

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
INTERIM APPLICATION (L) NO.27098 OF 2022  
WITH  
COURT RECEIVER REPORT NO.340 OF 2022  
IN  
COMMERCIAL IP SUIT (L) NO.27094 OF 2022

Hindustan Unilever Limited ... Applicant / Plaintiff  
Vs.  
Nizami Collection and others ... Respondents / Defendants

Ms. Laher Shah i/b. Davawala & Shah LLP for Applicant / Plaintiff.  
Mr. D. M. Patil, Section Officer from Court Receiver's Office.

**CORAM : MANISH PITALE, J.**  
**DATE : MARCH 23, 2023**

**P.C. :**

1. By order dated 08.09.2022, this Court granted *ex-parte* ad-interim reliefs in favour of the plaintiff. Such ad-interim reliefs pertained to the causes of action of infringement as well as passing-off because the impugned products were found within the jurisdiction of this Court.

2. The material on record shows that the plaintiff was aggrieved by counterfeit products found in the market, which infringed the registered trademarks of the plaintiff namely, Hindustan Unilever Limited, HUL, LAKME, LAKME EYECONIC, LAKME NINE to FIVE and L-LOGO.

3. The *ex-parte* order was executed and the Court Receiver's Report is already on record. Subsequently, on 17.10.2022, defendant Nos.1 to 3 appeared through counsel and time was sought on behalf of defendant No.1 to file reply affidavit. Accordingly, the matter was adjourned and the ad-interim reliefs were continued. The ad-interim reliefs have continued to operate till today. In the meanwhile, on 27.01.20223, when the application was listed, statement was made that the learned counsel

for the plaintiff was informed telephonically that the defendants were on their way. On this basis, the application was adjourned till today and the ad-interim order was continued.

4. Today, when the application is called out for hearing, there is no appearance on behalf of the defendants. The learned counsel for the plaintiff submits that in this backdrop, the ad-interim order may be made absolute and the application may be disposed of.

5. This Court has considered the material on record. A comparison of the impugned products with the products of the plaintiff shows that there is substance in the contention of the plaintiff that the impugned products are counterfeit products. The aforementioned registered trademarks of the plaintiff have been copied by the defendants. Comparison of the rival marks is given in the ad-interim order passed by this Court. A perusal of the same shows that almost every feature of the registered trademark of the plaintiff has been copied. It is clear that the defendants have indulged in selling counterfeit products to the detriment of the plaintiff. There is no defence forthcoming. Although time was sought on behalf of defendant No.1 to file affidavit, no such reply has been filed. On two consecutive dates, defendants have failed to appear before this Court.

6. This Court has perused the pleadings on record. There are sufficient disclosures about the efforts made on behalf of the plaintiff about the impugned activities of the defendants. This Court is convinced that the impugned products are nothing but counterfeit products. The comparison of the products given in paragraph 29 of the plaint makes it sufficiently clear that the plaintiff has indeed made out a strong *prima facie* case for making absolute the ad-interim reliefs granted by this Court.

7. This Court is convinced that unless the present application is allowed by making the ad-interim reliefs absolute, the plaintiff will continue to suffer grave and irreparable loss, thereby showing that the balance of convenience is in favour of the plaintiff. Accordingly, the application is allowed. The ad-interim reliefs are made absolute. There shall be interim reliefs in favour of the plaintiff in terms of prayer clauses (a) to (e) during the pendency of the suit.

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

9. Interim application stands disposed of.

**(MANISH PITALE, J.)**

*Minal Parab*