

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

INTERIM APPLICATION NO. 2378 OF 2021

IN

COMMERCIAL IP SUIT NO. 284 OF 2021

Hindustan Unilever Ltd.

...Applicant/Plaintiff

Versus

M Chillies Agro Allied Chemicals & Anr.

...Defendants

* * *

- Mr. Vinod Bhagat and Mr. Karan Khiani i/by G.S. Hegde and V.A. Bhagat, for Applicant/Plaintiff
- Mr. Vidul Shah i/by Mr. Sushant Prabhune, for Defendant No. 2.
- Ms. Rucha Ambekar, Section Officer, Court Receiver Office, is present.

* * *

CORAM : MANISH PITALE, J

DATE : 12th JANUARY, 2023.

P. C. :

1. In this application, by order dated 03rd February, 2021, this Court granted *ex-parte* ad-interim reliefs in favour of the Plaintiff. The order was executed and the Court Receiver submitted his report. Thereafter, by order dated 13th January, 2022, the Leave Petition was allowed. By order dated 22nd February, 2022, the ad-interim reliefs were continued.

2. The Defendants were served and on 28th September, 2022, this Court granted further ad-interim relief pertaining to the action of passing off. In the said order, this Court recorded the fact that the Defendant No. 2, being the Marketer, had appeared through Advocate and it was claimed on behalf of Defendant No. 2 that its name had been wrongly shown on the impugned product, as a result of which,

the Defendant No. 2 had taken appropriate steps for filing police complaint against the Defendant No. 1 at Kolkata. By the said order, the ad-interim reliefs were continued.

3. On 15th November, 2022, this Court continued operation of the ad-interim reliefs until further orders and directed listing of the application today, as a matter of last chance to Defendant No. 1 to appear before this Court. As noted above, the Defendant No. 2 has already appeared through Advocate.

4. Today when the application is called out for hearing, the learned Counsel for the Applicant/Plaintiff has reiterated the contentions raised on earlier occasions and it is submitted that the ad-interim reliefs granted by this Court may be made absolute. The learned Counsel for the Defendant No. 2 submits that since the said Defendant has already taken appropriate steps against the Defendant No. 1, the name of the Defendant No. 2 may be deleted from the array of Defendants.

5. Insofar as the prayer for deletion of Defendant No. 2 is concerned, this Court is of the opinion that an appropriate application may be filed in that regard.

6. As regards the contentions raised on behalf of the Plaintiff, this Court has perused the earlier orders passed by this

Court, particularly orders dated 03rd February, 2021 and 28th September, 2022. It is found that this Court came to conclusion, on the basis of material available on record, that a strong *prima facie* is indeed made out by the Plaintiff for grant of ad-interim reliefs. The Defendant No. 2 appeared through Advocate and has not opposed the interim prayers made on behalf of the Plaintiff, particularly for the reason that according to the said Defendant, its name was wrongly mentioned on the impugned product by the Defendant No. 1.

7. As noted above, the Defendant No. 1 has refused to appear before this Court to oppose the present application.

8. This Court has again considered the material on record and it is found that a strong *prima facie* case is indeed made out by the Plaintiff in its favour for grant of interim reliefs. It is found that unless the ad-interim reliefs granted earlier are continued and made absolute, the Plaintiff is likely to suffer grave and irreparable loss, thereby indicating that the balance of convenience clearly in favour of the Plaintiff.

9. In view of the above, the ad-interim reliefs granted earlier are made absolute.

10. The application is disposed of and allowed in terms of the prayer clauses (a), (b) and (c).

(MANISH PITALE, J.)