

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

INTERIM APPLICATION NO. 2313 OF 2022

IN

COMMERCIAL IP SUIT NO. 75 OF 2022

Marico Limited

...Applicant/Plaintiff

Versus

Ashok Kumar (Unknown person/s)

...Defendant

* * *

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

* * *

CORAM : MANISH PITALE, J

DATE : 23rd MARCH, 2023.

P. C. :

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

2. By order dated 24th November, 2021, this Court granted *ex-parte* ad-interim reliefs in favour of the Plaintiff in the context of its registered trademark "PARACHUTE", as also registered and subsisting copyright pertaining to the original artistic work associated with the said trademark.

3. The present proceeding was initially filed as a John Doe action and upon execution of the *ex-parte* order, the Plaintiff became aware about the details of the parties involved. Accordingly, this Court permitted the Plaintiff to amend the pleadings, whereupon the order was executed as against the newly added Defendants and they were also served with the papers. The Court Receiver's Report is on

record.

4. On a few occasions, the Defendants were represented by Counsel. It was indicated that the Defendants would be interested in settling the disputes with the Plaintiff, but nothing concrete in terms of settlement resulted. The ad-interim order has continued to operate.

5. On 24th November, 2022, this Court allowed the Leave Petition and granted ad-interim reliefs for the cause of action of passing off also. It was directed that ad-interim reliefs would continue to operate until further orders and the application was directed to be listed for final disposal.

6. The learned Counsel appearing for the Plaintiff informs this Court that the Defendants have failed to appear before this Court repeatedly and that therefore, the Plaintiff is pressing for making the ad-interim orders absolute and for allowing the present application.

7. Even today when the application is called out for hearing, there is no appearance on behalf of the Defendants. Hence the application is taken up for hearing.

8. This Court has perused the material on record and heard the learned Counsel for the Plaintiff. The impugned products of the Defendants are nothing but counterfeit products, for the reason that

the registered trademark PARACHUTE, as also the original artistic work in which the Plaintiff claims registered copyright and subsisting copyright, have been copied by the Defendants.

9. This Court had recorded the manner in which the Defendants have slavishly copied almost all the features of the registered trademark and copyright of the Plaintiff.

10. There is no defence forthcoming on behalf of the Defendants. Even otherwise, a bare comparison of the rival products would show that the registered trademark of the Plaintiff and the original artistic work have been copied. There is sufficient material on record to show the extent of goodwill earned by the Plaintiff in the context of said trademark and copyright. The details of the same have been already recorded in the order dated 24th November, 2021, passed by this Court.

11. This Court is convinced that unless the ad-interim orders are made absolute and the present application is allowed, the Plaintiff would continue to suffer grave and irreparable loss, thereby indicating that balance of convenience is also in favour of the Plaintiff. This Court is convinced that the Plaintiff has made out a strong *prima facie* case that the adoption of the impugned trademark by the Defendant is dishonest.

12. In view of the above, the ad-interim orders dated 24th November, 2021 and 24th November, 2022, are made absolute. The consequently the application is allowed in terms of prayer clauses (a), (b) (c) (d) and (f). The interim reliefs shall continue to operate during the pendency of the suit.

13. 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.)