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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
INTERIM APPLICATION NO.4236 OF 2022
IN
COM IPR SUIT NO.420 OF 2022
WITH
LEAVE PETITION NO.125 OF 2022

Midas Hygiene Industries Pvt. Ltd.

...Applicant /
Plaintiff

Versus

Suriya Industry

...Defendant

Mr. Hiren Kamod, B.N. Poojari and Nidhi Bangera i/b. Asian Patent
Law for the Applicant / Plaintiff.

Mrs. Naina Poojary, Section Officer to Court Receiver is present.

CORAM : R.I. CHAGLA J.
DATE : 7TH OCTOBER, 2023.

ORDER :

1. Mr. Hiren Kamod, learned Counsel appearing for the
Applicant / Plaintiff has tendered Affidavit of Service dated 7th
October, 2023 which shows that the Defendant has been served with
notice of today's date when the matter has come up on the board.

2. By the order dated 9th June, 2022, exparte ad-interim
relief has been granted in terms of prayer Clauses (a), (b) and (f).
Thereafter, the Court Receiver appointed by this Court has executed

commission through the additional Special Receiver and Court Receiver's Report No.202 of 2022 had been filed and taken on record by order dated 13th December, 2022. This Court by subsequent order dated 24th March, 2023 had allowed the Leave Petition and granted the prayer for passing of in terms of prayer Clauses (c) and (d) of the Interim Application.

3. It is noted that, the Defendant has not made an appearance despite being served during the execution of the commission as well as notice of today's date which is borne out from the said Affidavit of Service dated 7th October, 2023.

4. In that view of the matter and particularly considering the findings in the exparte ad-interim order dated 9th June, 2022 and ad-interim order dated 24th March, 2023 that the Defendant has blatantly copied the Plaintiff's trade marks and labels and which is apparent from a comparison of the rival products set out in paragraph 8 of the exparte ad-interim Order and that there is no doubt that the Defendant's trade marks "SUPER LR LAXMAN REKHA" and "HIGH POWER LR LAXMAN REKHA" are almost identical with and / or deceptively similar to the Plaintiff's registered trade mark

“LAXMANREKHAA”. Further, this Court is prima facie satisfied that the labels / artworks / packaging / trade dresses of the Defendant’s “SUPER LR LAXMAN REKHA” and “HIGH POWER LR LAXMANREKHA” products are a reproduction / substantial reproduction of Plaintiff’s labels / artworks / packaging / trade dresses used in respect of the Plaintiff’s “LAXMANREKHAA” product. Further, the similarity in the rival products cannot be a matter of coincidence. The Defendant’s adoption of the impugned marks and impugned packaging / labels is deliberate and dishonest. Accordingly, a strong prima facie case is made out by the Applicant / Plaintiff for grant of the interim relief sought for in the Interim Application.

5. In view thereof, the Interim Application is made absolute in terms of prayer Clauses (a), (b), (c), (d) and (e) of the Interim Application which read thus:-

- a. *Pending the hearing and final disposal of the suit, an order of injunction of this Hon’ble Court restraining the Respondent and/or its servants, agents, representatives and/or any person(s) claiming under or through the Respondent from infringing the Applicants’ trademark “LAXMANREKHAA” and its label at Exhibit A2 hereto registered under No.545610 at Exhibit B1 hereto and No.731808 at Exhibit C1 hereto in class 5 by adopting and/or using the*

impugned marks “SUPER LR LAXMAN REKHA” or “HIGH POWER LR LAXMAN REKHA” or the abbreviation “LR” with or without the labels at Exhibits H1 and/or H2 hereto in any manner or any mark or label identical with or similar to the Applicants’ trademark “LAXMANREKHAA” and its label at Exhibit A2 hereto as trademark or otherwise in respect of Insecticide Chalks or Insecticide or Pesticide Preparation or any Preparation for repelling and destroying Cockroaches, Flies, Insects, Mosquitoes or similar goods in any form.

- b. Pending the hearing and final disposal of the suit, an order of injunction of this Hon’ble Court restraining the Respondent and/or its servants, agents, representatives and/or any person(s) claiming under or through the Respondent from infringing the Applicants’ copyright in the artistic trademark “LAXMANREKHAA” label at Exhibit A2 to the plaint registered under No.A-55885/1999 under the Copyright Act, 1957 at Exhibit D1 to the plaint, by adopting and/or using in any manner impugned marks “SUPER LR LAXMAN REKHA” or “HIGH POWER LR LAXMAN REKHA” or labels at Exhibit H1 or H2 hereto or any mark or label identical with or similar to the Applicants’ trade mark “LAXMANREKHAA” and /or its label at Exhibit D1 to the plaint as trademark or otherwise in relation to Insecticide Chalks or any Preparation for repelling and destroying Cockroaches, Flies, Insects, Mosquitoes or similar goods or any goods or services.*
- c. Pending the hearing and final disposal of the suit, an order of injunction of this Hon’ble Court restraining the Respondent and / or its servants, agents, representatives and / or any person(s) claiming under or through the Respondent from passing- off its goods by adopting and / or using in any manner the impugned marks “SUPER LR LAXMAN REKHA” or “HIGH POWER LR LAXMAN REKHA” or the abbreviation “LR” or the labels at Exhibits H1 and H2 to the plaint or any mark or label identical with or*

similar to or indicating the Applicants' trademark "LAXMANREKHAA" and / or its label at Exhibit A2 to the Plaint as trademark or otherwise in relation to Insecticide Chalks or preparation for repelling and destroying Cockroaches, Flies, Insects, Mosquitoes or similar goods in any form.

- d. Pending the hearing and final disposal of the Suit, Respondent be ordered and decreed to render to the Applicant a true and correct inventory of stock, including batch numbers and manufacturing dates of Insecticide Chalks or Preparation for repelling and destroying Cockroaches, Flies, Insects, Mosquitoes or similar goods in any form bearing or intended to bear the impugned marks "SUPER LR LAXMAN REKHA" or "HIGH POWER LR LAXMAN REKHA" or the abbreviation "LR" or the labels at Exhibit H1 and H2 to the plaint or any mark or label identical with or similar to the Applicants' trademark "LAXMANREKHAA" and its label at Exhibit A2 to the Plaint, together with used and / or unused packaging materials, unused product information catalogues and booklets and any other material bearing impugned marks "SUPER LR LAXMAN REKHA" or "HIGH POWER LR LAXMAN REKHA" OR THE ABBREVIATION "LR" or the labels at Exhibits H1 and H2 to the Plaint or any reproduction of the Applicants' trademark "LAXMANREKHAA" and / or its label at Exhibit A2 to the Plaint.*
- e. Pending the hearing and final disposal of the suit, Respondent be ordered and decreed by this Hon'ble Court to deliver up to Applicant for destruction of all Insecticide Chalks or Preparations for repelling and destroying Cockroaches, Flies, Insects, Mosquitoes or similar goods in any form, wrapped or unwrapped with packing material bearing the impugned marks "SUPER LR LAXMAN REKHA" or "HIGH POWER LR LAXMAN REKHA" or the abbreviation "LR" or labels at Exhibits H1 and H2 to the plaint, unused packing materials and product information catalogues, booklets and other materials bearing or containing*

any reproduction of offending mark and/or label at Exhibits H1 and H2 to the plaint being used by the Respondent.

6. The Advocate for the Plaintiff shall serve the notice of this Order on the Defendants.

7. The Interim Application is accordingly disposed of.

[R.I. CHAGLA J.]