

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

INTERIM APPLICATION NO. 2360 OF 2021

WITH

COURT RECEIVER'S REPORT NO. 182 OF 2021

WITH

LEAVE PETITION NO. 94 OF 2020

IN

COMMERCIAL IP SUIT NO. 242 OF 2021

Unilever PLC & Anr.

...Applicant/Plaintiff

Versus

Sumit Jain

...Defendant

* * *

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

* * *

CORAM : MANISH PITALE, J

DATE : 23rd MARCH, 2023.

P. C. :

1. Heard, learned Counsel for the Appellant/Plaintiff.

2. By an order dated 09th October, 2020, this Court granted *ex-parte* ad-interim reliefs in favour of the Plaintiffs. It was found that Defendant was indulging in releasing counterfeit products in the market. The photographs of the impugned products were placed on record and this Court found that a comparison with the products of the Plaintiff demonstrated that the registered trademark of the Plaintiff as well as its copyright in the original artistic work were copied by the Defendant.

3. The *ex-parte* ad-interim order passed by this Court was executed and the Court Receiver's Report is on record.

4. On 07th December, 2021, this Court allowed the Leave Petition and further granted ad-interim relief pertaining to the cause of action of passing off also.

5. The ad-interim reliefs have been operating till date.

6. During the course of execution of the *ex-parte* order, the Plaintiff found that the brother of the original Defendant was involved in the infringing activities and therefore, he was also added as Defendant.

7. Both the Defendants were served. They have failed to appear before this Court, despite service of notice. This Court is informed that the Defendants were intimated about listing of this application from time to time and that even about listing of the application today, Defendants were duly informed.

8. In this backdrop, the learned Counsel for the Plaintiff is pressing for the ad-interim orders to be made absolute and the application be granted.

9. This Court has considered the material on record, since the Defendants have failed to appear before this Court, there is no defence for the impugned activities. This Court has perused Exhibit "N", which shows side by side comparison of the rival products. The

manner in which the Defendants have copied the trademark and the original artistic work of the Plaintiff, it becomes clear that the impugned products are nothing but counterfeit products and that the Defendants have been illegally taking benefit of the immense goodwill of the Plaintiff generated over a period of time in the context of its registered trademark and subsisting copyright in the original artistic work.

10. This Court is further convinced that unless the ad-interim reliefs are continued, the Plaintiff would suffer grave and irreparable loss and that therefore, balance of convenience is also in favour of the Plaintiff.

11. In view of the above, the ad-interim orders dated 09th October, 2020 and 07th December, 2021, are made absolute. Consequently, the interim application is allowed in terms of prayer clauses (a), (b), (c) and (e). The said interim reliefs shall continue to operate during the pendency of the suit.

12. The Court Receiver's Report is disposed of and the Court Receiver is discharged, without passing up of accounts.

(MANISH PITALE, J.)