

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

**INTERIM APPLICATION NO.3940 OF 2025  
WITH  
LEAVE PETITION (L) NO.32910 OF 2024  
IN  
COMMERCIAL IP SUIT NO. 365 OF 2024**

Bisleri International Private Limited

...Plaintiff

**Versus**

Mahananda Food Private Limited and Anr.

...Defendants

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*Mr. Vinod Bhagat a/w. Ms. Twisha Singh, Mr. Rashi Thakur i/b. Vinod Bhagat, for the Plaintiff.  
Mr. Deepak Bhalerao, 2<sup>nd</sup> Asst. to Court Receiver.*

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**CORAM : SHARMILA U. DESHMUKH, J.**

**DATE : NOVEMBER 6, 2025**

**P. C. :**

Leave Petition (L) No. 32910 of 2024 :-

1. The Petition seeks leave under Clause XIV of the Letters Patent.  
None appears on behalf of the Defendants, though served.
2. In order to avoid multiplicity, of proceedings, the Leave Petition is allowed.

I.A. No. 3940 of 2025 :-

3. By order of 24<sup>th</sup> October, 2024, this Court had granted ad-interim

relief in respect of infringement of trade mark and copyright. As leave under clause XIV of Letters Patent had not been granted, the relief of passing off had not been considered. Subsequently, the Court Receiver executed the ad-interim order dated 24<sup>th</sup> October, 2024 and seized the infringing goods. Despite, service none appears on behalf of the Defendant.

4. Learned counsel appearing for the Applicant has taken this Court to the pleadings in the Plaint and the finding recorded of the order dated 24<sup>th</sup> October, 2024. He submits that this Court had come to a *prima facie* finding of deceptive similarity between the Plaintiff's mark and the Defendant's mark which have similar artwork, colour scheme on the label, bottle shape and design. He submits that this Court has considered that the impugned mark, article shape and design has the propensity to deceive the consumer that the same are associated with the Plaintiff. He submits that the sales turnover and the promotional expenses have been set out in the Plaint. He submits that the *prima facie* findings have not been disputed in the absence of any reply.

5. By an order of even date, this Court has granted leave under clause XIV of Letters Patent. By the order of 24<sup>th</sup> October, 2024, this Court had come to a *prima facie* finding about the deceptive similarity between the registered mark of the Plaintiff and the Defendant's

impugned mark which is similar in artwork, colour scheme on the label, bottle shape and design. There is a *prima facie* finding that the impugned mark, artwork and bottle shape and design would have a tendency to mislead the consumer in associating the said goods as that of the Plaintiff. For the purpose of considering the relief of passing off, the sales turnover and promotional expenses which are placed on record would *prima facie* indicate the enormous reputation, goodwill which has been garnered by the Plaintiff. The Defendant's mark when perused shows that the same is designed in a manner so as to mislead the consumers into believing the goods are that of the Plaintiff. Considering the reputation and goodwill of the Plaintiff in the business of packed drinking water, there is a likelihood of damage to be caused to the Plaintiff by the impugned mark, artwork, bottle shape and design. Hence, a case is made out for grant of ad-interim relief in terms of prayer clause (c) and (d) which reads as under:-

*(c) Pending the hearing and final disposal of the suit, the Defendants by themselves, their directors, partners, servants, agents, distributors, assignees, stockists and all those connected with the Defendants in their business be restrained by an order and temporary injunction of this Hon'ble Court from manufacturing, packaging, distributing, marketing, selling, offering for sale and/or using in any manner whatsoever in relation to their packaged drinking water and such other like goods, the impugned mark BISLREI, the impugned label mark JESSY AQUA both depicted under the impugned trade dress or any label mark or trade dress identical with and/or deceptively similar to the Plaintiff's distinctive and prior used trade mark*

*and trade dress of BISLERI, so as to pass off their goods and business as and for those of the Plaintiff or in some way connected or associated therewith;*

*(d) Pending the hearing and final disposal of the suit, the Defendants by themselves, their directors, partners, servants, agents, distributors, assignees, stockists and all those connected with the Defendants in their business be restrained by an order and temporary injunction of this Hon'ble Court from manufacturing, packaging, distributing, marketing, selling, offering for sale and/or using, in any manner whatsoever in relation to their BISLERI and JESSY AQUA bottles, the impugned bottle design/shape mark or any design/shape mark which is identical with and/or is substantially similar to and/or an obvious imitation of the Plaintiff's design/shape mark as applied to its BISLERI bottles, so as to pass off or enable others to pass off the Defendants' bottle as and for that of the Plaintiff or in some way associated with or connected with the Plaintiff.*

6. The relief is in addition to the relief granted by the order dated 24<sup>th</sup> October, 2024 granted by this Court.
7. List the Application for further consideration on 2<sup>nd</sup> December, 2025.
8. Ad-interim relief granted to continue.

**[SHARMILA U. DESHMUKH, J.]**