

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

**INTERIM APPLICATION NO.4660 OF 2025
IN
COMMERCIAL IP SUIT NO.179 OF 2025
WITH
LEAVE PETITION (L) NO.24930 OF 2025**

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Date: 2026.01.06
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Jawed Habib Hair & Beauty Limited

...Applicant

Versus

Kavita Janki Services Private Limited

...Respondent

Ms. Nidhi Bangera a/w. Mr. B.N. Poojari, Mr. Suresh Poojary i/b. Legal House, for the Applicant.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : JANUARY 06, 2026

P. C. :

1. This is an action for infringement of trade mark, copyright and passing off.
2. The Plaintiff was incorporated with trade name "Jawed Habib" in the year 2006 and is engaged in the business of providing salon services. In the year 2006, the Plaintiff conceived a distinctive trade mark and label being "Jawed Habib Hair and Beauty". The Plaintiff has secured registration in respect of "Jawed Habib" label, "JH" logo and composite of "JH logo Jawed Habib Hair and Beauty" which are annexed to the Plaint.

3. The Plaintiff by executing the Franchise Agreement permitted the use of registered label mark by the Defendant for the period from 20th May, 2014 till 19th May, 2017. Despite the franchise agreement expiring by reason of efflux of time, the Defendant continued the use of the registered trademark of the Plaintiff and hence the present action.

4. Learned counsel for the Plaintiff has taken this Court through the registration certificates annexed to the Plaint and submits that upon expiry of the franchise agreement, permitted use of the registered trademark by the Defendant extinguished and by continuing to use the registered trademark infringes the exclusive right of the Plaintiff as guaranteed under the Trademark Act. She submits that the goodwill and reputation of the Plaintiff is demonstrated from the sales turn over which is set out in paragraph 10 of the Plaint. She would further submit that upon becoming aware of the continued use of the registered trade mark by the Defendant though not entitled, on 24th June, 2024, the Plaintiff through their Advocate issued a cease and desist notice to which there is no response. She would further point out to the postal receipts and tracking report to demonstrate service upon the Defendant. She submits that considering the reputation and goodwill of the Plaintiff in the registered trade mark, it is imperative that the Defendant be restrained from using the trademark. She would

further point out the additional affidavit tendered across the bar and taken on record to demonstrate the continued use of the Plaintiff's registered trademark.

5. I have considered the submissions and perused the record.

6. The franchise agreement produced on record would *prima facie* indicate the acceptance of ownership of the Plaintiff in the registered trademarks and the permitted use by the Plaintiff during the subsistence of the agreement with the Defendant. Upon the expiry of the franchise agreement by reason of efflux of time, the Defendant is no longer permitted to use the registered trade marks of the Plaintiff in respect of identical salon services. There is no probable defense as the franchise agreement demonstrates that the Defendant cannot claim any independent right in use of the registered trademarks upon expiry of the franchise agreement. Despite the cease and desist notice being issued and the present proceeding served upon the Defendant, the Defendant has chosen not to cause any appearance in the present matter. The proprietary right of the Plaintiff in the registered trademarks is *prima facie* demonstrated from the registration certificates which are appended to the Plaint. The additional affidavit encloses the photograph taken on 18th December, 2025 of the Defendant's establishment which shows the continued use of the Plaintiff's registered trademark.

7. In light of above a strong *prima facie* case has been made out for grant of ad-interim relief in terms of prayer clause (a), (b) and (c) which read as under.

(a) For perpetual order of injunction of this Hon'ble Court restraining the Defendant by itself and/or its servants, agents, representatives and/or any person(s) claiming under or through it from infringing the Plaintiffs' trademark "The Jawed Habib" registered under No. 2078994 at Exhibit-B-1 hereto and "Jawed Habib Hair & Beauty" registered under No. 3981756 at Exhibit-B-2, JH Logo" registered under No. 3462820 at Exhibit-B-3, hereto by adopting and/or using in any manner the mark "The Jawed Habib", "Jawed Habib Hair & Beauty" and "JH Logo" words per se labels or any deceptively similar marks or labels in respect of rendering services of Hair Salon services, namely Hair Cutting, Styling, Colouring and Hair extension and Body Waxing in Humans or similar services.

(b) For perpetual order of injunction of this Hon'ble Court restraining the Defendant by itself and/or their servants, agents, representatives and/or any person(s) claiming under or through them from infringing the Plaintiffs' copyright in the artistic labels of trademark "JAWED HABIB" caricature registered under No.A-98179/2013 under the Copyrights Act, 1957 at Exhibit C2 hereto by adopting and/or using in any manner identical or similar mark/label in respect of Hair Salon services, namely Hair Cutting, Styling, Colouring and Hair extension and Body Waxing in Humans or similar services or any services and granting of the certificates training the personnel's in the Plaintiffs name.

(c) For perpetual order of injunction of this Hon'ble Court restraining the Defendant by itself and/or their servants, agents, representatives and/or any person(s) claiming under or through them from passing-off services of Hair Salon, namely Hair Cutting, Styling, Colouring, Hair Extension and Body Waxing of Humans or similar services by adopting and/or using in any manner "The Jawed Habib", "Jawed Habib Hair & Beauty" and "JH Logo" or any mark/word/label or any deceptively similar mark/label as trademark or label as trademark or trade name or otherwise in respect of services/business of Hair Salon, namely Hair Cutting, Styling, Colouring, Hair Extension and Body Waxing of Humans.

8. Stand over to 3rd February, 2026.
9. Ad-interim granted to continue till the next date.

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10. Leave Petition has been filed under clause XIV of the Letters Patent (Bombay) for combining the cause of action for passing of with cause of action for infringement of trade marks and copyright. Despite service, none appears on behalf of the Defendant. There is no opposition.

11. As the proceedings arise from the same set of transaction, in order to avoid multiplicity of proceedings, Leave Petition is allowed.

[SHARMILA U. DESHMUKH, J.]