



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11619 OF 2025**

Indian Institute of Legal Studies	...	Petitioner
versus		
Indian Law Society	...	Respondent

Mr. Rahul Sarda with Ms.Divya Dave, Mr. Avdhoot Prabhu i/by Lex Services for Petitioner.

Mr. Ameet Deshpande with Mr. Sumedh Ruikar, Dr. Mohan Dewan, Mr. Aditya Chitale, Mr. Prashant Shetty, Mr. Saikumar Mergu i/by RK Dewan Legal Services, for Respondent.

CORAM: N.J.JAMADAR, J.

DATE : 25 NOVEMBER 2025

P.C.

1. Heard the learned Counsel for the parties.
2. The Petitioner – Defendant takes exception to an order dated 21 February 2025 passed by the learned District Judge, Pune, in Commercial Suit No.38 of 2022, whereby the application preferred by the Petitioner – Defendant for the rejection of the plaint under the provisions of Order VII Rule 11 of the Code of Civil Procedure, 1908 (the Code), for not resorting to mediation under Section 12-A of the Commercial Courts Act, 2015 came to be rejected.
3. The Respondent – Plaintiff has instituted a suit for infringement of trademark and passing off, seeking, inter alia, injunction and damages. The Defendant has allegedly unauthorizedly adopted a mark 'IILS', which is

deceptively similar to the trademark of the Plaintiff 'ILS' and also used the same as part of its domain name and passed off its services in legal education as those of the Plaintiff, a well known educational institution imparting legal education. Though a commercial suit was instituted for infringement of trademark and passing off, the Plaintiff did not resort to mediation before the institution of the suit, as mandated by the provisions contained in Section 12-A of the Act, 2015. Thus, the Defendant took out an application for rejection of the plaint on the ground that the suit did not contemplate any urgent interim relief, and, therefore, the plaint was liable to be rejected.

4. By the impugned order, learned Judge, Commercial Court, rejected the application observing, inter alia, that, prima facie, the Plaintiff was entitled to protection of its intellectual property rights, and, thus, the aspect of delay in approaching the court by itself was not sufficient to draw an inference that the suit did not contemplate urgent interim relief and, therefore, the Plaintiff cannot be non-suited for not adhering to the mandate contained in Section 12-A of the Act, 2015.

5. Mr. Sarda, learned Counsel for the Petitioner, canvassed a two fold submission. Firstly, the very assertion in the plaint that the Plaintiff was not seeking ad-interim reliefs implied that the suit did not contemplate urgent interim relief. Secondly, the learned Judge, Commercial Court, invented a

case of continuous breach of the intellectual property rights, which was not asserted by the Plaintiff and, on that premise, erroneously rejected the application for rejection of the plaint.

6. Reliance was placed on the decisions of the Supreme Court in the cases of **Patil Automation Pvt. Ltd. and Ors. V/s. Rakheja Engineers Pvt. Ltd.**¹ and **Yamini Manohar V/s. T.K.D. Keerthi**², which emphasised the imperativeness of the mandatory provisions contained in Section 12-A of the Act, 2015. It was submitted that the learned Judge completely misconstrued the ratio in the case of **Yamini Manohar (supra)**, to hold that the Court should resort to Order VII Rule 11 to reject the plaint without complying with the mandate under Section 12-A of the Act, only in the cases of deception and falsity which is apparent or established from the plaint itself.

7. Mr. Deshpande, learned Counsel for the Respondent, countered the submissions on behalf of the Petitioner. It was urged that the suit did contemplate urgent interim reliefs as infringement of the trademark and the passing off of the services of the Defendant as those of the Plaintiff gives rise to a continuous cause of action. Reliance was placed on a recent judgment of **Novenco Building and Industry V/s. Xero Energy Engineering Solutions Pvt. Ltd. and Ors.**³.

8. Having considered the material on record and the submissions across

1 (2022) 1 SCC 1

2 (2024) 5 SCC 815

3 Civil Appeal No.13019 of 2025 dt. 27 Oct 2025

the bar, this Court finds that the learned Judge, Commercial Court, correctly appreciated the matter and came to a justifiable conclusion. The submission of Mr. Sarda that the averment in the plaint that the Plaintiff was not seeking ad-interim relief, implied that no urgent relief was contemplated, is wrongly grounded in facts and unsustainable in law. Such assertion in the plaint cannot be read in isolation. It simply implied that as a caveat was served on the Plaintiff, the latter was not seeking ex-parte ad-interim relief. In any event, such a assertion does not necessarily lead to an inference that the suit did not contemplate urgent interim reliefs.

9. The submission of Mr. Sarda that it was not specifically contended by the Plaintiff that there was a continuous breach of the rights of the Plaintiff, and, therefore, the learned Judge, Commercial Court invented a case for the Plaintiff which was not pleaded, also does not merit acceptance. When the learned Judge, Commercial Court, opined that the infringement of the trademark gives rise to a continuous cause of action, the learned Judge was articulating the position in law.

10. It is well recognized that, in case of infringement of intellectual property rights, an injunction is a natural and most effective remedy. Ordinarily, mere delay in approaching the Court cannot be a touchstone on which the case of infringement of trademark and passing off, can be judged. In the case of **Novenco Building and Industry (supra)**, the Supreme Court has reiterated

that, in actions alleging continuing infringement of intellectual property rights, urgency must be assessed in the context of the ongoing injury and the public interest in preventing deception and mere delay in institution of a suit by itself does not negate urgency when the infringement is continuing.

11. The aforesaid being the position in law, the institution of the suit with clear assertions of infringement of the trademark and passing off the services of the Defendant as that of the Plaintiff, it would be audacious to urge that the suit did not contemplate urgent interim relief. Therefore, the impugned order does not warrant any interference in exercise of the supervisory jurisdiction, especially when the order is passed by the Commercial Court, as the scope of interference with an order passed by the Commercial Court in exercise of supervisory jurisdiction is further constricted.

12. The Writ Petition, thus, stands dismissed.

(N.J.JAMADAR, J.)