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

**COMMERCIAL IP SUIT (LODGING) NO. 6723 OF 2022
WITH
INTERIM APPLICATION (LODGING) NO. 6733 OF 2022
WITH
LEAVE PETITION (LODGING) NO. 6730 OF 2022
WITH
COURT RECEIVER'S REPORT NO. 156 OF 2022**

Hindustan Unilever Limited

...Applicant/Plaintiff

Versus

Xquizeet Export Pvt. Ltd.

...Defendant

- Mr. Hiren Kamod a/w Mr. Annes Patel and Ms. Niyati Davawala i/by Laher Shah, for Applicant / Plaintiff.
- Mr. Vishal Kanade Shivam Singh & D. K. Shukla, for Defendant.
- Mr. Laxman V. Madgundi, Clerk, representative of Court Receiver.
- Mr. Neeraj Kumar Yadav – Defendant present in Court.

CORAM : MANISH PITALE, J

DATE : 24th FEBRUARY, 2023.

P. C. :

1. The Plaintiff herein approached this Court by filing the Suit and the Application for interim reliefs in the context of its registered trademarks Surf/Surf Excel and Splat Logo for its detergent preparations. By order dated 12th April, 2022, this Court granted *ex-parte* ad-interim reliefs in favour of the Plaintiff. The order was sought to be executed on 22nd April, 2022. The report of the Court Receiver bearing No. 156 of 2022, recorded that when the Additional Special Receiver went to the site to execute the order of this Court, Director of the Defendant Mr. Neeraj Kumar Yadav, who is present in Court today, obstructed the execution of the said order and misbehaved with the Additional Special Receiver. The conduct of the

said person was recorded in a report prepared by the Additional Special Receiver, forwarded to the Court Receiver and subsequently brought to the notice of this Court.

2. On 27th April, 2022, this Court took notice of the conduct of the said person and passed a further order directing that the Police Authorities at the site to extend full co-operation to the Additional Special Receiver to execute the order. It was specifically observed that the said person had obstructed the execution of order of this Court and *prima facie* his actions amounted to interference in administration of justice. Accordingly, by the said order, this Court directed the Police Authorities, including Commissioner of Police of Lucknow, to ensure that the order passed by this Court was executed and Mr. Neeraj Kumar Yadav was put to notice that any further interference with the work of the Additional Special Receiver would constitute contempt of Court.

3. The report of the Court Receiver thereafter records that on 17th May, 2022, when the second attempt at execution of the order of this Court was made, Mr. Neeraj Kumar Yadav, again obstructed the Additional Special Receiver. The site report on record, records that a truck containing the impugned products was taken away from the site, as a consequence of which the impugned products could not be found at the site.

4. An attempt was made on behalf of the Defendant to contend that there were discrepancies between the hand written site report and the typed report of the Additional Special Receiver.

5. This Court recorded in its order on 11th October, 2022, that the conduct of Mr. Neeraj Kumar Yadav was inappropriate and that an affidavit placed on record on his behalf did not show any remorse on his part for his conduct in obstructing the Additional Special Receiver. Eventually Mr. Neeraj Kumar Yadav was granted another opportunity to file an affidavit. In the further affidavit, Mr. Neeraj Yadav did tender an unconditional apology before this Court, but continued to make certain submissions, as regards the report of Additional Special Receiver concerning execution of the order of this Court on 17th May, 2022. As regards the incident that took place on 22nd April, 2022, an explanation was sought to be tendered, to the effect that since Mr. Neeraj Yadav was unaware about the order of this Court, in a state of panic he behaved in a peculiar manner. The allegation that he had threatened to kill the persons who were seeking to execute the order of this Court were stoutly denied in the affidavit.

6. It is in this backdrop, that the present proceeding is listed today.

7. When the matter is called out for hearing, learned Counsel appearing for the Defendant representing Mr. Neeraj Kumar Yadav submitted that on 16th June, 2022 itself, this Court had already recorded the statement made on behalf of the Defendant that he had stopped using the infringing logo and trade dress, and that such statement could be accepted as an undertaking to this Court. On this basis, it was submitted that this Court may consider passing appropriate orders in the matter. On specific instructions taken from Mr. Neeraj Kumar Yadav, present in Court today, he submitted that the Defendant is ready to submit to a decree in terms of prayer clauses (a), (b) and (c), which pertain to infringement of trademark and copyright of the Plaintiff, as also the action of passing off.

8. The learned Counsel appearing for the Plaintiff vehemently submitted that in the light of the conduct of Mr. Neeraj Kumar Yadav, Director of the Defendant Company, this Court may consider imposing exemplary costs, which could be made over to a charitable purpose, so that such conduct is not repeated in the future. It is in the light of the instructions taken by the learned Counsel appearing for the Defendant that the present suit can be decreed in terms of prayer clauses (a), (b) and (c).

9. This Court has considered the material on record. Even if

the doubts raised on behalf of the Defendant, as regards the discrepancy between typed report of the Additional Special Receiver and the hand written site report dated 17th May, 2022, is to be taken into consideration, there can be no dispute about the fact that on 22nd April, 2022, Mr. Neeraj Kumar Yadav did obstruct the Additional Special Receiver, who was seeking to execute the order of this Court dated 12th April, 2022. The report of Additional Special Receiver describes in detail, as to the manner in which Mr. Neeraj Yadav behaved and effectively stalled execution of the order of this Court. The explanation sought to be given in the subsequent affidavit is not adequate. It is not acceptable that merely because the said Mr. Neeraj Kumar Yadav had panicked on the said date that he would be justified in behaving in the manner in which he behaved, while obstructing of execution of the order of this Court. This Court could have proceeded to initiate Contempt proceedings against the said Mr. Neeraj Kumar Yadav.

10. But, considering the fact that he has remained present in this Court on various dates of hearing and further in his affidavit he has indeed tendered unconditional apology before this Court, instead of initiating contempt proceedings, this Court is inclined to impose costs on Mr. Neeraj Kumar Yadav, before proceeding to dispose of the suit.

11. Accordingly, the Defendant through Mr. Neeraj Kumar Yadav shall deposit a sum of Rs. 1,00,000/- (Rupees One Lakh only) towards costs in the Bank Account of Kirtikar Library within a period of four weeks from today, the details of which are as follows :

Kirtikar Library

Bank : Bank of India (Branch : Mumbai main).

Saving Bank Account No. 000110110012632

IFSC Code : BKID0000001

MICR Code : 400013087

12. In the light of the statement made on behalf of the Defendant, the suit is decreed in terms of prayer clauses (a), (b) and (c), which read as follows :

“(a) the Defendant by itself, its proprietor/partners, servants, agents, stockists, employees, distributors, dealers, assignees and all persons claiming under it be restrained by a permanent order and injunction of this Hon’ble Court from manufacturing, marketing, distributing, packaging, selling and/or using in any manner whatsoever in relation to its detergent preparations and/or any other like goods used in the detergent industry, the “impugned logo” or any mark/logo identical with and/or deceptively similar to the Plaintiff’s said “SPLAT Logo”, so as to infringe upon the Plaintiff’s said SPLAT Logo bearing Registration No. 1486109, 1780462 and 1486107 all in Class 03 in respect of the goods covered by the Plaintiff’s aforesaid registrations

and/or the like goods or any other manner whatsoever;

- (b) the Defendant by itself, its proprietor/partners, servants, agents, distributors, dealers, assignees, stockists and all persons claiming under it be restrained by a permanent order and injunction of this Hon'ble Court from infringing the Plaintiff's copyright in the artistic work comprised in the said artistic packaging/trade dress shown at Exhibit "F" hereto by reproducing, printing, publishing, using and/or communicating to the public the impugned packaging/ trade dress shown at Exhibit "F" hereto and/or any other work/ packaging/trade dress which is a reproduction of the artistic work comprised in the Plaintiff's said artistic packaging/trade dress shown at Exhibit "C" hereto or substantial part thereof or in any other manner whatsoever;
- (c) the Defendant by itself, its proprietor/partners, servants, agents, distributors, dealers, assignees, stockists and all persons claiming under it be restrained by a permanent order and injunction of this Hon'ble Court from manufacturing, marketing, distributing, packaging, selling and/or using in any manner whatsoever in relation to its detergent preparations and/or any other like goods used in the detergent industry, the impugned packaging/ impugned trade dress bearing the impugned logo shown at Exhibit "F" or any trade dress or any other

mark/logo identical with and/or deceptively similar to the Plaintiff's said artistic packaging/trade dress and the SPLAT Logo, so as to pass off its goods and business as and for those of the Plaintiff or in some way connected or associated therewith;.”

13. The Leave Petition filed under Clause XIV of the Letters Patent is allowed by Consent.

14. The learned Counsel for the Applicant/Plaintiff, on instructions, states that the Plaintiff is giving up the reliefs sought in prayer clauses (d) and (e) of the plaint.

15. The Suit stands decreed as above. Decree be drawn up accordingly. Pending applications, if any, stand disposed of.

16. List the suit only for reporting compliance on **30th March, 2023**. Needless to say, the presence of Mr. Neeraj Kumar Yadav would no longer be necessary.

17. In view of disposal of the Suit, the Court Receiver's Report is disposed of and the Court Receiver is discharged, without passing up of accounts.

(MANISH PITALE, J.)