

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

**INTERIM APPLICATION NO. 2312 OF 2022
WITH
LEAVE PETITION (LODGING) NO. 2326 OF 2022
WITH
COURT RECEIVER'S REPORT NO. 57 OF 2022
IN
COMMERCIAL IP SUIT NO. 202 OF 2022**

Asian Paints Limited

...Applicant/Plaintiff

Versus

Chetak Minerals

...Defendant

* * *

- Mr. Vinod Bhagat and Mr. Atif Sayyed i/by Vinod Bhagat, for Applicant/Plaintiff.

* * *

CORAM : MANISH PITALE, J

DATE : 27th MARCH, 2023.

P. C. :

1. By order dated 03rd February, 2022, this Court granted *ex-parte* ad-interim reliefs in favour of the Plaintiff, in the context of its label mark GATTU, which shows the device of a boy holding a paint brush in his hand. The Defendant was served and the order of this Court was executed, the Court Receiver submitted his report, which is already on record. The Defendant was represented by Counsel.

2. Thereafter, on 15th November, 2022, this Court allowed the Leave Petition and thereupon granted further ad-interim relief, pertaining to the cause of action of passing off also. As a consequence ad-interim reliefs have been operating in favour of the Plaintiff in respect of its registered trademark as well as copyright and also for

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the action of passing off.

3. Today when the application is called out for hearing, the learned Counsel for the Plaintiff is pressing for the ad-interim reliefs to be made absolute and the present application to be allowed. There is no appearance on behalf of the Defendant.

4. This Court has considered the material on record. A comparison of the two marks is given at page no. 136 of the plaint at Exhibit "J". All the features, including essential, central and fundamental features of the registered trademark of the Plaintiff and its copyright have been copied by the Defendant. The Defendant is using the said mark in the context of sale of lime powder under the mark "Janta lime". Lime Powder is one of the ingredients used during the course of painting. It is specifically stated on behalf of the Plaintiff that use of the mark "Janta Lime" cannot be objected to but the manner in which the device consisting of the boy holding the paint brush in his hand is misused by the Defendant, goes to show that the present application deserves to be allowed.

5. Apart from comparing the two marks, this Court has considered the copies of certificates of the registration of trademarks and the registration certificate of the copyright. The said documents do indicate that the Plaintiff has proprietary rights in the said trademark and the artistic work and that therefore, it is entitled to

press for making the ad-interim orders absolute.

6. The orders dated 03rd February, 2022 and 15th November, 2022, show that this Court has considered the material on record in detail and it is found that a strong *prima facie* case is indeed made out by the Plaintiff in its favour. This Court upon appreciating material on record in the backdrop of the contention raised by the learned Counsel for the Petitioner is convinced that unless ad-interim reliefs are made absolute, the Plaintiff would continue to suffer grave and irreparable loss, thereby indicating that the balance of convenience is in favour of the Plaintiff. Even otherwise, there is no reply affidavit filed to the present application and there is no written statement on record, thereby showing that the Defendant has not put up any defence for its conduct.

7. In view of the above, the ad-interim reliefs granted by this Court are made absolute and consequently the application stands allowed in terms of prayer clauses (a), (b) and (c). The said interim reliefs shall continue to operate during the pendency of the suit.

8. In the light of the above, the Court Receiver's Report is disposed of and the Court Receiver is discharged, without passing up of accounts.

(MANISH PITALE, J.)