



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

APPEAL AGAINST ORDER NO.11/2025

APPELLANT : SNT and Company,
(Ori. Defendant) Through its partner, Mr. Raman Kakkar
And Gunjan Karkar,
Aged Major Occupation : Business,
R/o 103 A, Model Town, Bareilly,
Uttar Pradesh,

Also having Address at :
Beside Swad Restaurant, Stadium Road,
Model Town Near Ghat, Bareilly,
Uttar Pradesh, 243005.
Mob.

...VERSUS...

RESPONDENT : M/S. Shah Nanji Nagis Exports Pvt. Ltd.
(Ori. Plaintiff) A company incorporated under the
Companies Act, Having its Registered
Office at Upper Ground Floor,
Block No.UGC-03, UGC-04, Govindam
Apartment, Kamptee Road, Zudio Kadbi
Chowk, Nagpur – 440014. Through its
Director Shri Ashwin Shah.

Mr. Y.B. Sharma, Advocate for appellant
Mr. S.S. Dewani, Advocate for respondent

CORAM : ROHIT W. JOSHI, J.

Date of reserving the order : 19/09/2025
Date of pronouncing the order : 03/11/2025

ORDER :

1. The present appeal is filed by the original defendant in Trade Mark Suit No.7/2024, being aggrieved by the order dated 26/06/2025 passed by the learned District Judge – 13, Nagpur allowing application for grant of temporary injunction filed by the respondent (original plaintiff) in the said suit vide Exh.5, thereby restraining the appellant (original defendant) from using trademark “SNT” in relation to the product, “popcorn maize” or any other such allied, cognate or related products. The parties will be referred to as plaintiff and defendant.

2. The plaintiff had filed Trade Mark Suit No.7/2024 against the defendant *inter alia* claiming that it is registered proprietor of trademark “SNN” under registration/trademark No.5504974 registered with the Trade Marks Registry at Mumbai effective from 25/06/2022. It is stated that this trademark falls within Class-31 which pertains to agricultural, horticultural and forestry products and grains not included in other classes. The plaintiff has stated that the trademark “SNN” has acquired distinguished reputation and goodwill amongst consumers. The plaintiff claims to be 105 years old trading house, which is engaged in business of export of oil seeds, food grains, corn, starch and pulses

and also import of pulses and corn (maize). The plaintiff has stated that it is using the said trad mark for its business purpose since long.

3. The plaintiff has alleged that the defendant is also engaged in the same business of sale of popcorn maize kernels. The plaintiff has alleged that the defendant is doing the said business under the trademark "SNT". The plaintiff has alleged that the defendant has deliberately adopted a deceptively similar trademark and is also marketing the product in packet/trade dress which is making deceptively similar to trademark of plaintiff. It is alleged that the trademark/trade dress/packaging of the defendant is strikingly similar to that of the plaintiff which results in causing confusion in the minds of general public and consumers. The plaintiff has stated that the defendant had applied for registration of trade mark, "SNT" and the said application is rejected. The plaintiff has also filed application for grant of temporary injunction in the said suit vide Exh.5.

4. The defendant has opposed the suit and application for grant of temporary injunction by filing written statement and separate reply. The defendant has raised several technical objections to maintainability of the suit. As regards merits of the matter, the defendant has denied that the trademark of plaintiff and defendant has

any striking similarity as alleged. The defendant has stated that the trade dress, label and packaging of the product of the plaintiff and defendant are different and all allegations with respect to infringement are incorrect.

5. After hearing the rival submissions, the learned trial Court has allowed the application for grant of temporary injunction restraining the defendant from using trademark, “SNT” in relation to business of corn, maize and other allied/cognate products, vide order dated 26/06/2025. The present appeal is filed challenging the said order.

6. The learned Advocate for the appellant contends that the trademark of the plaintiff is only a word “mark”. He states that the plaintiff does not have any trademark with respect to the design of the packaging or trade dress. The learned Advocate further contends that in view of the aforesaid the plaintiff cannot contend that there is infringement of the trademark with respect to the design of packaging or trade dress. He further contends that even otherwise perusal of the trade dress of the plaintiff and defendant, which is a part of the plaint, will indicate that there is no visual or phonetic similarity as alleged by the plaintiff. He contends that design of the trade dress of products

marketed by the plaintiff and defendant does not have any similarity to cause any confusion in the minds of customers as alleged by the plaintiff. The learned Advocate has drawn attention to paragraph 40 of the plaint where image of packet of the plaintiff and defendant is reproduced. He also draws attention to the certificate of registration of trademark dated 25/06/2022 issued in favour of the plaintiff and photo of trade dress of the defendant which is filed on record by the plaintiff to contend that there is no similarity between the design of packets/trade dress of products marketed by the plaintiff and defendant. He further states that although application for registration of trademark, "SNT" filed by the defendant for registration under Class – 30 is refused on 13/05/2024, the application for registration under Class – 31 is pending. He submits that the order passed by the learned trial Court is completely unsustainable and is liable to be quashed and set aside.

7. Per contra, Mr. Dewani, learned Advocate for the respondent/plaintiff argues that the trademark of the plaintiff is a registered trademark. He contends that the plaintiff is operating the trademark in the market for years together and therefore, the defendant is marketing its product by adopting a similar trademark in order to cause undue loss and hardship to plaintiff by exploiting goodwill and

market reputation of the plaintiff. Mr. Dewani contends that the learned trial Court has considered the entire material on record and has arrived at *prima facie* satisfaction that both the trademarks/trade dress/packaging are deceptively similar warranting an order of temporary injunction in favour of the plaintiff. Mr. Dewani contends that this Court should not substitute its discretion for the discretion exercised by the learned trial Court since the learned trial Court has applied its mind to the material on record and has arrived at *prima facie* conclusion that the mark of the defendant is deceptively similar to the mark of the plaintiff.

8. Since the controversy revolves around infringement of trademark, it will be appropriate to reproduce trade dress/packaging of the plaintiff and defendant for ready reference. The following images are scanned from the plaint to make a broad comparison of the trademark/trade dress/packaging of the plaintiff and defendant. The images on the left side are of the trade dress/packaging of the plaintiff. Those on the right are of the defendant.

Plaintiff's marksDefendant's marks

9. Perusal of the trade dress of plaintiff will demonstrate that the words “SNN” are mentioned prominently beginning from left hand side top corner of the packet. The said words are followed by the words, “popcorn and maize”. The words, “popcorn and maize” are written

prominently on the packet in capitals. The words, 'SNN', 'POPCORN' and 'MAIZE' appear one below the other. Below the said words there is a band in different colour in which expansion capacity of the corn is mentioned. The bottom portion of the packet finds mention of the product being 'zero trans fat', 'Non-GMO' and 'high in fiber'. In the middle side portion of the plaintiff's packet picture of unpuffed corn appears. The weight of product as one kilogram is mentioned in the middle portion of the packet in a small size.

10. As against this, perusal of trade dress/packaging of the defendant will demonstrate that the words, "SNT" are mentioned in the middle top portion of the packet. The words, "SNT" are not as prominent as the words, "SNN" on the packet of the plaintiff. Below the said words in the middle of the packet photo of puffed popcorn is displayed. Pictures of corncobs appear in the middle of the packet. The product is described as "butterfly popcorn". These words are mentioned in the middle portion of the packet. The said words are followed by the words, "delicious and 100% natural". The weight of the product as one kilogram is mentioned towards the right middle bottom portion of the packet. The weight is mentioned prominently.

11. The packaging of plaintiff is in two colours. There is a band of different colour which appears horizontally across the packet somewhere around the lower middle portion. As against this, the packet of the defendant is all throughout in multicolour. The overall packet is in brownish colour. The corncobs and weight are highlighted in yellow colour. The words “butterfly popcorn” are also written against yellow background. The leaves of the cobs are in green colour. The packaging of the defendant is multicoloured and bright as compare to package of the plaintiff.

12. The first image of packet of the plaintiff and defendant has aforesaid dissimilarities which have not been considered by the learned trial Court.

13. The second image of plaintiff's and defendant's packet appears in paragraph 50 of the plaint. In the second image of the plaintiff again the words, 'SNN', 'POPCORN' and 'MAIZE' appear one below the other. These three words are mentioned very prominently from left top corner of the packet. The words appear one below the other and cover almost half of the size of the packet. Thereafter there is a band of another colour in which expansion capacity of the product is mentioned and there is either a pictorial image of non-puffed corn or

the portion is kept transparent which makes the product inside visible. On bottom side of the packet the words, '0 trans fat', 'Non-GMO' and 'high in fiber' are mentioned.

14. As against this, in the packet of the defendant the words, 'SNT', 'POPCORN' and 'MAIZE' are mentioned one below the other on the right side top portion of the packet. The said words are not written as prominently as the said words appear on packet of the plaintiff. There is a circular design within which these words are mentioned. In the packet of plaintiff the said words appear in white colour, whereas in the packet of the defendant the said words appear in black colour. The expansion limit of product is not mentioned on the packet of the defendant. Likewise, on the right hand side bottom the words, "Non-GMO", "high in fiber" and "0 trans fat" are mentioned one below the other. The font & size of letters is very different than the font & size of letters chose by the plaintiff. On the second packet of the defendant there is pictorial image of unpuffed corn which spreads across the middle portion of the packet horizontally or the said portion is kept transparent in order to enable the customers to view the product inside. The image of unpuffed corn on the label of plaintiff is relatively in a small circular portion.

15. Perusal of the order passed by the learned trial Court will demonstrate that technical objections raised by the defendant have been dealt with from in paragraphs 5 to 7 of the order. The learned trial Court has dealt with the legal principles and judgments cited during the course of hearing from paragraphs 10 to 20 of the order. Section 29 of the Trade Marks Act is quoted in paragraph 9 of the judgment. The discussion with respect to resemblance of the two trade dress/packets is made in paragraph 8 of the order. The learned trial Court has merely stated that perusal of the photographs appended to the pleadings indicated that peculiar details on both packets were exactly same and both the packets had resemblance making their appearance deceptively similar. The observations are in the nature of conclusion. However, the order does not disclose application of mind to arrive at such conclusion. The aspects with respect to the design of two packets which are quoted herein above are not even considered by the learned trial Court.

16. In view of above, in the considered opinion of this Court, the matter needs to be remanded to the learned trial Court for deciding the application for grant of temporary injunction afresh. It is true that while deciding as to whether two trade dresses/packets are deceptively similar or not, a Court must look at the packet/trade dress as a whole and should not give undue importance to certain distinguishing factors

in the two trade dresses/packets. However, the distinctive features should be discussed in order to decide as to whether the two packets/trade dresses, viewed as a whole, would cause confusion in the mind of end consumers or not.

17. The Court must sit in the armchair of the end consumer to decide as to whether there is any likelihood or confusion in the mind of the consumers.

18. In the result, the appeal against order is partly allowed. The order dated 26/06/2025 passed by the learned District Judge-13, Nagpur on application at Exh.5 in Trade Mark Suit No.7/2024 is quashed and set aside. The learned trial Court is directed to decide the said application afresh in the light of the observations made in the present order.

(ROHIT W. JOSHI, J.)