

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO. 3483 OF 2022**

IN

COMMERCIAL IP SUIT NO. 314 OF 2022

Parle Agro Private Limited ... Applicant/Orig. Plaintiff

vs.

Zion Beverages and ors. ... Defendants

WITH

LEAVE PETITION NO. 81 OF 2022

WITH

COURT RECEIVER'S REPORT NO.161 OF 2022

IN

COMMERCIAL IP SUIT NO. 314 OF 2022

Mr. Hiren Kamod a/w. Ms. Raina Gajria and Ms. Amritha Vyas, i/by. Gajria and Co. for the applicant/original plaintiff.

Mrs. G. V. Golatkar, Master (Adm), Office of the Court Receiver.

CORAM : MANISH PITALE, J

DATE : 17th OCTOBER, 2022

P.C. :

. On 12th April, 2022, this Court had granted *ex-parte* ad-interim reliefs in favour of the plaintiff. The Court Receiver has executed the order and Court Receiver's Report No.161 of 2022 is filed, which is already taken on record. The writ of summons has already been served on the defendants. Yet, the defendants have chosen not to appear before this Court.

2. In these circumstances, learned counsel for the plaintiff is pressing for the leave petition filed under Clause XIV of the Letters Patent to be granted for combining the cause of action for passing off with the cause of action for infringement of trademark and copyright.

3. Perused the contents of the Leave Petition. This Court is convinced that sufficient grounds are made out for granting the prayer.

4. Accordingly, Leave Petition is allowed and disposed of.
5. In the light of the leave petition being granted, learned counsel for the plaintiff is pressing for grant of *ad-interim* relief in terms of prayer clause (c) of the application, which pertains to cause of action of passing-off in the light of the pleadings in paragraphs 25 and 26 of the plaint.
6. This Court has perused the said pleadings, the contents of the entire plaint, as also the documents placed on record. The plaintiff has indeed made out a prima facie case for grant of the ad-interim relief pertaining to the tort of passing-off.
7. Accordingly, in addition to the reliefs already granted, the case is made out for grant of relief in terms of prayer clause (c), which reads as follows:
 - (c) that pending the hearing and final disposal of the Suit, the Defendants by themselves, their partners/directors, owners, servants, subordinates, representatives, stockists, dealers, agents and all other persons claiming through or under them be restrained by an order and injunction of this Hon'ble Court from in any manner using the impugned marks, label, shape of the bottles, colour scheme, impugned artwork, get-up, layout, placement and trade dress described in Exhibit 'L' to the plaint and/or any other marks or labels or shape of the bottles, colour schemes, artistic works, get-up, layout, placement and trade dress identical with or deceptively similar to the Plaintiff's Marks, label, shapes of the bottles, colour scheme, artistic work, get-up, layout, placement and trade dress described in Exhibits 'A', 'B', 'C', 'D', 'E-1' to 'E-8' and 'F-1' to 'F-3', to the plaint so as to pass off their impugned product as and for those of the Plaintiff;
8. Ad-interim relief granted today and earlier on 12th April, 2022 shall continue to operate till further orders.
9. List the application for further consideration on 8th December, 2022.

(MANISH PITALE, J)

Priya Kambli