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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(COMM) 274/2022 & I.A. 6525/2022 I.A. 39346/2024**

DABUR INDIA LIMITED

.....Plaintiff

Through: Ms. Kripa Pandit, Advocate (through
VC)

versus

REAL HINDUSTAN BEVERAGES & ORS.Defendants

Through: None

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% 19.08.2025

I.A. 39346/2024(application under Order XIII-A read with Order VIII Rule 5 CPC seeking summary judgment)

1. This is an application under Order XIII-A read with Order VIII Rule 5 of the Code of Civil Procedure, 1908 ['CPC'] has been filed by the Plaintiff seeking a summary judgment in favour of the Plaintiff and against the Defendants.

Factual Matrix

2. The case set up by the Plaintiff in its plaint and written synopsis, may be summarized as under: -

2.1 The Plaintiff – Dabur India Limited, is one of India's leading and most trusted FMCG companies and the world's largest Ayurvedic and Natural Health Care, Oral care, Skin care, home care and foods. The goods of the Plaintiff are marketed under its house mark 'DABUR' as well as under several trademarks distinguishing one from the other such as REAL,



HAJMOLA, PUDINHARA, VATIKA, DABUR CHYAWANPRASH, DABUR AMLA HAIR OIL, DABUR HONEY, and ANMOL etc. The trade mark DABUR has a turnover of over Rs. 8,533 crores and is a household brand in India.

2.2 The Plaintiff manufactures and markets approximately 450 products, of which 72 products are extensively advertised on 179 television channels all over India.

2.3 The Plaintiff launched packaged fruit juice beverages back in the year 1994 under the trade mark REAL. The Plaintiff's packaged fruit juice/beverages under the trade mark REAL FRUIT POWER have gathered mass appeal and is widely purchased by all segments and class of society. It is a product, which is readily available in departmental stores all over the country and has the widest range of fruit beverages with sixteen (16) different flavours in 1 liter tetra packs, 600ml PET bottles and also in 180ml as well as 125ml packs.

2.4 The Plaintiff is the registered proprietor for the word marks 'REAL FRUIT POWER', and 'FRUIT POWER' in India in Class 32. Additionally, the Plaintiff holds the registration for the device mark REAL FRUIT



POWER in Class 32. The list of Plaintiff's trademark registration has been provided at paragraph no. 18 of the plaint. The Plaintiff is also the registered proprietor of the trademark 'Real' and its variants in Class 32 since the year 1996.

2.5 It is submitted that owing to continuous and extensive use over several decades, the Plaintiff's trademark 'REAL FRUIT POWER' has



acquired distinctiveness and has become a household name in India.

2.6 The annual sales turnover for ‘REAL FRUIT POWER’, for the financial years 1997 to 2022 are set out at paragraph no. 14 of the plaint. For the year 2022, the annual sales have been pleaded as INR 1,376 crores.

2.7 The Plaintiff has extensively advertised its goods under the trademark ‘REAL’ in the print and visual media and has spent a substantial amount of money and effort in building the brand image of the product. The details of the promotional expenses incurred by the Plaintiff are set out at paragraph no. 16 of the plaint. The amount spent for the year 2022 on promotion is pleaded as INR 192 crores.

The Plaintiff also operates an interactive website namely, www.realfruitpower.com, which give complete details about the products and services offered under the trade name ‘REAL FRUIT POWER’.

2.8 The Plaintiff’s REAL juices have been granted No. 1 position by India Today Group¹ in the Juices and Nectar brands category in India. It has been awarded the ‘Most Trusted Brand’ Award in the ‘Packaged Juice Category’ for the 13 years since 2007.

3. In March 2022, the Plaintiff came across the impugned product of Defendant No. 1 – M/s Real Hindustan Beverage² under the impugned mark ‘ULTRA REAL FRUIT ENERGY’, where the label applied on the packaging is deceptively similar to the Plaintiff’s registered trademark ‘REAL FRUIT POWER’.

The Plaintiff found the impugned product being advertised on a Facebook page and traced a contact number linked to Defendant No.1. Upon

¹ Document filed at Sr. No. 11 under the cover of Index dated 18.04.2022 by the Plaintiff

² Also known as M/s Natural Hindustan Beverage



inquiry, Defendant No. 1 confirmed the availability of the impugned product and sent samples which showed that the impugned product was manufactured by M/s Natural Hindustan Beverage and marketed by M/s Real Hindustan Beverage, both appearing to be the same entity.

3.1 It is averred that Defendant No. 1's illegal and dishonest adoption of the impugned mark, 'ULTRA REAL FRUIT ENERGY' and its impugned



logo, will lead to confusion and mislead consumers/ viewers into believing that the impugned products of Defendant No. 1 are in a manner licensed, affiliated or connected with the Plaintiff Company, when in fact no such association or connection exists.

3.2 In these facts, the Plaintiff instituted the present suit seeking permanent and mandatory injunction restraining Defendant No. 1 from using in any manner, the impugned mark 'ULTRA REAL FRUIT



ENERGY', or any other mark that is deceptively, confusingly similar to the Plaintiff's registered trademarks 'REAL FRUIT POWER'



and/or 'FRUIT POWER' and/or device mark in relation to any goods or services.

Submissions on behalf of the Plaintiff

4. Ms. Kripa Pandit, learned counsel for the Plaintiff states that the list of dates and events along with written synopsis on behalf of the Plaintiff has already been filed on record vide index dated 30.04.2025.

4.1 She states that despite the Defendants having been served through



multiple modes, the Defendants have chosen to willfully stay away from the present proceedings. This deliberate avoidance of participation demonstrates a clear disregard for the legal process and the rights of the Plaintiff.

4.2 She states that since the Defendants herein have all waived their rights to file their written statements, the contents of the plaint are deemed to be admitted as not being denied by the Defendants.

4.3 She states that the question which needs to be decided is solely based on the documentary evidence, which is already on record and therefore, the present suit is liable to be decided against the Defendants by way of summary judgment.

4.4 She states on instructions that Plaintiff is only praying for the relief of permanent injunction in terms of prayer clause A(i), (ii), and (iii) of the plaint.

4.5 She states on instructions that Plaintiff is not pressing the remaining reliefs in the plaint including the relief of rendition of account and damages as well as costs.

4.6 She submits that relief sought at prayer clause B(iii) has already been granted vide interim order dated 28.04.2022.

Findings and Analysis

5. This Court has heard the learned counsel for the Plaintiff and perused the material on record.

6. The contesting party in the suit is Defendant No. 1 and the Plaintiff is pressing for a decree against the said Defendant. The remaining Defendants were only impleaded for compliances of directions passed against Defendant No. 1.

7. Defendant No. 1 was duly served with the summons and since the



said Defendant failed to file its written statement, its right was closed vide order dated 19.07.2024 and it was proceeded ex-parte.

8. The plaint has been duly verified and is supported by the affidavit(s) of the Plaintiff as well the Statement of Truth. As noted above, no written statement has been filed by Defendant No. 1 and therefore, all the averments made in the plaint against the said Defendant had remain unrebutted and are deemed to be admitted. Furthermore, no affidavit of admission/denial of the documents filed by the Plaintiff, has been filed by Defendant Nos. 1 and 2. Accordingly, the documents filed by the Plaintiff are deemed to have been admitted.

9. At this stage, it would be apposite to refer to Order VIII Rule 10 of CPC. The said rule reads as under: -

“10. Procedure when party fails to present written statement called for by Court.— Where any party from whom a written statement is required under rule 1 or rule 9 fails to present the same within the time permitted or fixed by the Court, as the case may be, the Court shall pronounce judgment against him, or make such order in relation to the suit as it thinks fit and on the pronouncement of such judgment a decree shall be drawn up.”

10. It would be relevant to refer to the dicta of **Satya Infrastructure Ltd. & Ors. v. Satya Infra & Estates Pvt. Ltd.**³, wherein the Co-ordinate Bench of this Court held as under: -

“4. The next question which arises is whether this Court should consider the application for interim relief and direct the plaintiffs to lead ex parte evidence. The counsel for the plaintiffs states that the plaintiffs are willing to give up the reliefs of delivery, of rendition of accounts and of recovery of damages, if the suit for the relief of injunction alone were to be heard today.

5. I am of the opinion that no purpose will be served in such cases by

³ 2013 SCC OnLine Del 508



directing the plaintiffs to lead ex parte evidence in the form of affidavit by way of examination-in chief and which invariably is a repetition of the contents of the plaint. The plaint otherwise, as per the amended CPC, besides being verified, is also supported by affidavits of the plaintiffs. I fail to fathom any reason for according any additional sanctity to the affidavit by way of examination-in-chief than to the affidavit in support of the plaint or to any exhibit marks being put on the documents which have been filed by the plaintiffs and are already on record. I have therefore heard the counsel for the plaintiffs on merits qua the relief of injunction.”

(Emphasis Supplied)

11. In view of the aforesaid facts and circumstances, this Court is of the view that no purpose would be served if the Plaintiff is directed to lead ex-parte evidence by way of filing an affidavit of examination-in-chief and the Plaintiff is entitled to a summary judgment.

12. The documents filed on record show that the Plaintiff is the owner of the registered word marks ‘REAL FRUIT POWER’/‘FRUIT POWER’ and



the device mark

13. The comparison table of the competing trademarks and logos of the parties along with their representation on the bottles, as set out in paragraph no. 38 of the plaint is reproduced herein below: -

Plaintiff's Wordmark/Device mark/Product	Defendant's Impugned Mark/Logo/Product
REAL FRUIT POWER 	ULTRA REAL FRUIT ENERGY 



14. A perusal of Defendant No. 1's impugned mark/logo ULTRA REAL FRUIT ENERGY shows that the same is deceptively similar to the Plaintiff's registered word mark 'REAL FRUIT POWER' and logo. This Court finds merit in the submission of the Plaintiff that the font style of the mark REAL, the circular representation of the said word and the colour combination is identical to that of the Plaintiff. The word REAL, which is an essential and prominent feature of the Plaintiff's logo written in Red colour has been identically written in Red colour on the Defendant's product. This Court thus finds merit in the submission of the Plaintiff that the Defendants impugned mark – ULTRA REAL FRUIT ENERGY and its logo not only infringes Plaintiff's mark 'REAL FRUIT POWER' but also seeks to pass off its products as the product of the Plaintiff.

The inclusion of the words 'REAL FRUIT' by the Defendant in its impugned mark – ULTRA REAL FRUIT ENERGY, clearly indicates that the Defendant No. 1 has copied the the Plaintiff's registered trademark and has made an attempt to unlawfully ride upon the Plaintiff's goodwill and reputation.

15. Defendant No. 1 has elected not to contest the present suit makes it



evident that Defendant No. 1 has accepted the interim injunction order dated 28.04.2022. There is therefore no opposition from Defendant No. 1, who has accepted the injunction. This Court finds no ground to take a view different from the prima facie expressed in the injunction order dated 28.04.2022.

16. In **Su-Kam Power Systems Ltd. v. Kunwer Sachdev**⁴, a Co-ordinate Bench of this Court in the context of commercial suits has observed that summary judgment ought to be passed in case, where Defendant No. 1 lacks a real prospect of defending the claim. In this case, infact Defendant No. 1 has elected to not to defend this case and therefore this Court is satisfied that the Plaintiff need not be put through the costs and rigours of trial. The relevant portion of the aforesaid judgment reads as under: -

“90. To reiterate, the intent behind incorporating the summary judgment procedure in the Commercial Court Act, 2015 is to ensure disposal of commercial disputes in a time-bound manner. In fact, the applicability of Order XIII A, CPC to commercial disputes, demonstrates that the trial is no longer the default procedure/norm.

91. Rule 3 of Order XIII A, CPC, as applicable to commercial disputes, empowers the Court to grant a summary judgement against the defendant where the Court considers that the defendant has no real prospects of successfully defending the claim and there is no other compelling reason why the claim should not be disposed of before recording of oral evidence. The expression “real” directs the Court to examine whether there is a “realistic” as opposed to “fanciful” prospects of success. This Court is of the view that the expression “no genuine issue requiring a trial” in Ontario Rules of Civil Procedure and “no other compelling reason....for trial” in Commercial Courts Act can be read mutatis mutandis. Consequently, Order XIII A, CPC would be attracted if the Court, while hearing such an application, can make the necessary finding of fact, apply the law to the facts and the same is a proportionate, more expeditious and less expensive means of achieving a fair and just result.

92. Accordingly, unlike ordinary suits, Courts need not hold trial in commercial suits, even if there are disputed questions of fact as held

⁴ 2019 SCC OnLine Del 10764



by the Canadian Supreme Court in Robert Hryniak (supra), in the event, the Court comes to the conclusion that the defendant lacks a real prospect of successfully defending the claim.”

[Emphasis Supplied]

17. In view of the aforesaid facts and settled law, the present suit is a fit case, where a summary judgment in terms of Order XIII-A of CPC can be passed in favour of the Plaintiff and against Defendant No. 1.

18. Thus, the Plaintiff is held entitled to reliefs of permanent injunction as claimed in the plaint. Accordingly, a decree of permanent injunction is passed in favour of the Plaintiff and against Defendant No. 1 in terms of prayer clause A(i), (ii) and (iii) of the plaint. The interim injunction dated 28.04.2022 shall merge into the decree.

19. Learned counsel for the Plaintiff submits that prayer clause B (iii) stands satisfied. She states that Plaintiff is not pressing for remaining reliefs including damages and cost.

The said statement of the Plaintiff is taken on record and the prayer clauses A(iv), B(i), (ii), (iv), C and D are disposed of as not pressed.

20. With the aforesaid directions, this suit along with pending applications (if any) stands disposed of.

21. Let the decree sheet be drawn up in terms of this order.

22. All future dates stand cancelled.

MANMEET PRITAM SINGH ARORA, J

AUGUST 19, 2025/mt/MG