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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No. 5597 of 2022 (O&M)

Date of decision: 29.03.2023

Diwakar Enterprises and another

...Appellants

Versus

M/s. Sagar Enterprises

...Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Karanvir Singh Khehar, Advocate for
Mr. D.S. Virk, Advocate
for the appellants.

Mr. Sunil Sihag, Advocate
for the respondent (Applicant in CM-5359-CII-2023)

MAHABIR SINGH SINDHU, J.

CM No. 5359-CII of 2023

Application moved on behalf of applicant-respondent for
placing on record certain documents as Annexures R-1 to R-4.

Application is allowed, as prayed for, subject to all just
exceptions. The above documents are taken on record as Annexures
R-1 to R-4.

Registry will do the needful.

MAIN CASE

[1] Present appeal has been preferred under Order 43 Rule 1
of Civil Procedure Code, 1908 (for short "CPC") for setting aside the
impugned order dated 14.11.2022 passed by learned Additional District
Judge, Sirsa, whereby an application of plaintiff/respondent for interim

injunction under Order 39 Rule 1 & 2 CPC, was allowed and the defendants/appellants were restrained from distributing its products under brand name of “DISAWAR” till decision of the civil suit pending between the parties.

[2] After arguing for some time, learned counsel, on instructions from defendants/appellants, submits that they shall use their own trade mark, i.e. “DISAWAR”, strictly as per the registration certificate dated 04.03.2021 (A-2) issued by the competent authority and have no concern with the trade mark of plaintiff/respondent.

[3] On the other hand, learned counsel, on instructions from plaintiff/respondent, is not averse to the aforesaid contention; however, submitted that the defendants/appellants be completely restrained from using registered trade mark dated 22.08.2016 (R-2), known as  in any manner.

[4] Heard both sides and perused the paper-book.

[5] In order to dispose off the present appeal, it would be appropriate to re-capitulate the registered trade marks of both sides and which are as under:-

Appellants/defendants	Respondent/plaintiff
	

[6] Since parties have arrived at a consensus; therefore, in

modified and the present appeal is disposed off with the following directions:-

- (i) Henceforth the defendants/appellants shall use their trade mark, i.e. “DISAWAR” (A-2) and they have no concern with the trade mark of the plaintiff/respondent, namely,  (R-2) in any manner.
- (ii) This arrangement is subject to final outcome of civil suit pending between the parties and be not construed as an expression of opinion on merits of the controversy.
- (iii) In order to implement the directions of this Court, Mr. Deepak Malik, Advocate (E.No. P-1565/1998, M.No. 9812800182), is deputed as Court Commissioner, who shall fully coordinate with both sides and submit a compliance report with the Registry to that effect, on or before 5th July, 2023.

[7] During the course of hearing, both sides have agreed to compensate the Court Commissioner by way of total fee of Rs. 50,000/- (Rs. 25000/- each) by way of demand draft / bank transfer.

[8] It is clarified that in case, there is any breach of the aforesaid direction(s) by either side, necessary legal consequences shall follow and the aggrieved party would be at liberty to move an appropriate application for recalling of this order.

Pending application(s), if any, shall also stand(s) disposed off.

March 29, 2023

‘dk kamra’

(MAHABIR SINGH SINDHU)

JUDGE

Whether Speaking / Reasoned :	Yes	No
Whether Reportable :	Yes	No