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O.A.No.183 of 2025 in
C.S.(Comm.Div.) No.57 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2025

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

**O.A.No.183 of 2025 in
C.S.(Comm.Div.)No.57 of 2025**

Mrs.Preeti
Sole Proprietrix of M/s.Kadar Impex,
Residing at No.30, 4th Floor, Sukhi Aangan,
Tirupalli Street, near Vinayak Kovil,
Sowcarpet, Chennai-600 001.
Having Office at 2nd Floor, No.1,
Vigneshwara land, Vadaperumbakkam,
Chennai-600 060.

... Applicant No.1/
Plaintiff No.1

Mr.Piyush Jain
Sole Proprietor of M/s.Kosmos Global
No.20, Revanayer Street,
Park Town, Chennai-600 003.

... Applicant No.1 /
Plaintiff No.2

Vs

Mr. Vijay Kumar Chopra,
Sole Proprietor of M/s.Beauty Essentials,
KVR Swamy Road, Beside ok Stores,
Rajahmundry, Andhra Pradesh-533 101

... Respondent No.1 /
Defendant No.1

Cura Skin Solutions Pvt. Ltd.
Represented by "Not Known",
D.No.76/1 and 2, Virugambakkam,
Chennai, Tamil nadu-600 092.

... Respondent No.2/
Defendant No.2



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PRAYER: Judge's summons filed under Order XIV, Rule 8 of O.S.Rules R/W. Order XXXIX Rule 1 of Code of Civil Procedure, 1908, prays that this Court may be pleased to grant an ad-interim injunction on the following terms:

- a) An ad-interim injunction restraining the Respondent's, by itself, its lawful assignees, men, servants, agents, distributors, stockiest, representatives or anyone claiming through or under them from in any manner infringing the Plaintiff's registered copyright "BEAUTE BLANC" by manufacturing, marketing, using or in any other manner dealing with Cosmetics, Skin Care, and Hair Care Preparations or any allied and cognate products under the artistic work/packaging/ carton of "NATURALLY" or in any other manner similar and identical to the Plaintiff's registered copyright "BEAUTE BLANC" pending disposal of the suit.
- b) Pass such further or other reliefs as this Court may deem fit and necessary in the circumstances of the case and thereby render justice.

For Applicants/Plaintiffs : M/s.A.Jayesh Kumar Daga
and Pavithra K.

For Respondents/Defendants : Mr.Shravankumar Bansal for
for M/s.C.Daniel, Gladys Daniel,
Somnath De, V.Revathy,
J.Vennilla and G.Shalini



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ORDER

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This suit was filed seeking relief in respect of alleged infringement of the plaintiffs' copyright in the artistic work depicted at paragraph 3 of the affidavit in support of this application and set out below:



2. The plaintiffs allege that the defendants have copied the said artistic work by using the artistic work set out below along with the plaintiffs' work:





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The present interlocutory application has been filed seeking interim relief in the above context.

3. The contentions of learned counsel for the applicants/plaintiffs may be summarized as under:

(i) the plaintiff is the registered proprietor of copyright bearing registration No.A-130483/2019 describing the first plaintiff as the author of the artistic work. The document specifies the year of publication as 2014. Consequently, the plaintiffs' are entitled to rely on particulars recorded in the Register of Copyrights as per Section 48 of the Copyrights Act, 1957 (the Copyrights Act).

(ii) This Court granted an interim injunction by order dated 13.02.2020 in respect of the same artistic work in O.A.Nos.947 to 949 of 2019 in C.S.No.609 of 2019. While granting such order, the contention that the label was created by a Chinese company (the same defence as raised herein) was dealt with and rejected.

(iii) The defendants purchased products from the plaintiffs, as evidenced by invoices raised by the plaintiffs on the defendants.

(iv) The plaintiffs have placed on record multiple invoices issued



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from August 2018 onwards for sale of products with packaging bearing the plaintiffs' artistic work.

(v) The plaintiffs have also placed on record Chartered Accountants' certificates with regard to the turnover from sale of goods bearing the artistic work.

(vi) The contention of the defendants that third parties have also used artistic works substantially similar to that of the plaintiffs was responded to in the reply affidavit by stating that such use is subsequent to the use by the plaintiffs.

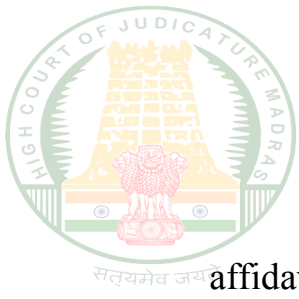
(vii) The defendants have failed to demonstrate that the original packaging/artistic work was created by a Chinese company.

4. The contentions of learned counsel for the respondents/defendants may be summarized as under:

(i) The authorship and publication details contained in the registration certificate are false. The plaintiffs have failed to provide any evidence that the artistic work was published in the year 2014.

(ii) The plaint does not identify the author of the artistic work.

(iii) The screen shots referred to in paragraph 8 of the counter



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affidavit disclose that third parties used identical packaging on
14.09.2017 and 29.05.2018.

(iv) The website www.alibaba.com shows an identical packaging with a space left for affixing the logo of the seller concerned. This is dealt with at page 15 of the counter affidavit.

(v) The product packaging discloses that the product is not manufactured by the plaintiffs but by an entity situated in China for another entity situated in Hong Kong.

(vi) The certificates of the two Chartered Accountants do not disclose any sales prior to 2017-18. In fact, as regards the first plaintiff, who is alleged to be the author of the copyright, sales figures have only been provided from 2021-22.

(vi) The registration of a copyright, unlike the registration of other intellectual property rights, does not confer any rights on the registrant. Unlike the registration process under the Trade Marks Act, 1999, registration is not preceded by an advertisement calling for third party objections.



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5. In support of these contentions, learned counsel referred to and relied upon the following judgments:

(a) *Federation of Industries of India & another v. Mr.G.Kesavalu Naidu @ Kesavan & another*, CS(OS) No.596 of 2007, particularly paragraphs 13 and 24 thereof.

(b) *Rediff.Com India Ltd. v. E-Eighteen.Com Ltd.* MANU/DE/2202/2013, particularly paragraph 53 thereof.

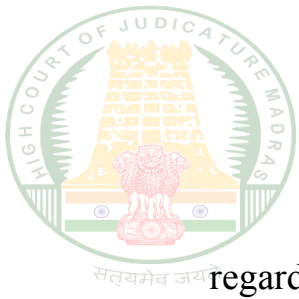
(c) *Glaxo Orthopedic U.K. Ltd. v. Samrat Pharma*, MANU/DE/0257/1983, particularly paragraphs 14 and 15 thereof.

(d) *Camlin Private Limited v. National Pencil Industries*, 2001 SCC OnLine Del 1083, particularly paragraph 10 thereof.

(e) *Tech Plus Media Private Ltd. v. Jyoti Janda & others*, 2014 SCC OnLine Del 1819, particularly paragraph 20 thereof.

(f) *M/s.K.B.Hiralal & Sons v. M/s.Kumar Industries & another*, 1985 Arbitration Law Reporter 265, particularly paragraphs 9 and 11 thereof.

6. Being an interlocutory application for interim injunction, this application should be decided on the basis of classical principles in such



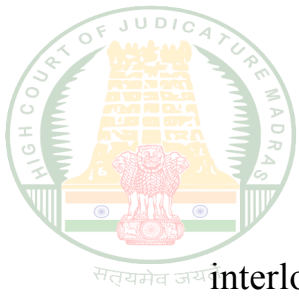
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regard. As regards the existence of a *prima facie* case, the plaintiffs relied heavily on Section 48 of the Copyright Act, which is as under:

“48. Register of Copyrights to be prima facie evidence of particulars entered therein.— The Register of Copyrights shall be prima facie evidence of the particulars entered therein and documents purporting to be copies of any entries therein, or extracts therefrom, certified by the Registrar of Copyrights and sealed with the seal of the Copyright Office shall be admissible in evidence in all Courts without further proof or production of the original.”

As is noticeable from the text of Section 48, the Register of Copyrights qualifies as *prima facie* evidence of the particulars entered therein. The entry of particulars in the Register of Copyrights is made after an inquiry in terms of sub-section (2) of Section 45 thereof. As submitted by learned counsel for the defendants, it is no doubt true that such inquiry is not conducted after the relevant work is advertised. The particulars entered in the Register of Copyrights in this case, includes the title of the work, the name of the author and the year of publication. To that extent, at this



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interlocutory stage, the plaintiffs are in a position to rely on those particulars.

7. It remains to be considered whether the plaintiffs have placed on record any corroborative evidence with regard to publication in the year 2014. The expression “publication” is defined in Section 3 of the Copyright Act as making a work available to the public by issue of copies or by communicating the work to the public. On examining the documents placed on record by the plaintiffs, it appears that no proof of publication in the year 2014 has been placed on record.

8. The plaintiff has, however, placed on record multiple invoices issued either by the first or the second plaintiff, and the earliest invoice is dated 3rd August 2018. The invoices carry the description of the goods, but no clear conclusion may be drawn solely on such basis as to whether the artistic work was depicted on the packaging of the product concerned. The plaintiffs have also placed on record two certificates from UK and Co. and Vikas Mishra & Co., Chartered Accountants. The certificate pertaining to the second plaintiff discloses the turnover from



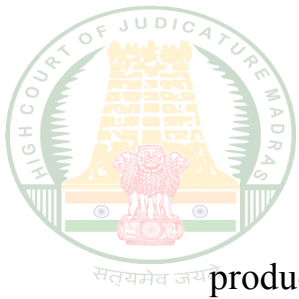
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the financial year 2017-18 onwards and the certificate with regard to the first plaintiff discloses the turnover from the financial year 2021-22 onwards.

9. The defendants have asserted in the counter affidavit that third parties have used identical packaging in respect of identical products from 14.09.2017 onwards, and provided *prima facie* evidence thereof. While the plaintiffs have responded to these assertions in the rejoinder/reply by stating that the plaintiffs' creation and use predates those of the third parties, as noticed above, there is no *prima facie* evidence to that effect. The product packaging discloses that the products are manufactured for a Hong Kong based company by a China based company.

10. The opposition filed by the plaintiffs to the defendants' trademark application refers to the defendants' use of the impugned artistic work. Such opposition has been lodged on 01.08.2024. By contrast, in the plaint and in the affidavit in support of the interim application, it is stated that the plaintiffs became aware of the defendants'



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products in December, 2024. The import registration document placed on record by the plaintiffs reveals that the defendants were importing products from the year 2022, albeit the use of the impugned label cannot be discerned therefrom.

11. Upon considering the aforesaid factors, it cannot be said that the plaintiffs make out a strong *prima facie* case. The balance of convenience is also not in favour of granting an interim injunction. The defendants shall, however, maintain accounts in relation to sale of products bearing the impugned artistic work and file such accounts on quarterly basis before this Court. In my view, this would adequately balance the equities at this juncture.

12. The interim application is disposed of on these terms without any order as to costs.

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SENTHILKUMAR RAMAMOORTHY J.

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