate

Mr. Yash Vardhan Deora, Advocate

Mr. Siddharth Das, Advocate

for the appellant

Mr. Ranjan Bachawat, Sr. Advocate

Mr. Sayantan Basu, Advocate

Mr. Tanmoy Roy, Advocate

Mr. P. P. Chakrabarty, Advocate

Mr. Abhiroop Dhar, Advocate

for respondent

The Court: This appeal from the interim order dated 5th March 2021 made by a learned single judge in a passing off action refusing to pass an order of injunction and instead directing the defendant/respondent to maintain monthly accounts of his sale in a suit for passing off, is formally admitted.

As the issue involved is very short, by consent of the learned counsel for the parties we heard out the appeal today dispensing with all formalities.

Since the respondent has already changed the name to “Curry Leaf”, we find no ground to interfere with the impugned order.

Mr. Bhattacharya, learned advocate appearing for the appellant submits that his client at one point of time used to carry on business from the subject premises using the mark or name “Kurrry Patta”. If the respondent carries on business from the self-same premises using the mark “Currry Leaf”, they would be deceiving the customers to believe that the business belong to the appellant.

Prima facie, we do not think that such deception is likely to be caused by use of the entirely different words “Currry Leaf”. However, to obviate any such possibility we order that in a conspicuous part of the said premises the respondent will declare that they have no connection with “Kurrry Patta”.

Time to file the affidavit-in-opposition before the trial court is extended by two weeks from date. Affidavit-in-reply may be filed within one week thereafter.

Our observations are tentative. All points are kept open before the learned single judge.

The appeal (APOT 48 of 2021) and the connected application (IA No. GA 1 of 2021) are disposed of.

(I. P. MUKERJI, J.)

(MD. NIZAMUDDIN, J.)