

rajshree

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL IP SUIT NO.353 OF 2023
WITH
INTERIM APPLICATION (L) NO.19720 OF 2023
WITH
COURT RECEIVER'S REPORT NO.297 OF 2023
WITH
LEAVE PETITION (L) NO.19687 OF 2023
IN
COMMERCIAL IP SUIT NO.353 OF 2023

Innovations Garment Pvt. Ltd.	]	..	Plaintiff
vs.			
Harshaben Vijaybhai Shah, Proprietor of	]		
Royal Uniform	]	..	Defendant

Mr.Hiren Kamod a/w Prem Khullar, Aditya Chitale and Prashant Shetty
i/b RKDewan Legal Services for the Plaintiff.

Ms.Riddhi Hakeem for the Defendant.

Ms.Charushila M. Vaidya, 2nd Assistant to Court Receiver present.

CORAM : BHARATI DANGRE, J

DATE : 14th March, 2024.

P.C.

1] The Consent Minutes of the Order under the signature of the
Plaintiff and the Defendant dated 14.03.2024 are placed on record.

By accepting the same, it is marked as 'X' for identification.

2] The parties have agreed for a decree being granted in favour of the Plaintiff in terms of prayer clause (a), (b) and (c) of the Plaint, in the wake of the amicable settlement arrived between them.

The Defendant has acknowledged and confirmed that the Plaintiff is the true and lawful proprietor of the trademark in distinct classes and the owner of the copyright subsisting in the artistic work and he has unconditionally acknowledged and agreed the Plaintiff's statutory and common law rights therein.

The Consent Minutes of Order also record that the Defendant has paid a sum of Rs.4,50,000/- towards cost and Para 6 and 7 has recorded certain understanding as regards disposal of the goods in presence of the Plaintiff's representatives alongwith a clause for payment of RS.5,00,000/- as and by way of liquidated damages to the Plaintiff, in case there is any disobedience or breach of the undertakings stipulated therein.

3] The Leave Petition (L) No.19687/2023 is allowed and disposed off as agreed between the parties.

4] The Suit stand decreed in terms of prayer clause (a), (b) and (c) of the Plaint as below :

“(a) that Defendant by itself, its proprietors, partners, servants, agents, stockists, dealers, distributors and all persons acting on its behalf be restrained by a perpetual order and injunction of this Hon’ble Court from infringing the Plaintiff’s registered trade mark bearing registration Nos.3700255, 3700256, 3700257, 3700258, 3700259 in Classes 18, 21, 25, 26 and 35, respectively, or any of them, by the use of the impugned trade mark as shown at Exhibit K to the Plaint or any other trade mark which is identical with and/or deceptively similar to the Plaintiff’s registered trade mark in respect of the said goods and services or in any other manner whatsoever.

(b) that Defendant by itself, its proprietors, partners, servants, agents, stockists, dealers, distributors and all persons acting on its behalf be restrained by a perpetual order and injunction of this Hon’ble Court from infringing the Plaintiff’s copyright in the Plaintiff’s said trade mark shown at Exhibit B to the Plaint by reproducing in any material form or communicating to the public the impugned trade mark shown at Exhibit K to the Plaint which is a reproduction of the Plaintiff’s said trade mark shown at Exhibit B to the Plaint or in any other manner whatsoever.

(c) that Defendant by itself, its proprietors, partners, servants, agents, stockists, dealers, distributors and all persons acting on its behalf be restrained by a perpetual order and injunction of this Hon’ble Court from manufacturing, selling, advertising, distributing, marketing, exhibiting for sale or otherwise dealing in the impugned goods or like goods under the impugned trade mark or any other trade mark identical with or deceptively similar to the Plaintiff’s well-known trade mark so as to pass off its impugned goods or like goods as and for the Plaintiff’s said goods and services or in any other manner whatsoever.”

5] Court fees, to be refunded, as per entitlement.

Pending Interim Applications are disposed off.

6] Court Receiver stand discharged without passing accounts.

Needless to state that the Court Receiver shall be entitled for the necessary costs, expenses towards discharge of its duty.

7] Court Receiver's Report No.297/2023 stand disposed off.

[BHARATI DANGRE, J]