

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

**INTERIM APPLICATION NO.1559 OF 2022
WITH
COURT RECEIVER'S REPORT NO.22 OF 2022
WITH
LEAVE PETITION (LPETN) NO.372 OF 2021
IN
COMMERCIAL IP SUIT NO.48 OF 2022**

Asian Paints Ltd. ...Applicant/Plaintiff
V/S
ARS Dushanth 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 20th December 2021, 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 December 2021, 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 with notice of today's date when the matter is circulated. The Defendant has also been served with copy of the last order dated 5th May 2022. The service has been effected through email sent on 20th June 2022 and WhatsApp message also sent on 20th June 2022. The email and WhatsApp message has been tendered and is taken on record and marked 'X' collectively for identification.

5. The Defendant inspite of having notice of today's date, when the matter is circulated as well as notice of the last order dated 5th May, 2022 has chosen not to make an appearance. Accordingly, 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 20th December 2021, ad-interim relief in terms of prayer clause (b) of the Interim Application which is for passing off is granted which read thus:-

(b) pending the hearing and final disposal of the suit, the Defendant by themselves, their proprietors/partners, servants, agents, dealers, assignees and all those connected with them in their business be restrained by an order and injunction of this Hon'ble Court from manufacturing, marketing, selling and/or using in any manner whatsoever in relation to their emulsion paints or other like goods used in the paint industry, the impugned mark PENTTI ROYAL EMULSION or any mark identical with and/or deceptively similar to the Plaintiff's distinctive and prior used trade mark ROYALE, 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 20th December 2021, as well as this ad-interim order shall continue till further orders. The Advocates for the Applicant/Plaintiff shall serve notice of this order on the Defendant 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. The Court Receiver's Report No.22 of 2022, already filed is formally taken on record.

10. Place the Interim Application No.1559 of 2022 on 25th July 2022, for hearing.

(R. I. CHAGLA, J.)