



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-02-2026

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THE HON'BLE MR JUSTICE SENTHILKUMAR RAMAMOORTHY

**OA Nos. 778 & 779 of 2025
in
C.S (COMM DIV) No. 195 of 2025
and
A No. 3695 of 2025**

Dinesh K Jain
Sole Proprietor of M/s.Shree Boutique
77 Elephant Gate Street, Chennai
Tamil Nadu 600079.

..Applicant(s)/Plaintiff
In Both OAs

Vs

1. Kaluram Kumawat
2. M/s.Shri Bridal Boutique
Rep. by Mr.Kaluram Kumawat,
No.159, Mint Street, Sowcarpet,
Chennai-600079.
3. M/s.Shri Royal Boutique
Rep. by Mr.Kaluram Kumawat
No.159, Mint Street, Sowcarpet,
Chennai-600079.

..Respondent(s)/
Defendant(s)
In Both OAs

An Ad Interim Injunction restraining the Respondents, by itself, its lawful assignees, men, servants, agents, distributors, stockiest, representatives or anyone claiming through or under them from in any manner infringing applicant's registered Trade Mark/Trading style "SHREE BOUTIQUE" by manufacturing, marketing, offering, selling, using, displaying or in any other



manner dealing with Clothing, ready made garments, sarees, exquisite lehenges, chudidars and other allied and cognate products under the Trade Mark/Trading Style “SHRI BRIDAL BOUTIQUE”/ “SHREE BRIDAL BOUTIQUE”/ “SHRI ROYAL BOUTIQUE” or any other similar or identical mark to the Applicants Registered Trade Mark/Trading Style “SHREE BOUTIQUE” in any manner whatsoever pending disposal of the suit.

An Ad Interim Injunction restraining the Respondents, its lawful assignees, men, servants, agents, distributors, stockiest, representatives or anyone claiming through or under them from in any manner passing off and/or enabling others to pass off the respondents’ products under the trademarks “SHRI BRIDAL BOUTIQUE”/ “SHREE BRIDAL BOUTIQUE”/ “SHRI ROYAL BOUTIQUE” as and for applicant’s products by manufacturing, selling, or offering to sell, distributing, displaying, printing, stocking, using, advertising their products with a trademark and/or label that is identical or deceptively similar to applicant’s Trade mark/Trading style “SHREE BOUTIQUE”/ “SHREE BOUTIQUE BRIDAL STUDIO” or in any other manner similar and identical to applicant’s Trade mark/Trading style “SHREE BOUTIQUE”/ “SHREE BOUTIQUE BRIDAL STUDIO” pending disposal of the suit.

For Applicant(s): Mr.Ashok Kumar J Daga

For Respondent(s): Mr.A.G.Sathyanarayana

COMMON ORDER

In a suit seeking remedies in respect of alleged trade mark infringement and passing off, the plaintiff has presented these applications seeking interim relief in respect of infringement and passing off, respectively.

2. Contentions of learned counsel for the applicant/plaintiff may be summarised as under:

(1)The plaintiff commenced business after obtaining Goods and Service



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Tax (GST) registration on 18.12.2019.

(2) As evidence of use, invoices issued between 02.09.2020 and 25.05.2024 have been filed.

(3) The plaintiff has obtained registrations for the word mark “SHREE BOUTIQUE” in Classes 24, 25 and 35 relating to textiles, ready-made garments, and related goods.

(4) The sales turnover of the plaintiff has been certified by a Chartered Accountant, and such turnover for the Financial Year 2024-2025 was Rs.9,12,89,298/-.

(5) If the trademark of the plaintiff were to be compared with those of defendants 2 and 3, it would be clear that the rival marks are deceptively similar.

(6) The defendants have also copied the packaging material in which the goods are sold.

(7) The suit was instituted after issuing cease and desist notice dated 13.01.2025 and even rejoinder dated 04.03.2025.

3. Contentions of learned counsel for the defendants in response may be summarized as under:

(1) The plaintiff's trade mark consists of two generic or descriptive words.

(2) The legal use certificate contains a disclaimer preventing the plaintiff



from asserting the right to exclusive use.

(3) The plaintiff has failed to provide any evidence of actual confusion.

(4) The plaintiff has also failed to provide any evidence that his business has suffered a loss on account of the operations of the defendants.

(5) There are many outlets with trading names similar to that of the plaintiff; the plaintiff has not initiated action against any of them.

(6) The plaintiff has failed to establish misrepresentation, goodwill, and reputation, or injury thereto. Therefore, the plaintiff is not entitled to relief in respect of alleged passing off.

(7) The plaintiff has initiated the action vindictively because the plaintiff intends to set up a shop opposite to that of the defendants.

4. Upon taking stock of the rival contentions, the primary question that falls for consideration at this juncture is whether there is *prima facie* evidence of deceptive similarity. The record shows that the plaintiff is the registered proprietor of the trademark “SHREE BOUTIQUE” in classes 24, 25 and 35. These classes pertain to textiles and garments. There is evidence of use by the plaintiff from 02.09.2020. The defendants have failed to provide any evidence of use. The only material available with regard to the defendants use are the applications filed by the defendants for registration of the marks “SHRI ROYAL BOUTIQUE” and “SHRI BRIDAL BOUTIQUE” in January 2025. These applications were filed on ‘proposed to be used’ basis, thereby indicating



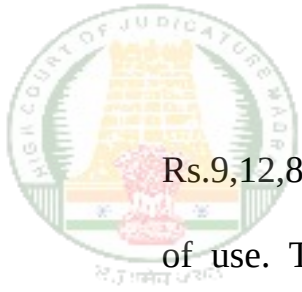
that use was subsequent to the date of these applications. Hence, the conclusion that follows is that the defendants are the subsequent users.

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5. As contended by learned counsel for the defendants, the registration of the plaintiff is subject to a disclaimer with regard to exclusivity over the individual elements of the trademark. Such limitation with regard to protection is prescribed statutorily in Section 17 of the Trade Marks Act, 1999. The plaintiff is, however, not claiming exclusivity with regard to the individual elements of the trademark, but over the composite mark. Therefore, a comparison has to be made between the plaintiff's mark "SHREE BOUTIQUE" and the defendants' marks "SHREE BRIDAL BOUTIQUE" and "SHRI ROYAL BOUTIQUE".

6. Deceptive similarity is required to be examined from the perspective of a consumer of average intelligence and imperfect recollection. It is common ground that both parties carry on an identical line of business. On making the comparison from the above perspective, I find *prima facie* that there is deceptive similarity. Balance of convenience and hardship remain to be considered.

7. The plaintiff has provided evidence that it entered the market in the year 2020 and that its sale turnover for the financial year 2024-2025 is



Rs.9,12,89,298/-. The defendants, as noticed earlier, have not provided evidence of use. The only evidence on record indicates that the defendants possibly commenced operations sometime in the year 2025. The defendants are also in a position to modify their mark and continue their business even if an order of injunction were to be issued. On the other hand, if an order of interim injunction is not issued, it is likely that irreversible injury will occur to the plaintiff as a result thereof.

8. For the reasons aforesaid, O.A.No.778 of 2025 is allowed as prayed for. As regards O.A.No.779 of 2025, since it also entails an assessment of whether the plaintiff has established the classical trinity of misrepresentation, good-will/reputation, and injury thereto, such adjudication should await trial. Therefore, the said application is disposed of.

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OA Nos. 778 & 779 of 2



SENTHILKUMAR RAMAMOORTHY J.

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