

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO.2310 OF 2022
IN
COMMERCIAL IP SUIT NO.91 OF 2022

Vedistry Private Limited and another ... Applicants / Plaintiffs
Vs.
Lakshmi Chhetri and another ... Respondents / Defendants

Mr. Vinod Bhagat a/w. Ms. Prachi Shah i/b. G. S. Hegde and V. A. Bhagat for
Applicants / Plaintiffs.

CORAM : MANISH PITALE, J.
DATE : DECEMBER 09, 2022

P.C. :

. By order dated 21.12.2021, this Court granted ad-interim relief in terms of prayer clause (a) pertaining to the action of infringement in the context of the registered trademark 'MOHA' of the plaintiffs, since the impugned mark 'AMOHA' being used by the defendants was *prima facie* found to be infringing the registered trademark of the plaintiffs.

2. In the said order itself, it was recorded that although defendant No.2 was not in a position to file affidavit in reply on the said date, a statement was made by learned counsel appearing for defendant No.2 that the said defendant only supplies raw material and that it is not manufacturing the impugned product.

3. Defendant No.1 was served, who chose not to appear before this Court. On 07.03.2022, this Court took up the contentions raised by the plaintiffs in the context of the action of passing-off and having found that a case was indeed made out for grant of ad-interim relief, this Court by the said order specifically granted ad-interim relief in terms of prayer clause (b) also. Subsequently, on 30.08.2022, this Court took note of the fact that though both the respondents / defendants were informed about

the date of hearing of the application, there was no appearance on their behalf. Therefore, the present application was directed to be listed for final hearing.

4. Learned counsel appearing for the plaintiffs has reiterated the contentions raised before this Court when ad-interim reliefs were granted. It is submitted that the defendants were informed by way of email regarding listing of the application today for hearing. This Court has considered the earlier orders whereby ad-interim reliefs were granted in favour of the plaintiffs. A bare perusal of the two marks would show that the impugned mark 'AMOHA' of the defendants *prima facie* infringes the registered trademark of the plaintiffs i.e. 'MOHA'. Merely by placing prefix 'A' before the registered trademark of the plaintiffs, the defendants have not only infringed the registered trademark but the most prominent and essential feature of the trademark has been slavishly copied. Therefore, a clear case is made out by the plaintiffs for making the ad-interim reliefs absolute. Accordingly, ad-interim reliefs are made absolute and the application is allowed in terms of prayer clauses (a) and (b).

5. Interim Application is disposed of.

(MANISH PITALE, J.)

Minal Parab