

Santosh

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

**INTERIM APPLICATION NO. 1175 OF 2020
IN
COMP IP SUIT NO. 711 OF 2019**

Unilever PLC & anr. ...Applicants
In the matter between
Unilever PLC & anr. ...Plaintiffs
Versus
Nilesh Nakrani & ors. ...Defendants

Mr. Hiren Kamod, a/w Ms. Niyati Davawala, i/b ALJ &
Partners, for the Applicants/Plaintiffs.

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CORAM: N. J. JAMADAR, J.
DATED : 4th JANUARY, 2022
(Video Conferencing)

PC:-

1. The plaintiffs have taken out this application for the following relief:

“(a) This Hon’ble Court be pleased to direct the Court Receiver, High Court, Bombay to break open locks of the Defendants premises with the help of police protection (if needed) whether in day or in night and to keep sample of the counterfeit goods in its custody and deliver all the remaining stock of the counterfeit goods seized namely hair oil and other like cosmetic and medicinal preparations including labels, cartons, bottles, dyes, blocks, moulds, stencils, rollers, cylinders, machinery, printing, packing material, invoices, books of accounts, stationery and other documents, receipts that are connected to/with and/or used in relation to the aforesaid materials and all such things bearing the counterfeit marks and the impugned pirated artwork as complained off hereinabove that has been kept in the custody of the Defendants under the seal of the Court Receiver to the Plaintiffs for destruction.”

2. The plaintiffs claim that they were constrained to move the application for the aforesaid relief as the ad-interim orders passed by this Court on 18th February, 2019 were flouted by the defendants. The initial ad-interim order dated 18th February, 2019 has been continued from time to time. Pursuant to the aforesaid order dated 18th February, 2019, the counterfeit goods seized by the Court Receiver were kept in the premises of the defendants. The Court Receiver executed the orders dated 20th February, 2019, 1st March, 2019 and 1st April, 2019 and filed reports.

3. It transpired that defendant nos.14, 26 and 28 had willfully disobeyed the order dated 18th February, 2019 by removing/destroying the counterfeit goods, which were kept in the premises of the defendants under the seal of the Court Receiver. An application for contempt has been moved against defendant nos.14, 26 and 28. During the course of visit of the Court Receiver, it transpired that defendant nos.14, 26 and 28 have disappeared from their premises.

4. The applicants – plaintiffs thus apprehend that all the defendants are in contact with each other and they have been trying to destroy all the counterfeit goods seized by the Court Receiver in similar manner since the seized goods have been lying in the premises of the defendants. It is, therefore,

necessary to grant an order of destruction of the counterfeit goods to ensure that those goods are not sold by the defendants to the *bona fide* customers of the plaintiffs. Sample of the counterfeit goods can be kept in the safe custody of the Court Receiver and remaining counterfeit goods can be destroyed in the interest of the society at large. Hence, this application.

5. By an order dated 26th September, 2021, this Court took note of the aforesaid circumstances and the attempts on the part of the few of the defendants to flout the order of this Court and recorded a *prima facie* observation that the complained conduct on the part of the concerned defendants amounts to interference with administration of justice. The Court was of the view that before an order is passed on the application seeking destruction of the counterfeit goods, it was necessary to obtain an additional report as to the present condition on site. Thus, Additional Special Receivers were appointed with the following direction.

“The Additional Special Receiver to visit the location or locations as indicated by the plaintiffs and the Court Receiver and is to make a report as to what is found on site (i.e., at each location if there are multiple ones), and, specifically, to report whether the seals of the Court Receiver have been tampered with, removed, or broken. If there are any goods found within those premises, the representative of the Plaintiffs who is present at that time will make the necessary arrangements to remove the goods to a location of the plaintiffs’ choice where they will be stored on superdari, until further orders of the Court.”

6. Mr. Kamod submits that pursuant to the aforesaid direction, the additional Court Receivers have executed commissions and submitted reports. Copies of the reports are placed on record.

7. I have perused the reports of the Additional Special Receivers. The reports reveal that the counterfeit goods which had been seized and found stored at the respective places, have been handed over to the representative of the plaintiffs. In the circumstances, the prayer for destruction of the counterfeit/infringed goods, to rule out the possibility of those goods being circulated in the market to the prejudice of the plaintiffs and general public, seems justifiable.

8. For the sake of convenience and clarity, the counterfeit/infringed goods in respect of which order of destruction becomes necessary are extracted below with requisite particulars:

No.	Name	Establishment	Address	Seizures	Name of the police station jurisdiction
Def 1 to 4	Ashwinbhai Bhalani (Def 4) 1 to 3 were not there.	Refiller	212, Rachna Society, Rachna Circle, Varacha, I.H. Road, Surat – 395006	55,566 pieces includes finish and packaging material 3 loose can	Kapodara Police Station.
Def 5	Vipul Enterprises	Bottle Manufacturer	24 Bhidhajan	29,939 empty	Pandesara Police

			Society Surat Gujarat 394221	bottles and caps	Station
32	Hinsu Enterprise	E-com seller	209, Silver Empire, VIP Circle, Uttran, Surat – 394105	3 Unit of Indulekha	Amroli Police Station
35.	A.M. Enterprise	E-com seller	310, Radhika Optima, Near Haveli Restaurant, Mota Varachha, Surat – 394101	240 Pcs seized	Amroli Police Station
38.	High Tech Innovation	E-com seller	A7, Gokul Complex, Near Vaishanav Haveli, Devraj Shopping Mall Complex, Thakker Bapa Nagar, Ahmedabad 382350	2 pcs of Indulekha	Bapu Nagar Police Station

9. Since the goods have already been handed over to the representative of the plaintiffs, it may be expedient to direct that the plaintiffs shall keep a sample of each of the above seized infringed/counterfeit goods and destroy the rest in the presence of the Court Receiver and/or Additional Special Receiver, as the case may be, and the latter shall submit a report of destruction of the counterfeit/infringed goods.

[N. J. JAMADAR, J.]