



\$~51

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

+ **CS(COMM) 895/2024**

**VALSAD DISTRICT COOPERATIVE MILK PRODUCERS
UNION LTD**Plaintiff

Through: Mr. Abhishek Singh, Mr. J. Amal
Anand, Mr. Elvin Joshy, Ms. Shivani
Kalra, Mr. K.V. Vibu Prasad and Mr.
Ayush Soni, Advs.

versus

M TECK FOODS & ANR.Defendants

Through: None

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **23.12.2025**

1. This is a suit filed for permanent and mandatory injunction, trademark and copyright infringement, passing off, damages, and other ancillary reliefs.
2. The Plaintiff- a district Co-operative Milk Producers' Union, is the



registered proprietor of the trademark /VASUDHARA
[‘Plaintiff’s mark and trade dress’] and has been using the same since 1988.
This is also the trade dress of the Plaintiff. The Plaintiff is engaged in the
business of marketing and selling *ghee* under the said mark and trade dress.



3. The Plaintiff has registration for the said device mark



in Class 29 bearing TM No. 1249641, application dated 14.11.2003, with user claim since 31.10.2003. Details of Plaintiff's various trademark registrations for its mark VASUDHARA have been set out in paragraph '41' of the plaint.

4. The Plaintiff's turnover for the year 2023-2024 was approximately Rs. 88.38 crores.

Knowledge about Defendant No.1's infringement

5. In June 2024, the Plaintiff learnt that Defendant No.1 had been using



VASTUDHARA/ [‘impugned mark and trade dress’] for its pure *ghee* product, with a deceptively similar mark and trade dress to Plaintiff's registered mark and trade dress, which was being sold on the platform of Defendant No.2/Amazon.

6. Defendant No.1 has also applied for the registration of the wordmark ‘VASTUDHARA’ bearing TM no. 5885639 in Class 29, application dated 10.04.2023, on a proposed-to-be-used basis; however, the application is under objection.

7. It is stated that the products sold by the Defendant No. 1 under the impugned mark and trade dress are adulterated, substandard and non-



compliant with FSSAI¹ standards. Testing by NDDB² CALF³ Ltd. [a NABL⁴-accredited FSSAI-recognized laboratory], revealed non-compliance with the prescribed fatty acid profile and 13-sitosterol parameters, with the presence of β -sitosterol indicating adulteration with vegetable fats. Accordingly, the product cannot be classified as ghee or pure ghee and is in violation of the Food Safety and Standards Act, 2006.

8. It is stated that Defendant No.1 is intentionally and fraudulently deceiving consumers and the public at large, who purchase its products under the bona fide belief that they originate from the Plaintiff's VASUDHARA brand, but are instead supplied with cheap, adulterated and substandard products, thereby affecting the reputation and goodwill of the Plaintiff. It also jeopardises the health and safety of consumers and the public at large.

9. Despite the issuance of a cease-and-desist notice dated 24.06.2024, Defendant No.1 continued its infringing activities. Aggrieved by the same, the Plaintiff has filed the present suit.

Submissions on behalf of the Plaintiff

10. Mr. Abhishek Singh, learned counsel for the Plaintiff, states that the Plaintiff is only pressing for reliefs of permanent injunction against Defendant No. 1 as prayed for at paragraph 79 (i), (ii), (iii), (iv) and (v) of the plaint.

10.1. He states that the Plaintiff is not pressing for its remaining reliefs, including the monetary reliefs.

¹ Food Safety and Standards Authority of India.

² National Dairy Development Board

³ Centre for Analysis and Learning in Livestock and Food

⁴ National Accreditation Board for Testing and Calibration Laboratories



10.2. He states that the Plaintiff verily believes that currently there are no products available in the market bearing the impugned mark and trade dress and that the suit may be decreed in terms thereof.

Court's Findings

11. This Court has heard the learned counsel for the Plaintiff and perused the record.

12. The predecessor bench of this Court vide order dated 16.10.2024 issued summons and granted an ex-parte ad interim injunction in favour of the Plaintiff and restrained Defendant No.1 from using the impugned mark.

13. The learned Joint Registrar (J) in its order dated 18.12.2024 had recorded that Defendant No.1 had been served with summons on 22.11.2024.

14. However, owing to the continued non-appearance on behalf of Defendant No.1, the injunction order was made absolute on 21.02.2025, and thereafter, its right to file the written statement was closed vide order dated 20.05.2025. It is a matter of record that Defendant No.1 has been proceeded ex parte vide order dated 18.08.2025.

15. Defendant No.2 has been deleted from the array of parties vide order dated 03.12.2025 after binding it to its submissions recorded in the written statement.

16. Defendant No.1's impugned trade mark and trade dress



VASTUDHARA/ is deceptively similar to the Plaintiff's



trademark and trade dress VASUDHARA/ as is apparent, the said Defendant is using the impugned trade mark and trade dress for selling the identical product i.e., *ghee*. Thus, the consumers and the trade channels are bound to associate the impugned mark with the Plaintiff.

17. In the considered opinion of this Court, the use of the impugned mark and trade dress which is deceptively similar to the Plaintiff's registered mark and trade dress not only causes substantial injury to the Plaintiff's business and goodwill but also deceives the customers, thereby eroding their trust in the quality, authenticity, and origin of the Plaintiff's goods and services.

Especially considering the allegation made in the plaint that the products sold by Defendant No.1 are not authentic and adulterated. In such circumstances, an ordinary consumer is likely to attribute the substandard product of the said Defendant to the Plaintiff itself.

18. It is evident that Defendant No.1 has acted with a dishonest intention to pass off its products as the Plaintiff's product by creating a likelihood of confusion and deception amongst the consumers. This not only causes the Plaintiff reputational harm and loss of consumer confidence but also irreparably damages the Plaintiff's goodwill in the market.

19. Since Defendant No.1 has failed to take any requisite steps to contest the present suit and file its written statement despite having been afforded sufficient opportunities and being bound by the ex-parte ad-interim injunction order dated 16.10.2024, its conduct demonstrates a clear lack of intent to defend the present proceedings. Defendant No.1 has failed to



approach the Court for modification or vacation of the said injunction, evidencing its acceptance of the said injunction. In view of the aforesaid, all the averments made in the plaint and documents filed with the plaint are deemed to be admitted.

20. 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.”

21. It would also be relevant to refer to the dicta of a Coordinate Bench of this Court in **Satya Infrastructure Ltd. & Ors. v. Satya Infra & Estates Pvt. Ltd.**⁵, which reads 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 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]

22. In view of the fact that no written statement has been filed on behalf



of Defendant No.1, the averments made in the plaint have to be taken to be admitted. Further, since no affidavit of admission/denial has been filed in respect of the documents filed with the plaint, in terms of Rule 3 of the Delhi High Court (Original Side) Rules, 2018, the same are deemed to have been admitted. The plaint has been duly verified and is supported by the affidavit of the Plaintiff, and considering the circumstances set out hereinabove, this Court is of the considered view that no triable issues arise in the present matter. Consequently, the suit is fit to be decreed in favour of the Plaintiff under the provisions of Order VIII Rule 10 of the CPC.

23. In view thereof, since there is no contest, this Court is of the view that the Plaintiff is entitled to a relief of permanent injunction as claimed in the plaint. Accordingly, a decree of permanent injunction is hereby passed in favour of the Plaintiff and against Defendant No.1 in terms of the relief sought in paragraph '79' (i), (ii), (iii), (iv) and (v) of the plaint.

24. The remaining reliefs qua Defendant No. 1 are disposed of as not pressed.

25. Defendant No. 2 will continue to remain bound by its statement recorded in the order dated 03.12.2025.

26. The registry is directed to draw up a decree in terms of this order.

27. With the aforesaid directions, this suit, along with pending applications [if any], stands disposed of.

28. All future dates stand cancelled.

29. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No

⁵ 2013 SCC OnLine Del 508



physical copy of the order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J
DECEMBER 23, 2025/msh/aa