

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

**INTERIM APPLICATION NO.3348 OF 2025
IN
COMMERCIAL IP SUIT NO. 63 OF 2024**

Asian Paints Limited

...Plaintiff

Versus

Satish Kumar Jain

...Defendant

*Mr. Vinod Bhagat a/w. Ms. Twisha Singh, Mr. Rashi Thakur i/b. Vinod Bhagat, for the Plaintiff.
Mr. Deepak Bhalerao, 2nd Asstt. To C.R.*

CORAM : SHARMILA U. DESHMUKH, J.

DATE : NOVEMBER 6, 2025

P. C. :

1. This is an action for infringement of trade mark, copyright, and passing off.
2. By order of 8th February, 2024, this Court had granted ad-interim relief in respect of infringement of trade mark and copyright. At that stage as leave under clause XIV of Letters Patent had not been granted the relief in respect of passing off had not been considered. By order of 10th June, 2025, leave under clause XIV of Letters Patent was granted. The ad-interim order was duly executed by the Court Receiver

and the report is placed on record. Despite service of notice, none appears on behalf of the Defendant.

3. Learned counsel appearing for the Plaintiff would submit that by the order of 8th February, 2024, this Court had compared the rival marks and had come to a *prima facie* finding of deceptive similarity in respect the Plaintiffs three trademarks i.e. TRACTOR, TRUCARE and ACE and that there is likelihood of confusion and deception being caused by use of impugned marks. He would further submit that the products of the Defendant are designed in a manner so as to pass off its goods as that of the Plaintiff. He would further point the pleadings in paragraph Nos. 7, 11 and 15 of the Plaint which sets out the sales turn over in respect of the three registered marks of the Plaintiff and would submit that the same would demonstrate the reputation and goodwill which has been garnered by the Plaintiff. He submits that a strong case of passing off is made out and in the absence of any response by the Defendant, this Court may consider the ad-interim relief of passing off.

4. I have considered the submissions and perused the record.

5. By the order of 8th February, 2024, this Court came to a *prima facie* finding, upon comparison of the rival marks, that there is deceptive similarity between the registered trade mark and the artistic work and that there is likelihood of confusion and deception being

caused by the use of the impugned mark. This Court came to a *prima facie* finding that the adoption and use of the impugned mark and artwork by the Defendant is dishonest and without any authority. The sales figure and the promotional expenses which are set out in paragraphs 7, 11 and 15 of the Complaint would *prima facie* demonstrate the reputation and goodwill which has been earned by the Plaintiff. The leading presence of the Plaintiff in the paint industry requires no re-inforcement. *Prima facie* comparison of the rival products would indicate that the Defendant has designed its product in a manner so as to pass off its goods as that of the Plaintiff and there is likelihood of causing damage to the Plaintiff's reputation and goodwill.

6. Hence, *prima facie* case has been made out for grant of ad-interim relief in respect of passing off in terms of prayer clause (c) which reads as under:-

(c) Pending the hearing and final disposal of the suit, the Defendant by themselves, their proprietor, servants, agents, stockists, 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, marketing, distributing, selling and/or using in any manner whatsoever in relation to their emulsion, distemper, primer, paints or other like goods used in the paint industry, the impugned label marks and the impugned trade dress depicted on their TRUCK interior emulsion, TRUCK exterior emulsion, TRUCK synthetic distemper and POOJA PRIME interior wall primer labels or any mark, label or trade dress identical with and/or deceptively similar to the Plaintiff's distinctive and prior used trade marks and trade

dress of TRACTOR emulsion, ACE exterior emulsion, TRUCARE exterior wall primer and TRUCARE interior wall primer, so as to pass off the Defendant's goods and business as and for those of the Plaintiff or in some way connected or associated therewith.

7. The ad-interim relief granted is in addition to the ad-interim relief granted on 8th February, 2024.
8. List the application for further consideration on 1st December, 2025.
9. Ad-interim relief granted to continue till the next date.

[SHARMILA U. DESHMUKH, J.]