



2024:DHC:5759



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of decision: 01st August, 2024**+ **CS(COMM) 279/2018****M/S MARVEL TEA ESTATE INDIA LTD.Plaintiff****Through: Mr. Umesh Mishra, Advocate
Mob: 9868401295****versus****M/S NUSUN GENETIC RESERCH LTD.Defendant****Through: None****CORAM:****HON'BLE MS. JUSTICE MINI PUSHKARNA****MINI PUSHKARNA, J (ORAL)**

1. The present is a suit for permanent injunction restraining passing off, infringement of trade mark, trade name, rendition of account, delivery up, etc. The present suit has been filed to prevent the defendant from using in any manner, the brand name/mark 'NUSUN MARVEL' or any deceptively similar mark/name for their business, sale, services, goods falling in Class 30 and 31, as the same constitutes infringement and passing off, of the registered trade mark of the plaintiff, i.e., 'MARVEL'.
2. As per the facts on record, the plaintiff has a registered trade mark, i.e., 'MARVEL' under Class-30, under which the plaintiff conducts business of manufacturing, producing and marketing of goods like tea, soaps, detergent, etc. The plaintiff has other marks with the same prefix of 'MARVEL' which are registered, details and status of which are given as under:



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Trade Mark	Class	App. No.	Status
MARVEL	30	625297	REGD.
MARVEL	29	794075	REGD.
MARVEL	4	1247532	REGD.
MARVEL	29	1247533	REGD.
MARVEL	30	1247534	REGD.
MARVEL	35	1247535	REGD.
MARVEL (L)	30	1266233	REGD.

MARVEL	5	1271760	REGD.
MARVAL	30	1280137	REGD.
MAREL	30	1280139	REGD.
MARVE	30	1280140	REGD.
NARVEL	30	1280142	REGD.
MARVEL	3	1410811	REGD.
MARVEL	36	1410812	REGD.
MARVEL	37	1410813	REGD.
MARVEL	42	1410814	REGD.
MARVEL LAPIS	3	1512877	REGD.
MARVEL COLVIN	3	1512878	REGD.
MARVEL LAY (L)	3	1271761	PUB.
MARVEL TOUCH 'N' GLOW	3	1271762	PUB.
MARVEL ASMI (L)	3	1271763	PUB.
MARBLE	30	1280138	PUB.
MARVEL GLORY (L)	30	1522254	PUB.
MARVEL	24	1718041	PENDING



3. It is also to be noted that plaintiff is also the registered copyright holder of the artistic work for the word 'MARVEL', details of which, are given as follows:

Copyright Status	Registration NO.	Status
MARVEL RED TEA CTC	A-56155/99	REGD
MARVEL	A-70955/2005	REGD
MARVEL GOLD	A-75199/2005	REGD
MARVEL YELLOW NEW PACK	A-75200/2005	REGD
MARVEL GOLD	A-56156/99	REGD
MARVEL GOLD NEW PACK	A-83217/2008	REGD
MARVEL RED TEA	A-83218/2008	REGD
MARVEL YELLOW ALL NEW	A-79997/2007	REGD
MARVEL GLORY	A-80796/2007	REGD

4. This Court notes the statement on behalf of the defendant, recorded in the order dated 7th August, 2023, wherein, it has been stated that defendant-company, has shut down. The relevant portion of the order dated 7th August, 2023, reads as follows:

“xxx xxx xxx

1. Mr. Vutts, learned Counsel for the defendant submits that the defendant company has shut down.

xxx xxx xxx”

5. Accordingly, it is apparent that the defendant is no longer using the mark 'NUSUN MARVEL', as the defendant-company, has already shut down its operations.

6. None appears for the defendant when the matter is called out.



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7. Learned counsel appearing for the plaintiff presses that in view of the aforesaid statement made by learned counsel appearing for the defendant, as recorded in the order dated 7th August, 2023, the suit be decreed.
8. Considering the detailed discussion hereinabove, permanent injunction is granted in favour of the plaintiff and against the defendant, their associates, sister concerns, its group of companies, dealers, distributors through themselves, or through servants, agents, stockiest, assignees and representatives and all other acting for and on their behalf, restraining them from manufacturing, selling, offering for sale, advertising, directly and indirectly dealing in goods falling in Class 30 and 31, bearing the trade mark 'NUSUN MARVEL', or any other trade mark, as may be identical with, and/or deceptively and confusingly similar to plaintiff's registered trade mark 'MARVEL', which may amount of infringement/passing off, of the trade mark of the plaintiff.
9. In view of the aforesaid, the suit is decreed in favour of the plaintiff.
10. Decree sheet be drawn up.
11. The present suit is accordingly disposed of.

MINI PUSHKARNA, J

AUGUST 1, 2024/ak