

IA No: GA-Com 1 of 2024
APOT No. 316 of 2024
with
IP-Com No. 21 of 2024
IN THE HIGH COURT AT CALCUTTA
In appeal from its
ORIGINAL JURISDICTION
CIVIL APPELLATE JURISDICTION
(Commercial Division)

Manish Kumar Jain & Another
Versus
Tushar Saraf & Ors.

Before:
The Hon'ble Justice I. P. MUKERJI
And
The Hon'ble Justice BISWAROOP CHOWDHURY
Date: 11th September 2024

Appearance:
Mr. Abhrajit Mitra, Sr. Advocate
Mr. Sayantan Basu, Advocate
Mr. Tanmoy Ray, Advocate
for the appellants

Mr. Ranjan Bachawat, Sr. Advocate
Mr. Debnath Ghosh, Advocate
Mr. Shaunak Mitra, Advocate
Ms. Vaibhavi Pandey, Advocate
Mr. Biswaroop Mukherjee, Advocate
for respondent no.1

Mr. Sayan Roy Chowdhury, Advocate
Mr. Soumya Sen, Advocate
Mr. Paritosh Sinha, Advocate
Mr. K. K. Pandey, Advocate
Mr. Gyan Prakash, Advocate
for respondent no.3

The Court: Order in terms of prayer (a) of the stay petition.

We are in a position to dispose of this appeal today itself, dispensing with all formality.

This appeal is against an interim order dated 8th August 2024 made by a learned single judge in an interim application in a trademark suit restraining the appellants from using the trademark "JJ DELUX" and "various other "JJ" formative marks" till 13th September 2024.

We find that at the motion stage the matter was argued extensively by learned counsel for both the parties. However, the

penultimate paragraph of the interim order directed the respondents/plaintiffs to serve “the copy of the application, documents and plaint” on the appellants/defendants. The application was made returnable on 13th September 2024.

It is plain from perusal of this order that this interim order had been passed on the prima facie case that could be made out by the respondents/plaintiffs at the motion stage on the available evidence. Although the appellants/defendants had been heard, there was scope of further exposition of the prima facie case, balance of convenience and so on, on the returnable date.

In that view of the matter, it would be in the fitness of things if the interim application was heard out by the learned trial judge de novo, considering all the materials now available before his lordship to consider whether to extend or modify or reverse or vary the impugned interim order.

All points are kept open before the court.

The impugned interim order dated 8th August 2024 is extended till 20th September 2024.

The appeal (APOT 316 of 2024) and the connected stay application (IA No: GA-com 1 of 2024) are disposed of.

As affidavits were not invited, the allegations contained in the stay application are deemed to have been not admitted.

(I. P. MUKERJI, J.)

(BISWAROOP CHOWDHURY, J.)