

Victory Oil Gram Udyog Association ... Defendant

Ms. Dishita Shah, i/by. Gautam & Co. for applicant/plaintiff.

CORAM : MANISH PITALE, J
DATE : 23rd FEBRUARY, 2023

P.C. :

By order dated 6th July, 2022, this Court granted *ex-parte* ad-interim reliefs in favour of the plaintiff. The order was executed and the Court Receiver's Report No.244 of 2022 is already on record. The service report shows that the defendant was served. It appears that the defendant was served during the execution of the order passed by this Court.

2. Today, when the matter is called out for hearing, the learned counsel for the applicant/plaintiff is pressing for grant of the leave petition filed under Clause XIV of the Letters Patent, in the backdrop of the fact that the defendant has already been served. There is no appearance on behalf of the defendant, despite service.

3. The leave petition is taken up for consideration and in the interest of justice, the same is allowed, particularly to avoid multiplicity of proceedings.

4. In light of the leave petition being granted, the learned counsel for the plaintiff is pressing for grant of ad-interim relief, concerning the cause of action of passing off. The learned counsel for the plaintiff has placed reliance on paragraph Nos.22 to 24 of the plaint.

5. This Court has considered the aforesaid pleadings as also the material placed on record. The plaintiff has indeed made out a strong *prima facie* case in respect of cause of action of passing off.

6. In view of the above, in addition to the ad-interim reliefs granted earlier, there shall be ad-interim relief in terms of prayer clause (b) also, which reads as follows:

‘(b) that pending the hearing and final disposal of the suit, the Defendant by itself, its proprietor, partners, directors, servants, agents, stockists, distributors, dealers, franchisees, licensees, assigns and all persons claiming through it or acting on its behalf be restrained by an order and temporary injunction of this Hon'ble Court from using the impugned packagings/trade dresses shown at Exhibit "F" to the Plaint and/or any other packaging / trade dress which bears close resemblance and/or is deceptively similar to the Plaintiff's said packagings / trade dresses shown at Exhibits "A" and "B" to the Plaint so as to pass off or enable others to pass off the Defendant's goods as and for the Plaintiff's well-known goods or in any other manner whatsoever;’

7. The ad-interim reliefs granted earlier and the ad-interim relief granted today shall continue to operate until further order.

8. List the application for hearing on 11th April, 2023.

(MANISH PITALE, J)