

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

APPEAL FROM ORDER NO. 27 OF 2019

VIKRAM TEA PROCESSOR PVT LTD. CO. T/H ITS AUTHORIZED
SIGN. AND POWER OF ATTORNEY HOLDER KISHOR KHAIR
VERSUS
DEVKRUPA TEA COMPANY, THROUGH IT S PROP. JAGDIS
SHRIKISHAN SARDA

...

Advocate for Appellant : Mr. Deshpande Sanjeev B.

Advocate for Respondent : Mr. Chandak Raviraj R.

CORAM : RAJESH S. PATIL, J.

DATE : 14th DECEMBER, 2022

PER COURT :

1. This Appeal from Order is challenging the order dated 14.12.2018, passed by the District Judge – 3, Jalna, below Exh. 5 in Regular Civil Suit No. 6/2015.

2. The application Exh. 5 was filed by plaintiff for temporary injunction in a suit which was filed under the provisions of Section 27 (2), 28 and 29 read with Sections 134 and 135 of the Trade Marks Act, 1999, and under Sections 51, 55, 62 of the Copy Right Act, 1957.

3. In the impugned Order dated 14.12.2018, there is reference in para No. 14 on IPR judgments of different High Courts. This authorities were tendered by the plaintiff while arguing Exh. 5 application. The District Judge, Jalna, in the impugned judgment has not commented on any of the

judgment as to how the ratio laid down by the said judgments is not applicable to the facts of the present case. In a very casual manner in para No. 20 it has been stated “I have minutely gone through the case laws relied by the plaintiff, the facts and circumstances are totally different from the case in hand.”

4. Hence, the impugned order dated 14.12.2018 passed below Exh. 5 is set aside and the application Exh. 5 is remanded back to the District Judge – 3, Jalna, for re-hearing. District Judge – 3, Jalna, should hear the parties and take into consideration the judgments referred by both the sides and the ratio laid down in the said judgments.

5. The parties are free even to place on record the recent law as set up by the Supreme Court and High Courts on the subject. This exercise should be done within a period of three months from the date of receipt of this order by the District Judge – 3, Jalna.

6. The parties are hereby directed to remain present before the District Judge – 3, Jalna, on 23.12.2022 at 11:00 a.m. in the morning.

(RAJESH S. PATIL, J.)