

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION**

**INTERIM APPLICATION (L) NO. 373 OF 2022
IN
COMMERCIAL IP SUIT (L) NO. 367 OF 2022
WITH
LEAVE PETITION NO. 5 OF 2022**

Juice Hair Marketing Pvt. Ltd. ... Applicant/Plaintiff

Versus

Mjuice Unisex Salon ... Defendant

Mr. Vinod Bhagat a/w Ms. Fatema Kalolwala, Mr. Ajit Sayyed, Mr. Karan Khiani i/b G.S. Hegde and V.A. Bhagat for the Applicant/Plaintiff.

CORAM : R.I. CHAGLA, J.

DATED : 15th JUNE, 2022.

ORDER :

1 Heard Mr. Bhagat, learned Counsel appearing for the Plaintiff. By the ad-interim order dated 09.02.2022, the ad-interim relief was granted in terms of prayer clauses (a) and (b). It was noted that the Defendant had been served with the proceedings and affidavits of service dated 19.01.2022 and 09.02.2022 have been filed by the Plaintiff which affidavits of service are on record. This Court had in the said order deferred the application for prayer clause (c) which is passing off of the

Defendant's services and business as that of the Plaintiff at a later stage as and when the Defendant ultimately makes an appearance in this Court. The Leave Petition No.5 of 2022 with Interim Application was placed under caption "for further ad-interim relief" on 23.02.2022.

2 Notice of this order was to be served by the Advocate for the Plaintiff on the Defendant. An affidavit of service dated 23.02.2022 was thereafter filed and taken on record which shows service of the ad-interim order dated 09.02.2022 as well as notice of the next date. The matter had thereafter been adjourned and not taken up in view of paucity of time and the ad-interim order dated 09.02.2022 was continued and made operational till yesterday i.e. on 14.06.2022.

3 Accordingly, Mr. Bhagat has applied for continuation of the ad-interim order and he has tendered an e-mail dated 14.06.2022 which shows that the Advocate for the Defendant has been informed of today's date when an Application has been made for extension of the ad-interim order. He has submitted that in view of the Defendants having been served with the papers and proceedings prior to the ad-interim order being passed and thereafter, served with ad-interim order as well as notice of today's date, the relief of passing off in terms of prayer clause (c) of the Interim Application be considered.

4 Having considered the submission of Mr. Bhagat as well as noting that ad-interim order dated 09.02.2022 had been passed in terms of prayer clauses (a) and (b) of the Interim Application after the service of papers and proceedings on the Defendant as borne out from the said order and that the ad-interim order has been served on the Defendant by the Advocates for the Plaintiff as borne out from the affidavit of service dated 23.02.2022, the Leave Petition as well as the Application for ad-interim relief in terms of passing off are required to be considered.

5 Accordingly, in view of the Defendant, inspite of service of not only the papers and proceedings but also of the ad-interim order dated 09.02.2022 and of today's date, having chosen not to make an appearance, Leave Petition under Clause 14 is made absolute in terms of prayer clause (a). In view of the findings recorded in the ad-interim order dated 09.02.2022, ad-interim relief in terms of passing off prayer clause (c) of the Interim Application is granted and which reads thus:

“(c) that pending the hearing and final disposal of the suit, the Defendant by themselves, their proprietor/partners, servants, agents, assignees, transferees and all those connected with them in their

business be restrained by an order and temporary injunction of this Hon'ble Court from offering beauty and hair care services, selling beauty care cosmetic products and such other like services and goods and from using in any manner whatsoever including use as their trading/business and salon name, the impugned name, mark and trade dress of MJUICE or any name, mark or trade dress identical with and/or deceptively similar to the Plaintiff's trade mark and trade dress of JUICE, so as to pass off the Defendant's services and business or enable others to pass off the Defendant's services and business as and for those of the Plaintiff or in some way connected or associated therewith;"

6 The notice of this order shall be served by the Advocates for the Applicant/Plaintiff on the Defendant and affidavit of service shall be filed on or before the next date. The Defendant is at liberty to file affidavit in reply to the Interim Application within a period of three weeks from today i.e. on or before 06.07.2022.

7 The Plaintiff is at liberty to file affidavit in rejoinder thereto within a period of two weeks therefrom i.e. on or before 20.07.2022.

8 Ad-interim order dated 09.02.2022 as well as this ad-interim order shall continue till further orders.

9 Place the Interim Application for hearing on 25.07.2022.

(R.I. CHAGLA, J.)

Digitally
signed by
WAISHALI
SUSHIL
WAGHMARE
Date:
2022.06.16
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