

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

**INTERIM APPLICATION (L) NO.17325 OF 2021
WITH
INTERIM APPLICATION NO.1417 OF 2022
WITH
LEAVE PETITION (LPETN) (L) NO.17328 OF 2021
WITH
COURT RECEIVER'S REPORT NO.377 OF 2021
IN
COMMERCIAL IP SUIT NO.103 OF 2022**

Unilever Plc & Ors. ...Applicant/Org. Plaintiffs
V/S
Ashok Kumar ...Defendant

Mr. Vinod Bhagat a/w Ms. Prachi Shah and Mr. Atif Sayyed i/by Mr.
G. S. Hegde and V. A. Bhagat for Applicant/Org. Plaintiffs.

Ms. R. V. Rane, 2nd Assistant to the Court Receiver present.

CORAM : R. I. CHAGLA, J.

DATED : 21st JUNE, 2022.

P.C.

1. Heard learned counsel for the Applicant/Original
Plaintiff.

2. By the ex-parte ad-interim order dated 23rd August 2021,
ad-interim relief had been granted in terms of prayer clauses (a),

(b), (d) and (d-1) of the Interim Application. The ex-parte ad-interim order was thereafter continued from time to time and is in operation till 20th June 2022, vide order dated 5th May 2022.

3. The matter has been circulated today as the Interim Application had not been listed yesterday i.e. on 20th June, 2022.

4. The Defendant has been served and the Affidavit of service dated 21st June, 2022 is taken on record and marked 'X' for identification. The Affidavit of service shows that though the package which containing the amended plaint and the amended Interim Application had been sent to Defendant No.2, it had been returned. Thereafter, the Applicant/Original Plaintiff had served Defendant No.2 through WhatsApp. The last WhatsApp message dated 20th June 2022, is the fourth time that Defendant No.2 was served. The Defendant No.2 has been served with copy of the last order dated 5th May, 2022 as well as Defendant No.2 was informed of listing of the matter on 21st June 2022. The Defendant had also served during the execution of the commission. The prior orders of this Court have been brought to the notice of Defendant No.2 through the WhatsApp messages, which have been annexed to the Affidavit of service which is taken on record. In spite of Defendant

No.2 have been served with the last order date 5th May, 2022 as well as informed about the listing of the matter, today Defendant No.2 has chosen not to make an appearance.

5. It is to be noted that the Suit was originally filed against an unknown party i.e. Ashok Kumar as Defendant and thereafter, Defendant No.2 was joined in the Suit upon the Applicant/Original Plaintiff becoming aware of the existence of Defendant No.2 through the execution of the commission.

6. Considering that the Defendant has chosen not to make an appearance, the Leave Petition under clause 14 of the letters patent is made absolute in terms of prayer clause (a).

7. In view of the findings in the ex-parte ad-interim order dated 23rd August 2021, the ad-interim relief in terms of prayer clause (c) which is for passing off is granted which read thus:-

(c) pending the hearing and final disposal of the suit, the Defendant by themselves, their proprietor/partners, servants, agents, distributors, stockists, assignees and all those connected with the Defendant in their business be restrained by an order and temporary injunction of this Hon'ble Court from manufacturing, stocking, marketing, supplying, distributing, selling,

offering for sale and/or using in any manner whatsoever in relation to their cosmetic preparations and other like goods used in the cosmetic industry, the counterfeit marks and the impugned trade dress or any mark or trade dress identical with and/or deceptively similar to the Plaintiffs' distinctive and prior used trade marks LAKME, LAKME NINE TO FIVE (9 to 5), LAKME EYECONIC, L-Logo and the U-Logo and the Plaintiffs' distinctive trade dress depicted on their LAKME, LAKME NINE TO FIVE (9 to 5), LAKME EYECONIC, L-Logo and the U-Logo labels, so as to pass off their goods and business as and for those of the Plaintiffs or in some way connected or associated therewith;

8. The ex-parte ad-interim order dated 23rd August 2021, as well as this ad-interim order is continued till further orders. Notice of this order shall be served upon Defendant No.2 by the Advocate for the Applicants/Original Plaintiffs and Affidavit of service shall be filed on or before the next date.

9. The Defendant No.2 is at liberty to file Affidavit-in-reply within a period of three weeks from today i.e. on or before 12th July 2022. The Applicants/Original Plaintiffs are at liberty to file Affidavit-in-rejoinder thereto on or before 25th July 2022.

10. Place the Interim Application (L) No.17325 of 2021 on 25th July 2022, for hearing.

(R. I. CHAGLA, J.)