



2025:DHC:8803-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO(OS) (COMM) 154/2025, CAV 377/2025, CM APPLs. 61289-293/2025**

MICKS PRODUCTS LLP AND ORS.Appellants

Through: Ms. Swathi Sukumar, Sr.
Advocate with Ms. Prachi Mishra, Mr.
Kartik Pant and Mr. Chaitanya, Advocates

versus

LOTUS BAKERIES N.V.Respondent

Through: Mr. Sandeep Sethi, Sr.
Advocate with Mr. Peeyoosh Kalra, Ms. V
Mohini and Ms. Arti Aggarwal, Advocates

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

% 25.09.2025

C.HARI SHANKAR, J.

1. This appeal assails order dated 20 August 2025 passed by a learned Single Judge of this Court in IA 20254/2025 in CS (Comm) 861/2025.

2. The respondent has registrations in India only of the word mark BISCOFF. The grievance of the respondent, as the plaintiff before the learned Single Judge, was that the appellant was manufacturing and selling biscuits under the mark BISCO using a trade dress which was nearly identical to that of the respondent, with the same kind of shape,



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and as well as an advertising logo () which was identical to that of the respondent.

3. Accordingly, the respondent in its suit sought an injunction against the appellant using the mark BISCO as well as the trade dress and other features of the appellant's product on the ground of infringement and passing off.

4. The impugned judgment of the learned Single Judge has granted injunction as sought by the respondent. Paras 31 and 32 of the impugned judgment read thus:

“32. Accordingly, it is directed that, till the next date of hearing:

a. the Defendants, their proprietors, partners or directors, as the case may be, their principal officers, servants, distributors, dealers and agents, and all others acting for and on behalf of the Defendants, are restrained from selling, marketing, supplying, offering for sale, advertising on their website, social media webpages, online trade directories, online medical trade portals etc. directly or indirectly dealing in any of the services under the Mark ‘BISCO’ and or any other Trade which may be identical to or deceptively similar with the Plaintiff's registered Trade Mark ‘BISCOFF’ so as to cause infringement of Trade Mark.

b. the Defendants, their proprietors, partners or directors, as the case may be, their principal officers, servants, distributors, dealers and agents, and all others acting for and on behalf of the Defendants, are restrained from selling, marketing, supplying, offering for sale directly or indirectly dealing in any of the services under the biscuit



shape and the Trade Dress



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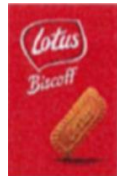
identical or
deceptively similar to the Plaintiff's registered Trade Mark

'BISCOFF', the BISCOFF Biscuit Shape



and

the BISCOFF Packaging



in any manner whatsoever so as to pass off or enable others to pass off their goods as and for the goods of the Plaintiff and / or any other mark identical with or deceptively similar to Plaintiff's registered Trade Mark BISCOFF, the Biscoff Biscuit singularly or in conjunction with any other word(s) or monogram / logo / label as a trade mark, house mark, trade name, trading style, corporate name, website, domain name, email address or otherwise in any manner whatsoever in relation to their business / products / services."

5. The impugned order is fundamentally unreasoned. The learned Single Judge has recorded the contention of learned counsel for the parties and thereafter has ruled as in paras 31 and 32, reproduced *supra*.

6. Aggrieved thereby, the appellant, as the defendant before the learned Single Judge, has instituted the present appeal under Section 13 of the Commercial Courts Act, 2015.



7. We have heard Ms. Swathi Sukumar, learned Senior Counsel for the appellant and Mr. Sandeep Sethi, learned Senior Counsel, instructed by Mr. Peeyoosh Kalra, Advocate for the respondent.

8. In so far as the injunction against the use by the appellant of the mark BISCO is concerned, Ms. Swathi Sukumar, learned Senior Counsel for the appellant, on instructions, consents to retaining the injunction as granted by para 32(a) of the impugned order pending disposal of the suit.

9. In so far as the injunction contained in para 32(b) of the impugned order is concerned, as there are no substantial reasons in the impugned order to justify grant of the said injunction, learned counsel, by consent, are also agreeable to the impugned order being set aside to the extent of injunction granted in para 32(b) and issue of grant of injunction as in para 32(b) being remanded to the learned Single Judge for consideration afresh.

10. We make it clear that we have not expressed any opinion on the correctness, justifiability or otherwise of the injunction granted in para 32(b). We are remanding the matter by consent of learned counsels only because there are no substantial reasons in the impugned order to justify the said grant of injunction. It would be for the learned Single Judge to take a view one way or the other, retaining, of course, the right of any party aggrieved by the decision to approach this Court.

11. Accordingly, the present appeal stands disposed of, by consent, in the following terms:



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(i) The injunction granted in para 32(a) of the impugned order is upheld. The appeal, to the extent it challenges the said injunction is dismissed.

(ii) The injunction as is granted in para 32(b) is quashed and set aside.

(iii) IA 20254/2025 stands remanded to the learned Single Judge for consideration afresh on the issue of grant of injunction as granted in para 32(b) of the impugned order.

(iv) Needless to say, the learned Single Judge would proceed uninfluenced by any observations contained in the impugned judgment.

(v) All issues of fact and law would remain open to be urged by the learned Single Judge.

12. In order to expedite the matter, we direct the parties to appear before the learned Single Judge on 27 October 2025, date already fixed.

13. In the meanwhile, pleadings in the IA be completed.

14. Both sides would also place on record short notes of their respective written submissions not exceeding four pages each, after exchanging copies with each other, *apropos* the issue which stands remanded, at least 48 hours in advance of the date before the learned



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Single Judge.

15. Learned counsel for the parties also undertake not to take adjournment on the said date.

16. The writ petition is disposed of, in the aforesaid terms.

C. HARI SHANKAR, J

OM PRAKASH SHUKLA, J

SEPTEMBER 25, 2025/yg