



**BEFORE THE SPECIAL JUDGE, COMMERCIAL COURT &
14TH ADDITIONAL DISTRICT JUDGE, SURAT.**

COMMERCIAL TRADE MARK CIVIL SUIT - NO. 13 of 2024

**Plaintiff :- Mr.Raghavbhai Shivabhai Kevadiya
Prop. of M/s. Cosmo**

Vs.

**Defendants :- Mr.Bina Rakesh Narang
Prop. of ionU Trading as Veena Creation & ors.**

INTERIM ORDER BELOW EXHIBIT - 5

1. The present application has been filed by the plaintiff under Order 39, Rule I & II of The Code of Civil Procedure Code, alongwith the suit under Trade Mark Act, 1999 and other relevant provisions of Civil Procedure Code, 1908.
2. In the present application, the plaintiff has prayed for the following reliefs :
 - a) *An order of temporary injunction restraining the Defendant No 1 to 5, their directors, partners, principles, employees, agents, representatives and all other persons acting under or in concert with them from mapping, listings, offering for sale, marketing, advertising, or any manner dealing with any goods under the Plaintiff's trademark "Alanta" or any other mark deceptively similar thereto, on the online platform/website of Defendant No.*

6 or any other platform, thereby causing confusion or deception among the public as to the origin of the goods.

- b) An order of temporary/permanent injunction restraining the Defendant No 1 to 5, their agents, representatives and all other persons acting under or in concert with them from passing off or attempting to pass off any goods not originating from the Defendants as those of the Plaintiff by using the Plaintiff's trademark or any other mark deceptively similar thereto.*
- c) Pass an order issuance of temporary direction to the Defendant No.6 to take down/suspend all sellers who are infringing the rights of the plaintiff and all allied/linked URL links of Sellers (Defendant No 1 to 5) where the identical and/or deceptively similar trademark "Alanta" as that of the plaintiff has been adopted, used, published by the Defendant No.1 to 5 especially in respect of mapping and tagging which are displayed/advertised on their e-commerce platforms, and further not allow Defendant No 1 to 5 to market, sell, use, promote, or advertise in any manner and pass off products having identical and deceptively similar trademark "Alanta" as that of the plaintiff with copied/imitated/infringing trademark and further not engage in any activity that infringes upon the Plaintiff's prior adopted and used trademark.*
- d) Pass an order of ex-parte ad interim injunction granting prayer made in Para No 46(a) & 46(b)& 46(c) of the present injunction application.*
- e) An order directing the Defendant No 6 to render a full and comprehensive ledger/accounts of all profits made by Defendant No 1 to 5 as a result of the unlawful activities pleaded of herein, and for a decree directing the Defendants 1 to 5 to pay over such amounts as may be found due on the taking of such accounts to the Plaintiff, or in the alternative, an*

award of damages to the Plaintiff as this Honorable Court deems fit.

f) An order temporary directing the Defendant No 1 to 5 to deliver up for destruction all goods, packaging, labels, advertisements, brochures, literatures and all other materials bearing the impugned mark or any other mark deceptively similar to the Plaintiff's trademark.

g) Any other and further relief which the Hon'ble court deems fit to be granted in the interest of justice

3. Upon presentment of the present suit and application, notices were issued to the defendants which were duly served upon the defendant nos. 1 to 5 through special bailiff as well as to the defendant nos.6 through their official mail address. The Ld. Advocate for the plaintiff has produced service affidavit in respect of service of notices to defendant no.6. None has appeared on behalf of defendant no. 6. On behalf of Defendant nos.4 & 5, Ld. Advocate has filed their vakalatnama and sought for adjournment to file reply.
4. Meanwhile, on the day of hearing on 18/09/2024, the plaintiff has appeared before this court and filed a pursis vide exh.14 declaring that they have entered into settlement and they will submit the compromise deed during the proceedings. Therefore, the Ld. Advocate for the plaintiff has prayed to pass necessary order restraining the defendant nos.4, 5, and 6 as per his application exh.5.
5. At this juncture, It is required to be considered that, the present application is an interim injunction application under Order 39, Rule I & II where, both the parties should be heard on merits of the

application, however, as defendant nos.4 and 5 have not filed any reply and have sought time as well as and the defendant no.6 has not appeared and hence without hearing them, it is not appropriate to decide the application on merits and to pass injunction order *ex parte*. But, simultaneously, it also appears necessary to restrain the said defendants till the next date of hearing of the injunction application.

6. Considering all the facts and circumstances as mentioned above and in view of the interest of justice, the defendant nos.4, 5 and 6 are hereby restrained from mapping, listings, offering for sale, marketing, advertising, or any manner dealing with any goods under the Plaintiff's trademark "Alanta" or any other mark deceptively similar thereto, on the online platform/website of Defendant No. 6 or any other platform, thereby causing confusion or deception among the public as to the origin of the goods as claimed by the plaintiff as its own Trade Mark in the application till the next date of hearing. Further, as the defendant no.6 is the e-commerce platform, therefore, the defendant nos.6 is directed that upon getting information from the plaintiff take down/suspend the defendant no.4 and 5 who are infringing the rights of the plaintiff and all allied/linked URL links of defendant nos.4 and 5 where the identical and/or deceptively similar trademark "Alanta" as that of the plaintiff has been adopted, used, published by the Defendant No.4 to 5 especially in respect of mapping and tagging which are displayed/advertised on their e-commerce platforms, and further not allow Defendant No 4 and 5 to market, sell, use, promote, or advertise in any manner and pass off products having identical and deceptively similar trademark "Alanta" as that of claimed by the plaintiff with copied/imitated/infringing trademark and further not

engage in any activity that infringes upon the Plaintiff's prior adopted and used trademark till the next date of hearing. It is further required to be noted that this court shall not be influenced by the *prima facie* observations made in the present order.

Date : 19-09-2024
Place : Surat.

(RITESHKUMAR KANTILAL MODH)
Special Judge, Commercial Court &
14th Additional District Judge, Surat.
(GJ00825)