

14-09-2023
Item no.4 CD
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
(Commercial Division)

FMAT No.416 of 2023
Edible Products (India) Limited

-vs-

Shalimar Chemical Works Private Limited
with
CAN No.1 of 2023

Mr. Shuvasish Sengupta
Mr. Arindam Chandra
Ms. Arunima Lala
Mr. Atish Ghosh
Ms. Antara Dey ...for the appellant

Mr. Abhrajit Mitra
Mr. Ranjan Bachawat
Mr. Debnath Ghosh
Mr. Saumya Roy Chowdhury
Mr. Iran Hanan
Mr. Sanket Sarawgi
Ms. Mahina Chelera
Mr. Shagnik Bose ...for the respondent

We admit the appeal.

We are in a position to dispose of it dispensing with all formalities.

This is a trade mark appeal concerning the brand and mark “*Shalimar Coconut Oil*”.

The appellant is aggrieved by an ex parte ad interim order of injunction restraining them from selling their product using, inter alia, the mark “*KMP Ayurvedic*”.

The bone of contention is not the mark but the overall effect of the shape, design and colour of the bottle read with the mark on it. According to the respondent, the product of the appellant is deceptively similar to

theirs.

We, however, notice that the application for interim relief is returnable before the learned court below tomorrow.

We are of the view that the question of further continuance of the interim order may be considered by the said court on consideration of the interim application together with the application to vacate the same made by the appellant by hearing the parties. Extension of the existing interim order may also be considered by the learned court below to enable it to hear out the above applications, but extension should be strictly on merits.

All points are kept open before the learned judge. He is requested to dispose of both the applications within eight weeks of communication of this order.

On the submission of Mr Bachhawat, learned senior advocate appearing for the respondent, we clarify and observe that the existing interim order will continue till it is vacated, varied or modified by the learned court below.

The appeal and the connected application are, thus, disposed of.

[I.P. Mukerji, J]

[Biswaroop Chowdhury, J]

