

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

**INTERIM APPLICATION NO.2306 OF 2022
WITH
LEAVE PETITION (LPETN) NO.343 OF 2021
IN
COMMERCIAL IP SUIT NO.90 OF 2022**

Asian Paints Ltd. ...Applicant/Plaintiff
V/S
Rado Paints ...Defendant

Mr. Vinod Bhagat a/w Ms. Prachi Shah and Mr. Atif Sayyed i/by Mr.
G. S. Hegde and V. A. Bhagat for 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/ Plaintiff.
2. By the ex-parte ad-interim order dated 26th February 2022, ad-interim relief in terms of prayer clauses (a) and (c) of the Interim Application was granted. The ex-parte ad-interim order has thereafter been continued from time to time and is in operation till 20th June 2022, vide order dated 5th May 2022.

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

4. Mr. Bhagat has informed this Court that Defendant has been served by WhatsApp message sent on 20th June, 2022 of circulation of the matter as well as notice of the last order dated 5th May 2022. The WhatsApp message is tendered and is taken on record and marked 'X' for identification.

5. The Defendant inspite of service has not made an appearance. The Court Receiver has filed a report being Court Receiver's Report No.80 of 2022, upon execution of the commission and which is formally taken on record. In view of the Defendant having been served and inspite of service not making an appearance, Leave Petition under clause 14 of the letters patent is made absolute in terms of prayer clause (a).

6. In view of the findings in the ex-parte ad-interim order dated 26th February 2021, ad-interim relief in terms of prayer clause (b) of the Interim Application which for passing off is granted which read thus:-

(b). *pending the hearing and final disposal of the suit, the Defendant by themselves, their proprietor/partners, servants, agents, assignees and all those connected with them in their business be restrained by an order and temporary injunction of this Hon'ble Court from manufacturing, marketing, selling and/or using in any manner whatsoever in relation to their distemper, enamel, paints or other like goods used in the paint industry, the impugned marks ROYAL COAT and the Device of Boy holding a brush in his hand or any mark/s or trade dress identical with and/or deceptively similar to the Plaintiff's distinctive and prior used trade marks ROYALE and GATTU Device, so as to pass off the Defendant's business and goods as and for those of the Plaintiff or in some way connected or associated therewith;*

7. The ex-parte ad-interim order dated 26th February 2021, as well as this ad-interim order shall continue till further orders. Notice of this order shall be served upon the Defendant by the Advocate for the Applicant/Plaintiff and Affidavit of service shall be filed on or before the next date.

8. 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 12th July 2022. The Plaintiff is at liberty to file Affidavit-in-rejoinder thereto on or before 22nd July 2022.

9. Place the Interim Application No.2306 of 2022 on 26th July 2022, for hearing.

(R. I. CHAGLA, J.)