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

+ **CS(COMM) 265/2020**

RECKITT BENCKISER INDIA PVT LTDPlaintiff

Through Mr. Sachin Gupta with Ms. Jasleen
Kaur, Ms. Rajnandini Mahajan and
Mr. Pratyush Rao, Advs.

versus

MS SUPER SHINE INDUSTRIES THROUGH SH AJAY PANDEY

....Defendant

Through Mr. R. Krishnaamorthi, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% **21.07.2020**

[Court hearing convened *via* video-conferencing on account of COVID-19]

I.A. No.5868/2020

1. Allowed. The plaintiff is permitted to file additional documents.

1.1 The additional documents will be filed within 30 days of the lockdown *qua* this Court being lifted.

I.A. No.5869-70/2020

2. Allowed, subject to the plaintiff curing the deficiencies referred to in the captioned applications within five days of the lockdown *qua* this Court being lifted.

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3. Issue summons in the suit and notice in the captioned application.

4. Mr. R. Krishnaamorthi accepts service on behalf of the defendant.

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5. The plaintiff avers that it is the proprietor of the well-known trademarks “COLIN and HARPIC”.

5.1 It is the plaintiff’s case that the defendant has been infringing its registered trademark and slavishly copying its trade dress comprising of artwork in the label and packaging of its products. In this behalf, my attention has been drawn to paragraph 25 of the plaint, wherein the pictures concerning the plaintiff’s trade dress and that of the defendant’s infringing mark have been set forth. The same, for the sake of convenience, is extracted hereafter.



5.2 Mr. Sachin Gupta, who appears for the plaintiff, has also drawn my attention to the screenshots of the defendant's website which replicates the packaging of the defendant's infringing products.

5.3 Mr. Gupta says that a perusal of the infringing trademark and trade dress of the defendant's products shows that the defendant is not only infringing the plaintiff's trademark and trade dress, but also passing off its goods as if they emanate from the plaintiff.

6. On the other hand, Mr. Krishnaamorthi says that the defendant is not in the business of manufacturing and selling glass and toilet lavatory cleaners.

6.1 Mr. Krishnaamorthi further says that the defendant's mark is "Super Shine" and the screenshots of the website referred to by Mr. Gupta are old. Mr. Krishnaamorthi says that the impugned trade dress is, presently, not in use.

7. Mr. Gupta, in rejoinder, *albeit* on instructions, says that the defendant has made huge sales from the infringing packaging and the defendant, therefore, be called upon to account for the damage caused to the plaintiff.

8. Having perused the assertions made in the plaint and the documents appended thereto as also after considering the submissions made by Mr. Krishnaamorthi, I am of the view that at least at this stage, the plaintiff has been able to set up a *prima facie* case in its favour.

8.1 The balance of convenience also appears to be in favour of the plaintiff.

8.2 In my view, in case the plaintiff is not protected, its commercial and statutory interests will get jeopardized.

9. Therefore, till the next date of hearing, the defendant, its agents, employees, assignees, distributors, dealers and stockists are restrained from using the plaintiff's registered trademarks COLIN and HARPIC and the label connected thereto or any other trademarks/trade dress/label, which may be deceptively similar to the plaintiff's trademark/trade dress/label.

9.1 The interim injunction will continue till further orders of the Court.

10. Mr. Krishnaamorthi says that the defendant will file a written statement in the suit and reply to the captioned application within 10 days from today.

10.1 Mr. Krishnaamorthi's request is acceded to.

11. At this stage, Mr. Krishnaamorthi says that the matter can, perhaps, be brought to close in view of his instructions that the defendant is not in the business of manufacturing and selling glass and toilet lavatory cleaners under the impugned trademarks and/or trade dress.

12. This aspect of the matter will be examined on the next date of hearing.

13. Renotify the matter on 11.08.2020.

RAJIV SHAKDHER, J

JULY 21, 2020

pmc/KK

[Click here to check corrigendum, if any](#)

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