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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL APPELLATE DIVISION
INTERIM APPLICATION (L) NO. 12003 OF 2021
IN
COMMERCIAL APPEAL (L) NO. 11675 OF 2021
WITH
INTERIM APPLICATION (L) NO. 12001 OF 2021
IN
COMMERCIAL APPEAL (L) NO. 11675 OF 2021
WITH
COMMERCIAL APPEAL (L) NO. 11675 OF 2021
IN
COMMERCIAL IP SUIT NO. 46 OF 2021**

International Society for Krishna
Consciousness Bangalore (ISKCON)

...Applicant /
Appellant

Versus

International Society for Krishna
Consciousness (ISKCON) & Ors

...Respondents

**Dr Birendra Saraf, Senior Advocate, with Rashmin Khandekar,
Karishni Khanna, MuralidharanKhadilkar & Aakash Joshi, i/b
MAG Legal, for the Applicant.**

**Dr Veerandra Tulzapurkar, Senior Advocate, with Hiren Kamod,
Vaibhav Keni, Neha Iyer, Prem Khullar & Anees Patel, i/b
Legasis Partners. for Respondent No. 1.**

**CORAM G.S. Patel &
Gauri Godse, JJ.
DATED: 20th July 2022**

PC:-

1. This order in Interim Application (L) 12003 of 2021 will dispose of the companion Interim Application (L) No. 12001 of 2021 and the Appeal itself.

2. The Appellants were not Defendants to the Suit filed by the 1st Respondent, International Society for Krishna Consciousness (“ISKCON”). The 1st Respondent filed the Suit claiming infringement of the mark ISKCON. On that application, against two Defendants, the learned Single Judge (BP Colabawalla J) made an order on 26th June 2020. He granted the injunction sought by the Plaintiff/1st Respondent. In paragraphs 8 and 9, Colabawalla J addressed himself to the mark in question. We quote those two paragraphs 8 and 9 from the said order.

“8. I have heard the submissions made by Mr. Kamod in detail and perused the documents/material before me. At the outset, it is important to note that the claim of the Plaintiff that ISKCON is a well-known trade mark is not disputed by the Defendant. It is clear that ISKCON is a coined trade mark of the Plaintiff, that is to say that the said term ISKCON did not exist prior to the Plaintiff’s adoption and use of the same. Since it is a coined trade mark which is associated exclusively with the Plaintiff, it undoubtedly deserves the highest degree of protection. The documents/material evidently show that the Plaintiff’s trade mark ISKCON has acquired immense and long-standing reputation and goodwill throughout India and

abroad. There can be no doubt that the trade mark ISKCON is associated with the Plaintiff and no one else. Furthermore, the Plaintiff has been diligently safeguarding and protecting its rights in the said trade mark ISKCON and has initiated proceedings before the various forums against the misuse of its trade mark ISKCON and been successful in enforcing its rights in its mark ISKCON. The reliance on the judgments of our Court and of Madras High Court by Mr. Kamod is well founded.

9. In view of the above, I have no doubt in my mind that the Plaintiff's trade mark ISKCON has come to enjoy a personality that is beyond the mere products/services rendered thereunder and the recognition, reputation and goodwill of the said trade mark ISKCON is today no longer restricted to any particular class of goods or services. From the material placed on record, it is evident that (a) the Plaintiff's trademark ISKCON has wide acceptability; (b) the popularity of the Plaintiff's trademark ISKCON extends not only in India but in other countries as well; (c) the Plaintiff is using its trade mark ISKCON openly, widely and continuously since the beginning; and (d) the Plaintiff has taken several actions against various infringers in the past. I am therefore of the opinion that Plaintiff's trade mark ISKCON satisfies the requirements and tests of a well-known trade mark as contained in Sections 11(6), 11(7) and other provisions of the Trade Marks Act, 1999. In view thereof, I find no difficulty in holding that the Plaintiff's trade mark ISKCON is a 'well-known' trade mark in India within the meaning provided in Sections 2(1)(zg) of the Trade Marks Act, 1999."

3. Since Defendants tendered an affidavit and undertaking dated 23rd June 2020, the suit itself came to be decreed on that day.

4. In Appeal is the International Society for Krishna Consciousness, Bengaluru. In Interim Application (L) No. 12003 of 2021 it quite correctly seeks leave to Appeal.

5. Even that may not be necessary.

6. Evidently, since the Appellant (which we shall for convenience called “**Bengaluru ISKCON**”) was not a defendant to the suit, the order in question obviously cannot bind Bengaluru ISKCON. Dr Saraf for Bengaluru ISKCON says that while there is no difficulty per se about the finding that ISKCON is a well-known trademark, Bengaluru ISKCON is aggrieved by the observations that this well-known trademark is exclusively associated with the original Plaintiff (“**Mumbai ISKCON**”) and, by necessary implication, that Mumbai ISKCON is sole and exclusive registered proprietor of the mark.

7. We believe it is sufficient to clarify that the observations of the learned Single Judge are not to be construed as finally determining any claims or contentions that the appellants may have in regard to *proprietorship* of the mark, as also whether theirs is a claim of exclusive proprietorship or of a right of concurrent user. Those contentions are left open for the appropriate proceedings before any forum including, we clarify, before the Registrar of Trademarks. The Registrar of Trademarks, is therefore, bound by the finding that ISKCON is well-known mark. As to who is entitled to the use of that mark or can be held to be its registered proprietor are questions expressly left open.

8. We are told that Mumbai ISKCON and Bengaluru ISKCON are at war in the Supreme Court. Evidently, we can say nothing about those proceedings.

9. This is sufficient to dispose of both Interim Applications and Appeal itself. All matters disposed of in these terms.

(Gauri Godse, J)

(G. S. Patel, J)