



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

INTERIM APPLICATION (LODGING) NO. 12496 OF 2023

IN

COMMERCIAL IP SUIT (LODGING) NO. 12374 OF 2023

**SHRIKANT
SHRINIVAS
MALANI**

Patanjali Foods Limited

...Applicant/Plaintiff

Versus

Meta Platforms Inc & Ors.

...Defendants

* * *

- Mr. Prathamesh Kamat, Mr. Nakul Jain and Mr. Kayush i/by Apoorv Srivastava, for Applicant/Plaintiff.
- Mr. Shailesh Poria, Mr. Hrishikesh Shukla and Mr. Rahul G i/by Economic Law Practice, for Defendant No. 2.

* * *

CORAM : MANISH PITALE, J

DATE : 04th MAY, 2023

P. C. :

1. Heard, Mr. Prathamesh Kamat, learned Counsel appearing for the Applicant/Plaintiff.

2. The Plaintiff had given private notice to the Defendants about listing of the application yesterday. An affidavit of Service is ready. The application is directed to be listed today, due to urgency in the matter. The affidavit of service be placed on record within one week from today.

3. At the outset, the learned Counsel appearing for the Applicant submits that inadvertently there are typographical errors in prayer clauses of the application. Permission is sought to replace the words “decree of permanent injunction” with the words

“temporary injunction”. In the interest of justice, the Applicant is permitted to carryout the said amendments in the prayer clauses of the application. The amendment be carried out within one week from today. Re-verification is dispensed with.

4. The learned Counsel for the Applicant/Plaintiff submits that there is urgency in the matter, for the reason that the Plaintiff is aggrieved by a video circulating on Facebook pages containing disparaging remarks against the product of the Plaintiff i.e. edible oil bearing the registered trademark “MAHAKOSH”. It is the case of the Plaintiff that unless urgent ad-interim reliefs are granted, the said videos would continue to hurt the reputation of the registered trademark of the Plaintiff. Section 29(8) of the Trade Marks Act, 1999, particularly clauses (a) and (c) thereof, are invoked on behalf of the Plaintiff in the present proceedings, while pressing for urgent ad-interim reliefs.

5. The Plaintiff is stated to be a leading manufacturer and marketer of a range of edible oils and it is a pioneer of Soya foods in India. It is the case of the Plaintiff that the defamatory video on online platforms has been circulated against a particular product of the Plaintiff called Mahakosh Refined Soyabean Oil. The video, not only infringes the registered trademark of the Plaintiff, but it has the effect of spreading misleading and false information and impression

in the minds of the general public with regard to the said product of the Plaintiff bearing the registered trademark.

6. The learned Counsel for the Plaintiff invited attention of this Court to the contents of the plaint and copies of certificates of registration of trademarks to show that the Plaintiff has registration for word mark "MAHAKOSH" and also a device mark. Such registrations have been granted in favour of the Plaintiff for a long period of time and atleast from the year 1998 onwards. It is submitted that substantial goodwill has been created in favour of the Plaintiff in the context of the said registered trademarks. in the aforesaid product. Reference is made to the sales turnover of the Plaintiff, to indicate that for the past about 10 years, the turnover has been about Rs. 55,35,068 Crores. Reference is also made to the substantial amounts spent by the Plaintiff towards advertisement and sales promotion, further indicating the presence of the Plaintiff in the edible oil market and in the public domain for a considerable period of time.

7. According to the Plaintiff, sometime in the middle of April, 2023, the distributors and officials of the Plaintiff came across videos uploaded on the platform of Defendant No. 1, wherein disparaging remarks have been made about the product of the Plaintiff bearing the registered trademark. A particular community has been targeted

to spread mis-information and disparaging information about the products of the Plaintiff, with a call to boycott of the said product.

8. It is stated that upon noticing the aforesaid video being run on platforms of Defendant No. 1, including Facebook and WhatsApp, the Plaintiff issued cease and desist notices to Defendant No. 1 in April, 2023, and also an e-mail to take specific steps in order to ensure that such videos would be deleted from the platform. Since, there was no reply to the aforesaid notices, the Plaintiff is constrained to file the present proceedings.

9. The Plaintiff has arrayed Defendant No. 3 as “Ashok Kumar” in the nature of a “John-Deo” action.

10. The contents of the video are brought to the notice of this Court by quoting the transcription of the said video in the body of the plaint and annexing relevant documents to impress upon this Court that disparaging remarks have been indeed made against the product of the Plaintiff bearing the registered trademark “MAHAKOSH”, as also a related device mark.

11. This Court has perused the material on record in the backdrop of the contentions raised on behalf of the Plaintiff. Considering the material on record, this Court is satisfied that *prima facie* the ingredients of Section 29(8) (a) and (c) of the aforesaid Act

are made out. The contents of the video in question, available on the platform of Defendant No. 1, *prima facie* appears to have infringed upon the registered trademark of the Plaintiff. A strong *prima facie* case is indeed made out for granting ad-interim reliefs in favour of the Plaintiff.

12. This Court is further convinced that unless ad-interim reliefs as prayed are granted in favour of the Plaintiff, it is likely to suffer grave and irreparable loss, thereby showing that the balance of convenience is in favour of the Plaintiff.

13. In view of the above, there shall be ad-interim reliefs in favour of the Plaintiff in terms of prayer clauses (a), (b) and (c), which read as follows :

- a. That pending hearing and final disposal of the present Suit, this Hon'ble Court be pleased to pass an order of temporary injunction restraining Defendants by themselves, their servants, employees, agents, dealers, distributors and all persons claiming under them from infringing the Applicant's registered trademarks, including "MAHAKOSH FUTURE FIT";
- b. That pending hearing and final disposal of the present Suit, this Hon'ble Court be pleased to pass an order of temporary injunction against Defendant Nos. 1 and 2, restraining them from circulation of the Impugned Video, storyboard of which is

annexed at Exhibit-“C” to the Plaint;

- c. That pending hearing and final disposal of the present Suit, this Hon’ble Court be pleased to pass a order of temporary injunction directing Defendant Nos. 1 and 2 to remove the Impugned Video (storyboard of which is annexed hereto at Exhibit-“C” to the Plaint) from their online platforms;”

14. The Plaintiff reserves its right to press for ad-interim relief in terms of prayer clause (d).

15. Mr. Shailesh Poria, learned Counsel has entered appeared on behalf of Defendant No. 2 and he objects to grant of ad-interim relief against the said Defendant. The learned Counsel for the Plaintiff, on instructions, submits that the Plaintiff, as on today, is not pressing ad-interim reliefs against the Defendant No. 2.

16. Thus, it is made clear that the ad-interim reliefs granted hereinabove shall operate against Defendant Nos. 1 and 3. Consequently, the Defendant No. 1 shall take down URLs specified at Exhibit “G” to the Plaint.

17. List the application for further consideration on **27th June, 2023.**

(MANISH PITALE, J.)