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

\# **CNR No. DLHC010269032026**

\+ **C.O.(COMM.IPD-CR) 20/2026 and I.A. 16155/2026, I.A. 16156/2026, I.A. 16157/2026**

Date of Decision: **27.10.2026**

IN THE MATTER OF:

MOHD. ANISUR RAHAMAN
PROPRIETOR, M/S ANDAZ BIDI FACTORY
VILLAGE DURGAPUR, P.O. NAYANSUKH,
DISTRICT-MURSHIDABAD, WEST BENGAL- 742202

.....Petitioner

Through: Mr. Pankaj Kumar, Advocate.

versus

JEET BIRI MANUFACTURING CO. PRIVATE LIMITED
DHULIYAN MAIN ROAD, DHULIYAN,
DIST. MURSHIDABAD, WEST BENGAL 742202

THE REGISTRAR OF COPYRIGHTS
COPYRIGHT OFFICE
BOUDHIK SAMPADA BHAWAN,
PLOT NO. 32, SECTOR 14, DWARKA,
NEW DELHI-110078

.....Respondents

Through: Mr. Counsel for R-1 (*appearance not given*)
Ms. Nidhi Raman, CGSC with Ms. Nikita Singh and Mr. Rishay Raj, Advocates for R-2.

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

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J U D G M E N T

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. This petition under Section 50 of the Copyright Act, 1957 seeks for removal/ cancellation/ expunging of the impugned copyright titled as JEET BIRI with photo device i.e.  bearing registration no. A-76261/2006 from the Register of Copyrights.

2. Mr. Pankaj Kumar, learned counsel appearing for the petitioner, has taken the Court through the civil suit, being Other Suit No. 3 of 2014, filed by respondent no. 1 before the Court of the learned District Judge, Murshidabad at Berhampore, West Bengal, where the respondent itself has claimed the similarity of its trademark with that of the petitioner. It is, thus, contended that the averments made by respondent no. 1 therein are sufficient to draw the conclusion of similarity of the copyright. The petitioner, therefore, contends that the reason to seek cancellation arises in his favour against the impugned copyright.

3. The petitioner claims to be the prior user, and it is contended that the trade dress will have to be holistically seen in the context of the product and the nature of the segment which is sought to be catered to by the parties.

4. Learned counsel for the petitioner has placed reliance on ***Heinz Italia and Anr. vs. Dabur India Ltd.***[1], ***ITC Limited vs. Britannia Industries***

[1] (2007) 6 SCC 1.

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Ltd.[2], ***Allied Blenders & Distillers Private Limited vs. Hermes Distillery Private Limited***[3] and ***RSPL Health Private Limited vs. M/s Deep Industry***[4].

5. The aforesaid submissions are strongly opposed by learned counsel who appears for respondent no. 1, on advance notice and he contends that the copyright and the trade dress, both, are distinct, and there is no deceptiveness or similarity in the same. It is also contended that the pleadings made in the aforementioned civil suit are being wrongly construed to be an admission on the part of respondent no. 1.

6. For the sake of clarity, the petitioner's copyright and the impugned copyright are extracted as under:

The petitioner's artistic label/copyright	*The respondent's impugned artistic label/copyright*
	
	

7. If the impugned trade dress and the copyright are considered in the

[2] 2023 SCC OnLine Mad 6972.
[3] 2024:DHC:288.
[4] 2014:DHC:5836.

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right perspective, it would clearly indicate that there are marked distinctions in both of them. The colour combination, the font size, the name of the mark used therein, the artwork, etc. are altogether different.

8. The petitioner's label carries the name "Andaaz Bidi" in white letters on a green arch, set against a yellow background with a red band below it. The impugned label, on the other hand, carries the name "Jeet Bidi", and has an orange border, a grey central field and a blue lower band.

9. The petitioner's packaging consists of the photograph of an elderly gentleman, whereas the respondent's packaging consists of the photograph of a young boy. When the different photograph is seen along with the different name and the different colour scheme, even a purchaser who goes by the overall look of the packet is not likely to mistake one for the other.

10. The only features common to both the labels are a banner carrying the name, a photograph placed in a circle, and the words indicating the bidi number and the trade mark. These are, at best, ideas or a general manner of arrangement, in which no copyright can be claimed by the petitioner.

11. It is well settled that there can be no copyright in an idea, and the protection is confined to the form, manner, arrangement and expression of the idea. The Supreme Court in the case of ***R.G. Anand vs. Delux Films***[5], in paragraph no. 46, has held as under:

> *"46. Thus, on a careful consideration and elucidation of the various authorities and the case law on the subject discussed above, the following propositions emerge:*
>
> > *1. There can be no copyright in an idea, subject-matter, themes, plots or historical or legendary facts and violation of the copyright in such cases is confined to the form, manner and arrangement and expression of the idea by the author of the copyrighted work.*

[5] (1978) 4 SCC 118.

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xxx

> *3. One of the surest and the safest test to determine whether or not there has been a violation of copyright is to see if the reader, spectator or the viewer after having read or seen both the works is clearly of the opinion and gets an unmistakable impression that the subsequent work appears to be a copy of the original.*
>
> *4. Where the theme is the same but is presented and treated differently so that the subsequent work becomes a completely new work, no question of violation of copyright arises.*
>
> *5. Where however apart from the similarities appearing in the two works there are also material and broad dissimilarities which negative the intention to copy the original and the coincidences appearing in the two works are clearly incidental no infringement of the copyright comes into existence."*

12. Applying the aforesaid principles to a petition under Section 50 of the Copyright Act, 1957, a Division Bench of this Court in the case of ***R.C. Plasto Tanks and Pipes Pvt. Ltd. vs. Ganesh Gouri Industries & Anr.***[6], in paragraph nos. 15 and 21, has held as under:

> *"15. The petition before the learned Single Judge was filed under Section 50 of the Copyright Act, 1957 and the burden in such circumstances, therefore, is on the appellant to demonstrate that the impugned copyright is not original thereby lacking creativity and is colourable imitation of the original work.*
>
> *xxx*
>
> *21. ... When the broad features of the competing artistic works in the present case are compared, a mere commonality appears to be the colour and the generic shape of the label. The same in the absence of the broad features being similar is not sufficient to call the respondent's work as a colourable imitation or substantial reproduction of the appellant's copyright."*

13. Similarly, this Court in the case of ***Britannia Industries Ltd. vs. ITC Ltd.***[7], in paragraph nos. 16 and 17, has held as under:

> *"16. ... If similarities can cause deception or confusion, dissimilarities, if sufficient, can also obviate any such possibility. ... If, therefore, between the rival marks, the points of dissimilarity are so stark that they shade or*

[6] 2024:DHC:5787-DB.
[7] 2021 SCC OnLine Del 1489.

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overweigh the points of similarity, the court may legitimately arrive at a conclusion that, irrespective of the points of similarity, no possibility of confusion or deception exists.

17. For this, one of the most important assessments that the court is required to make is as to the features, of the rival marks, which are most prominent. If there is stark dissimilarity in the prominent, or essential, features of the rival marks, as would impress on the mind of the person of average intelligence and imperfect recollection, no finding of confusing or deceptive similarity can be arrived at."

14. The core contention of the petitioner is that the bust of a man on his label has been copied by respondent no. 1. However, the bust or photograph of a man, usually that of the proprietor or a member of his family, is not something unique to the petitioner. It is a feature which is commonly found on the labels of bidi manufacturers.

15. The photographs keep changing from one manufacturer to another, but the format of the label remains the same. The name of the bidi appears at the top, a photograph is placed in the centre, the bidi number and the words "trademark" appear on either side, and the details of the manufacturer appear at the bottom.

16. This may be seen from the labels which have come up before various High Courts. In the case of ***Hiralal Parbhudas vs. Ganesh Trading Company***[8], the labels of both the parties carried the bust of a man. In the case of ***Rajendra Sahoo vs. Ganeswar Swain***[9], the evidence was that the bidi packets of each party carried the photograph of its own proprietor, and in ***Lakhara and Co. vs. Shivakaran Bhanwar Lal Kila***[10], both the rival labels carried the words "Bidi No. 7" along with a small photograph of a person placed in a circle.

[8] AIR 1984 Bom 218.
[9] AIR 1987 Ori 156.
[10] AIR 1995 Raj 17.

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17. In the case of ***Mohanlal Harprasad vs. Firm Lal Mohammad***[11], the High Court of Madhya Pradesh, while dealing with rival bidi labels, noticed that the defendant's label carried the photograph of its founder in a circle, and held that the similarity in the colours and the picture of a cow was not likely to cause any confusion.

18. In the case of ***A.S. Hameed vs. Abdul Azeez and Sons***[12], the High Court of Madras, while dealing with a bidi label which carried the bust photograph of the proprietor's son, held that no exclusive right could be claimed over the numeral "10", as the same was used on the labels of other bidi manufacturers as well.

19. Even before this Court, the marks of bidi manufacturers have been described as "device of bust photo of man" and "bust of man", as noticed in the cases of ***New India Biri Factory vs. Mohd Saleem & Ors.***[13] and ***Tata Sons Private Limited vs. Martuj Ali & Anr.***[14]. The petitioner's own trademark is titled as "ANDAZ BIRI NO. 205, DEVICE OF BUST OF MAN (LABEL)".

20. It is well settled that no person can claim exclusivity over a feature which is generic and commonly used in an industry, and this principle has been applied across different classes of goods. The Supreme Court in the case of ***Pernod Ricard India Private Limited vs. Karanveer Singh Chhabra***[15], in paragraph nos. 31.9 and 51, has held as under:

> *"31.9. ... The term 'PRIDE' being a common and laudatory expression, cannot be claimed exclusively in isolation. Although both parties' trade dress and colour schemes feature elements of blue and gold, such*

[11] AIR 1962 MP 297.
[12] 2006 SCC OnLine Mad 809.
[13] CS(COMM) 576/2022, order dated 24.08.2022.
[14] CS(COMM) 1161/2025, order dated 03.11.2025.
[15] 2025 SCC OnLine 1701.

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> *similarities are insufficient to establish deceptive similarity. The placement of elements, design of labels, font styles, and emblems differ in material respects. ...*
>
> *xxx*
>
> *51. It is not in dispute that the word "PRIDE" is not registered as a standalone mark. Nor can the appellants claim exclusivity over common elements like bottle shape or color schemes that are generic and widely used in the industry. ..."*

21. In the context of digestive biscuits, our Court in ***Britannia Industries*** (supra), in paragraph no. 24, held that the mere representation of biscuits with sheaves of wheat below them, which appeared to be a practice in the case of digestive biscuits, was totally insufficient to lead to confusion or deception. Similarly, in ***Allied Blenders*** (supra), on which the petitioner himself relies, our Court held in paragraph no. 58 that there cannot be any monopoly on the red and white colour combination.

22. In ***R.C. Plasto*** (supra), the Division Bench, while dealing with the labels used on water tanks, held in paragraph no. 22 that the Copyright Act, 1957 "*provides protection to the expression of an idea and not the idea itself*", and treated the colour blue as "*an idea behind using the work on a water tank*". In the same manner, the bust of a man is only an idea behind a bidi label.

23. Applying the aforesaid principles, the petitioner cannot claim a monopoly over the idea of placing the bust of a man on a bidi label, or over the general format in which such labels are designed. His claim, if any, can extend only to the particular expression of his label. Respondent no. 1 has used the photograph of an altogether different person, with a different name and a different colour scheme.

24. It may be noted that in ***Hiralal Parbhudas*** (supra), the High Court of Bombay held that a difference in the busts alone was not sufficient to

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distinguish the rival labels. That decision, however, turned on its own facts. There, all the other features of the labels and their placement were identical, the names "Hiralal" and "Himatlal" were phonetically similar, and there was evidence of actual confusion. None of these features is present in the instant case.

25. Therefore, in the absence of there being any similarity between the two artistic works, there cannot be any direction for cancellation of the impugned copyright registration.

26. Insofar as the averments made by respondent no. 1 in the aforementioned civil suit are concerned, the same constitute its own case that the petitioner's packets imitate its label, which is yet to be tried. Such averments cannot be construed to be an admission that the impugned copyright is a copy of the petitioner's work.

27. Even otherwise, an admission made in a pleading in another suit is not conclusive, and it is open to the party to show that it is not true, as held by the Supreme Court in the case of ***Basant Singh vs. Janki Singh***[16]. Whether one artistic work is a reproduction of the other is a question which the Court has to decide on its own comparison of the two works.

28. The reliance placed by the petitioner on the aforesaid decisions would not be of any help to him, as the facts and situation and the marks in question are altogether different. In all those cases, the Court reached the conclusion of similarity and deceptiveness on the facts before it.

29. In the case of ***Heinz Italia*** (supra), the colour scheme of Glucose-D and Glucon-D was found to be almost identical, with a happy family superimposed on both. In the case of ***ITC Limited*** (supra), the defendant had

[16] 1966 SCC OnLine SC 234.

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used a blue wrapper and arranged the picture of the biscuit and the swoosh of butter at the same places as on the plaintiff's "GOOD DAY" pack.

30. In the case of ***Allied Blenders*** (supra), both labels had a red lower half and a white upper half divided by a gold line, though the Court clarified, in paragraph no. 58, that there cannot be any monopoly on a colour combination. In the case of ***RSPL Health*** (supra), the layout, colour scheme and get-up were almost similar, and the same was not even denied. No such feature exists in the instant case.

31. Accordingly, in view of the aforesaid facts and circumstances, and finding no justification to interfere with the impugned copyright. The petition fails and is, hereby, dismissed.

32. Pending applications also stand disposed of.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

OCTOBER 27, 2026/aks/sa

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