



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION

**INTERIM APPLICATION NO. 1570 OF 2025
IN
COMMERCIAL IP SUIT NO. 242 OF 2025**

Saint-Gobain India Private Limited ...Applicant/Plaintiff

Versus

Gypstone Building Products Pvt. Ltd. ...Respondent

*Mr. Hiren Kamod, Mr. Rohan Lopes, Mr. Karan Khiani i/b Ms. Rashmi Singh
for Plaintiffs.*

S. S. Chipkar, Master (Adm.), Court Receiver present.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : FEBRUARY 4, 2026

P. C. :

1. Interim Application is preferred in the action for infringement of trade mark and passing-off. The rival marks are "GYPTONE" vs. "GYPTSTONE".
2. Mr. Kamod, learned counsel appearing for Plaintiff would submit that vide order of 5th October, 2023, as the proceedings were pending before the Trade Marks registry at that point of time, this Court though arrived at *prima facie* finding of infringement of trade mark and passing-off thought it fit to give notice to the Defendant before

considering relief as sought and granted relief of appointment of the Court Receiver for executing commission. He submits that subsequently, the commission was executed and Court Receiver's Report is taken on record. He submits that though initially the Defendant had approached for settlement, the settlement talks could not fructify which led to passing of order of 13th November, 2025 allowing the Leave Petition.

3. He would further submit that in the meantime, the Defendant has withdrawn all its pending trade mark applications for seeking registration of the word mark and the device mark of "GYPSTONE". He has tendered the application before the trade mark registry which shows the status as withdrawn. He would further tender the communication received from the Advocate for the Defendant stating that Defendant is not using the concerned mark "GYPSTONE" since more than 10 years except using in the company name, which also they intend to change in the records of the Registrar of Companies and had sought time to carry out the said change. The communications are tendered and are taken on record.

4. Vide order dated 5th October, 2023, this Court came to a *prima facie* finding of the proprietary right of the Plaintiff in the trade mark "GYPTONE" and also the Plaintiff has acquired goodwill and reputation in the registered trade mark. This Court further came to *prima facie*

finding of the deceptive similarity between the rival marks and that the mere addition of alphabet "S" was not sufficient to lend any distinctiveness to the impugned mark. As the parties were involved in proceedings before the Trade Marks Registry at that stage, the Court issued notice to the Defendant and granted the relief of appointment of Court Receiver. There is no reply filed by the Defendant despite being served with the copy of the proceedings. *Prima facie* findings arrived at by the order of 5th October, 2023 have not been displaced.

5. By order dated 13th November, 2025, leave was granted for combining the cause of action of passing-off with infringement of trade mark. The rival marks are "GYPTONE vs. GYPSTONE", which are deceptively similar. The impugned mark is used in respect of identical product. The Plaintiff's registered trade mark has acquired reputation and goodwill which has been recognized by this Court in the order of 5th October, 2023. The manner in which the mark has been used makes it evident that the Defendant has attempted to come as close as possible to the Plaintiff's mark with an obvious intent of unjust enrichment at the cost of the Plaintiff's goodwill and reputation. *Prima facie*, the Defendant has designed the mark in the manner so as to pass-off its goods as that of the Plaintiff's. *Prima facie* case has been made out for passing-off.

6. As the *prima facie* findings have been already been arrived at by

order of 5th October, 2023, this is a fit case for grant of interim relief in terms of prayer clauses (a) and (b), which reads as under:

“(a) that pending the hearing and final disposal of the Suit, the Defendants by themselves, their servants and agents, be restrained by an order and injunction of this Hon'ble Court from using, in any manner whatsoever, upon and in relation to

its business, the mark GYPSTONE/ and/or any mark identical with or deceptively similar to the Plaintiffs registered trade mark GYPTONE under Registration No. 1554053 so as to infringe the same;

(b) that pending the hearing and final disposal of the Suit, the Defendants by themselves, their servants and agents, be restrained by an order and injunction of this Hon'ble Court from using in any manner whatsoever, upon and in relation to its business/products, the marks GYPSTONE/

 and/or any other marks/labels identical to or deceptively similar to the Plaintiffs trade mark GYPTONE in any manner so as to pass off or enable others to pass off their products/services as that of Plaintiff or in some manner connected with Plaintiff.”

7. The Court Receiver's Report is disposed of. Court Receiver is discharged without passing of accounts. All costs, charges and expenses of the Court Receiver to be paid by the Plaintiff within period of eight days on demand being raised by Court Receiver.

[SHARMILA U. DESHMUKH, J.]