



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION

INTERIM APPLICATION NO. 1501 OF 2024
IN
COMMERCIAL IP SUIT NO. 230 OF 2023

Hindustan Unilever Limited

...Applicant/Plaintiff

Versus

Ashok Kumar

...Defendant

Mr. Vinod Bhagat, Ms. Sonam Pradhan i/b Mr. Vinod A. Bhagat for the Petitioner.

Mr. Rakesh Chandra Agarwal (on VC), Mr. Abhishek Bhaduri for Respondent Nos. 2 and 3.

Coram : Sharmila U. Deshmukh, J.

Date : 8th July, 2025.

P. C. :

1. By order dated 19th July, 2023, this Court had granted ad-interim relief in respect of infringement of trade mark and copyright. As leave under Clause XIV of Letters Patent (Bombay) was not obtained, the relief in respect of passing-off was not considered. By order of even date, Leave Petition has been allowed and Mr. Bhagat would insist for ad-interim relief in respect of passing-off.

2. Learned counsel appearing for Respondent Nos. 2 and 3 have not filed their Affidavit-in-reply and would submit that goods are already

destroyed and nothing further survives. On query by this Court, it is submitted that the Defendants are desirous of arriving at amicable settlement with the Plaintiff.

3. By order of 19th July, 2023, this Court had compared the rival products, and had arrived at *prima facie* finding that the Plaintiff's registered trade mark is infringed by the Defendant and an attempt has been made to ride over the goodwill and reputation of the Plaintiff's trade marks, labels, artworks and trade dress. This Court accepted that a strong *prima facie* case was made out and granted ad-interim relief in respect of infringement of trade mark and copyright.

4. Mr. Bhagat, learned counsel appearing for Applicant would point out the sales turn over set out in Paragraph No. 15 of the Plaint which contains tabular chart of the sales and advertisement expenses in respect of 'FAIR & LOVELY' trade marks. He would further point out that Chartered Accountant's Certificate evidencing the sales turn over as well as advertisement expenses. He submits that enormous goodwill is garnered by Plaintiff's mark and it is identified by public with that of the Plaintiff's product. He submits that in light thereof, considering that there is *prima facie* finding of the Defendant attempting to come as close as possible to the Plaintiff's mark, a case for passing-off is made out.

5. There is no opposition on behalf of the Defendant. While passing

ad-interim order dated 19th July, 2023, this Court had *prima facie* noted that Plaintiff's trade mark and art work are distinctive and popular and enjoys enormous goodwill and reputation. *Prima facie*, the Plaintiff has demonstrated the reputation and goodwill and distinctiveness shows that Plaintiff's trade mark is identified by public with its products. The comparison of the rival products would indicate that Defendant has used the Plaintiff's trade mark and has pirated the artistic work which is likely to mislead public in believing that the goods of the Defendant are that of the Plaintiff, which will result in damaging the goodwill and reputation, diluting and debasing the Plaintiff's trade mark. *Prima facie*, the use of the pirated artistic work and trade mark/label/trade dress is likely to cause confusion among the public and likely association with the Plaintiff's product.

6. In light of the above, case is made out for grant of ad-interim relief in respect of passing-off action. Ad-interim relief is granted in terms of prayer clause (c), which reads thus:

“(c) pending the hearing and final disposal of the suit, the Defendant by themselves, their proprietor/partners, servants, agents, distributors, assignees and all those connected with the Defendant in their business be restrained by an order and temporary injunction of this Hon'ble Court from manufacturing, printing, packing, marketing, distributing, supplying, selling and/or using in any manner whatsoever in relation to their face cream and other like cosmetic preparations, the impugned marks depicted under the impugned trade dress of FUOR & LOVELY and FUOR & LOVELY with GROW & LOVELY or any mark or trade dress identical with and/or deceptively

similar to the Plaintiff's distinctive and prior used trade marks and trade dress of FAIR & LOVELY and FAIR & LOVELY with GLOW & LOVELY, so as to pass off their goods and business as and for those of the Plaintiff or in some way connected or associated therewith;"

7. Ad-interim relief granted today is in addition to the ad-interim relief granted earlier.
8. List the Application for further consideration on **8th August, 2025.**
9. Ad-interim granted earlier to continue till the next date.
10. It is clarified that in event, the settlement is not reached, this Court will consider making the Notice of Motion absolute.
11. Liberty to Defendant to file Affidavit-in-reply before the next date.

[Sharmila U. Deshmukh, J.]