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**IN THE COURT OF LXXXIV ADDL. CITY CIVIL &  
SESSIONS JUDGE, AT BENGALURU (CCH-85)  
(Commercial Court)**

**THIS THE 4<sup>th</sup> DAY OF DECEMBER 2025**

**PRESENT:**

**SRI. ANAND T. CHAVAN. B.Com.,LL.B.(Spl.)  
LXXXIV ADDL. CITY CIVIL & SESSIONS JUDGE,  
BENGALURU.**

**Com.O.S.No.1396/2025**

**Plaintiff:-**

**Mr. B Sudhakar Pai,**  
S/o Late Sri. B Srinivasa Pai,  
Aged 76 years,  
R/at New No.10, Old No.458,  
21<sup>st</sup> C Cross, 3<sup>rd</sup> Block, Jayanagar,  
Bengaluru-560 011.

**(Rep by Sri. Harish Kumar C -Advocate)  
-V/s -**

**Defendants:- 1. M/s. Sunlarge Industries Pvt Ltd.,**

(A company incorporated under  
Companies Act) Plot No.282/1/C,  
Bommasandra Jigani Link Road,  
Opposite HCL Technologies Limited,  
Bangalore-560105,  
A Company represented by its Director,

Dr. Pundaleeka Sarode.

**2. M/s. Sunlarge Filaments Pvt Ltd.,**  
 (A company incorporated under  
 Companies Act) Plot No.282/1/C,  
 Bommasandra Jigani Link Road,  
 Opposite HCL Technologies Limited,  
 Bangalore-560105,  
 A Company represented by its Director,  
 Dr. Pundaleeka Sarode.

**(Rep By Poovayya & Co., -Advocate)**

**PARTIES TO IA.No.II**

**Applicant/  
Plaintiff:-**

Mr. B Sudhakar Pai,

**V/s**

**Respondents/  
Defendants:-** M/s. Sunlarge Industries Pvt Ltd & Anr.,

(i)	Provisions under which the application is filed	U/Or. XXXIX Rules 1 and 2 R/w Sec.151 of CPC.
(ii)	Relief sought for	For grant exparte ad-interim injunction.
(iii)	The date on which the application are filed	03.10.2025
(iv)	Number of the applications	1
(v)	The date on which the objections are filed by different opponents	By Defendants on 14.11.2025
(vi)	The date on which the orders were passed on the said application.	04.12.2025

**ORDER ON IA No.II**

The plaintiff has filed present application under Order XXXIX Rules 1 and 2 R/w Sec.151 of CPC seeking to pass an exparte ad-interim order restraining the defendants or anyone acting through them or on behalf of them from passing off their goods as that of the plaintiff's by using the plaintiff's trademark "SUNLARGE", part thereof till the disposal the suit.

**2.** The gist of affidavit of plaintiff filed in support of above application and plaint are that, plaintiff is founder of a group of companies under name of "SUNLARGE" comprising of Sunlarge Consultants Private Limited, which was incorporated on 08.01.1997 under the erstwhile name Sudhakar Pai Corporate Services Private Limited, it was changed to Spalarge consultants Private Limited on 05.02.2004 and finally changed to Sunlarge Consultants Private Limited on 09.04.2008. The plaintiff incorporated Sunlarge Industries Private Limited on 20.02.2008 and Sunlarge Filaments Private Limited on 27.01.2015. The plaintiff is recipients of trademark "SUNLARGE" under following classes.

SL.NO.	Trademark Numbers for SUNLARGE	Class
1.	2920632	10
2.	2920640	22
3.	2920646	28
4.	2920642	23
5.	2920634	12
6.	2920629	7
7.	2920635	16
8.	2920636	17
9.	2920637	19
10.	2920638	20
11.	2920644	26
12.	2920645	27

**3.** Hence the aforesaid word “SUNLARGE” in English alphabets along with logo is actual depiction of plaintiff’s mark before the general public and used by plaintiff since 2007 in all his activities that took place during his day to day business and affairs throughout the country. The word “SUNLARGE” was a coined name joined and used by plaintiff and it is not an ordinary common name known to public at large. Hence in order to protect said trademark of the word “SUNLARGE”, plaintiff has secured trademark protection of said mark. The defendants are misrepresenting themselves and using plaintiff’s

trademark by glaringly violating his intellectual property rights.

**4.** It is further averred that one Dr. K Pundaleeka Sarode approached plaintiff and he being a doctor based in USA intended to establish a new industries. He engaged plaintiff to assist with industrial ventures and regulatory clearances in Karnataka. Subsequently he joined as a Director in the defendant Nos.1 and 2 companies on 08.08.2013, which are formed by plaintiff. At the time of his joining of above companies, the trademark "SUNLARGE" was already in existence and was used by plaintiff. Further defendant Nos.1 and 2 were permitted to use the said mark, which was well within knowledge of Dr. Pundaleeka Sarode. Further Dr. Pundaleeka Sarode was specifically informed that aforesaid name "SUNLARGE" was a registered trademark personally owned by plaintiff and permission to use the same was agreed to be given as long as plaintiff continued as a Director in defendant Nos.1 and 2.

**5.** Over a period of time Dr. Sarode and his wife Mrs. Geetha Pundaleeka became majority shareholders

(75%) in defendant Nos.1 and 2 companies. Thereafter in view of financial issues, plaintiff extended substantial loans to defendant Nos.1 and 2, but Dr. Sarode and one Mr. K Shivanand Pai Head of the Account Department of defendant Nos.1 and 2 conspired and filed false and malicious FIR against plaintiff on concocted records, which was closed by jurisdiction police by filing B report. Subsequently on 19.05.2022, both of them ousted the plaintiff as a Director of defendant Nos.1 and 2 companies, but they continued to use the mark "SUNLARGE" without any valid authorization or consent of plaintiff. The plaintiff objected the same and got issued a legal notice to defendants dtd.05.08.2023 calling upon them among other companies to cease and desist from using the trademark "SUNLARGE", of which plaintiff was the inventor and sole owner. Defendants issued evasive reply notice dtd.05.09.2023 and they formerly denied the other claims of plaintiff, but categorically admitted the unauthorized use of above trademark of plaintiff.

**6.** Thereafter plaintiff instituted an application before DLSA against defendants in PIM No.3313/2024 and after appearing in pursuant to notice, defendants

through their representatives expressed intentions to amicably settle the matter and sought time. After grant of time on several occasions, no concrete actions were being initiated on the side of defendants by taking time before DLSA. Despite said proceedings were initiated on 21.12.2024, Non-starter report was not issued for long time and defendants never came forward with any proposal for settling the matter. They began protracting the mediation process under guise of settlement and they adopted the above tactics to drag on the time. Hence the plaintiff filed present suit against defendants with necessary proof of approaching DLSA, but DLSA belated issued Non-starter report.

**7.** It is further averred that defendant Nos.1 and 2 have no manner of right to use above protected trademark of plaintiff and if they use the same, it is likely to mislead the general public believing that the plaintiff is manufacturer of goods bearing distinctive features of above trademark. Further such use of above trademark is detrimental to distinctive character and reputation of plaintiff's registered trademark and its unauthorized use by defendants is likely to be mistaken for plaintiff's trademark, as

defendants are using it in all their business operations inclusive of invoices, letter head, posters and banners. Further at the time of incorporation of above companies, plaintiff was a shareholder and founder Director of defendant Nos.1 and 2 companies and he had permitted said companies to use the mark "SUNLARGE". It is further averred that the unauthorized use of aforesaid mark by defendants amounts to infringement of said trademark as defendants are conducting trade activities, misleading and confusing the public at large. Hence without any alternative and in view of urgency to prevent further aggravated infringement and passing off of protected trademark, the plaintiff is constrained to approach this court. It is further averred that defendant's continued unauthorized use of above trademark constitutes a clear instances of bad faith adoption intended to unlawfully benefit from the goodwill associated with plaintiff's mark. Defendants have authority license or entitlement to use aforesaid trademark name and plaintiff has not authorized them to utilize the same. Hence business activities of these defendants are violation of the provisions of the trademark, which needs to be permanently

restrained. Hence it is necessary to restrain defendants, their associates and anyone acting on their behalf from fraudulently benefiting from illegal use of above trademark and plaintiff is entitled to protect his interest by illegal use of said trademark by others. Hence plaintiff has made out prima facie case and balance of convenience in his favour and he will be put to great hardship, irreparable loss and injury, if application is not allowed. These amongst other grounds, it is prayed to allow the application.

**8.** The defendants have appeared before court in pursuant to summons and they have filed their objection to the above application through their counsel, wherein its averred that, the plaintiff approached this court with unclean hands by misrepresenting that he had permitted defendants to use the trademark "SUNLARGE" only till his association with defendants and he has not produced any materials in support of such assertions. It is further averred that plaintiff has deliberately suppressed that defendant No.1 company was a prior and existing user of the trademark since its incorporation on 20.02.2008 and plaintiff has failed to disclose that the trademark was surreptitiously

registered in his own name without consent from the members of defendant Nos.1 and 2 company. Hence even if it is prima facie assumed that plaintiff is registered Proprietor of above trademark "SUNLARGE" since 2015, he has acquiesced to defendant's use of said trademark by not objecting to it until legal notice dtd.05.08.2023 demanding defendants to cease and desist from using his purported trademark. It is further averred that plaintiff has instituted multiple frivolous litigations against defendants with malafide intention of causing wrongful loss to defendants and thereby enrich him unjustly.

**9.** It is further averred that defendant No.1 was incorporated on 20.02.2008 and defendant No.2 was incorporated on 27.01.2015. The said companies have been operating under their respective names since incorporation i.e., from 17 and 10 years ago respectively. The plaintiff registered the above trademark on 12.03.2015 and certificate of registration was issued on 15.02.2019. Plaintiff applied for trademark as "proposed to be user" as opposed to the "use claimed" category. The said aspect indicates intent of plaintiff to use the

trademark in the future and admittedly he did not have prior use of said trademark. It is further averred that plaintiff was always aware defendant's prior and extensive use of trademark and he never alleged purported infringement of said mark until issuance of notice on 05.08.2023, which is after 15 and 10 years of incorporation of respective companies. On the contrary plaintiff expressly stated that he has no qualms with defendants using registered trademark in his email dtd.15.05.2021.

**10.** It is further averred that plaintiff dishonestly registered the trademark "SUNLARGE" in his name without consent of defendants, despite being aware that defendants are prior and extensive user of said trademark. As per settled law, rights of prior user are recognized as superior to that of registration and even registered Proprietor cannot disturb and interfere with such rights of prior user. Hence prior user is unaffected by registration rights under Trademark Act 1999 and as such no prima facie case has been made out by plaintiff.

**11.** It is further averred that defendants had been freely and continuously operating under their

respective names since incorporation and plaintiff fraudulently registered the trademark in 2015, which was already in prior use of defendants. Plaintiff had full knowledge of the same and the registration of trademark was done with malafide intention of defrauding defendants. Defendants did not have any knowledge of registration of said trademark till plaintiff's email dtd.15.05.2021. The notice of plaintiff dtd.05.08.2023 only contains a barred averment claiming the above trademark, without furnishing other details of documents regarding registration. Only after institution of present suit and after traversing through attached documents any, defendants gained knowledge of registration of above trademark. There has been no attempt by plaintiff to bring the trademark registration to the knowledge of defendants. Further plaintiff did not object use of above trademark by defendants either by expressing or by his conduct and now plaintiff cannot seek any equitable relief of temporary injunction after significant delay. It is further averred that defendants are prior and continuous users of the trademark "SUNLARGE" without having knowledge of its registration by plaintiff. It is further averred that

plaintiff being purported applicant and registered user of trademark "SUNLARGE" never had any real intention to use said trademark himself in respect of the goods for which it was registered. Further as per sec.47(1)(b) of the Act postulates possibility of its registered trademark being taken off the registered on the ground that for a continuous period of five years and 3 months from the date of registration of trademark, there is no bonafide use thereof. The intent of legislative is to ordain that an applicant of a trademark does not have a permanent right on such trademark by virtue of application allowed and such a right is lost, if is not exercised within a reasonable time. The said section squarely applies to present case since though plaintiff has registered the trademark in 2015, he has not produced any materials to demonstrate that he has used such said trademark. He has further failed to establish his prior and continuous use of said trademark and as such he is not entitled for any relief.

**12.** It is further averred that defendants have gained goodwill and trust from public and grant of ad-interim injunction would render decades of hardwork futile and operations would come to a

stand still if that were change to their identity. The defendants would be over burdened in re-establishing their business identity and reputation in highly competitive industry. Further defendants have a large stock of printed material reflecting their names on pamphlets, letter heads, posters etc., which are acquired by spending considerable money. Handing over such material to plaintiff and reprinting them after changing the name would cause grave financial hardship to defendants who are already incurring losses and burden with financial challenges.

**13.** It is further averred that since the registration plaintiff has not used the trademark in his individual capacity as a Proprietor and does not carry any business or market of any product as the sole Proprietor of said trademark. Hence defendant's use of trademark "SUNLARGE" has not impacted business activities of plaintiff. Hence plaintiff is unable to demonstrate any injury or damage caused to self and as such no irreparable harm or injury will be caused to plaintiff by peaceful use of the above trademark by defendants. It is further averred that the plaintiff has filed present suit on 03.10.2025 i.e., after nearly 3.5 years of his removable from defendants companies

and nearly 17 and 10 years after incorporation of both companies. The plaintiff has not explained the aforesaid delay in filing present suit. He has further failed to demonstrate any urgency in filing of the suit and above application, much less for grant of interim relief. It is further averred that suit is barred since Sec.12A of the Act mandates institution of PIM before DLSA prior to institution of commercial suit. Though plaintiff instituted PIM and notice was issued to defendants on 04.01.2025, defendants appeared and consented to participate in said mediation process, plaintiff remained absent in said proceedings, despite defendant was ready for mediation. Hence plaintiff treated PIM proceedings as mere formality and as per caselaw of Patil Automation Private Limited Sec.12A is mandatory in nature and violation of said section shall be invite rejection of plaint.

**14.** The defendant has specifically contended that, defendant No.1 was incorporated on 20.02.2008 and it is bonafide user of name "SUNLARGE" as first company to use it. In 2013 Dr. Pundaleeka Sarode and Smt. Geetha Pundaleeka were introduced to plaintiff through mutual acquaintances and thereafter due to goodwill of defendant No.1 and

misrepresentation of plaintiff Dr. Sarode invested Rs.30 Lakhs and was inducted as a Director of SIPL. Further defendant No.2 was incorporated on 27.01.2015 by plaintiff and Dr. Sarode and both defendants carried on business of manufacturing synthetic monofilaments for industrial and technical applications. Since inception plaintiff was incharge of the accounts and finances and he used to look after the affairs of the defendants, accounts and finances, even after induction of Dr. Sarode. Upon noticing several unauthorized transactions and growing suspicious of his malafide conduct, plaintiff was confronted by Directors of defendants and called upon to reconcile defendants transactions with plaintiff and his other entities. Dr. Sarode and financial advisor Padmanabhan requested plaintiff to provide data to reconcile the transactions by mutually appointing external independent auditor and despite admitting due of substantial amount to defendants from himself and others in emails, plaintiff avoided and evaded to reconcile the accounts. Thereafter the defendants were shocked to find out registration of above trademark "SUNLARGE" by plaintiff in his own name as per email

dtd.15.05.2021, wherein for the first time plaintiff claimed his ownership over said trademark and permitted defendants to continue using the same. The plaintiff never obtained consent from Board of Director of defendant No.1 company which was prior user of above trademark. After conducting multiple board meeting and recording reservation about integrity of plaintiff, he was removed by directorship of defendant on suspicion of fraudulent and cooked up transactions and also for abusing authority as a director. Hence criminal proceedings were initiated against plaintiff after removing him from directorship of defendant No.1 and thereafter being a disgruntled director, he issued legal notice dtd.05.08.2023 for the first time objecting use of above trademark by defendants to harass them.

**15.** The defendants have denied entire averments of affidavit of plaintiff filed in support of application and assert that plaintiff has failed to demonstrate prima facie case and balance of convenience in his favour and to demonstrate that the use of above trademark will result into irreparable loss and injury to him. These amongst other grounds, it is prayed to reject both applications.

**16.** The following points arise for consideration.

- 1. Whether plaintiff has made out prima facie case?**
- 2. Whether balance of convenience lies in favour of plaintiff?**
- 3. Whether plaintiff will be put to irreparable loss and injury, if temporary injunction is not granted?**
- 4. What order?**

**17.** Heard arguments of both sides, perused entire records.

**18.** The followings are findings to above points.

**Point No.1:- In the Affirmative.**

**Point No.2:- In the Affirmative.**

**Point No.3:- In the Affirmative.**

**Point No.4:- As per final order  
for the following:-**

### **REASONS**

**19. Point Nos.1 to 3:-** These points are taken together for consideration as finding on one point may have bearing on other point and also to avoid repetition of facts. The plaintiff has filed this commercial suit against defendants seeking to pass judgment and decree by granting following reliefs:-

a. To grant a decree of permanent injunction restraining the defendants its agents or representatives and/or any one claiming under them in any manner whatsoever, from ceasing and desisting from using the trademark "SUNLARGE" or any deceptive variant thereof which is identical and/or similar to the plaintiff's registered trademark "SUNLARGE" thereby amounting to infringement of trademark and/or passing off;

b. To grant a decree of permanent injunction restraining the defendants its agents or representatives and/or any one claiming under them in any manner whatsoever, using the trademark "SUNLARGE" or any deceptive variant thereof which is identical and/or similar to the plaintiff's registered trademark "SUNLARGE" thereby amounting to infringement of trademark and/or passing off;

c. To grant a decree of permanent injunction restraining the defendants its agents or representatives and/or any one claiming under them in any manner whatsoever, diluting the distinctive character and nature of the trademark "SUNLARGE" or any deceptive variant thereof which is identical and/or similar to the plaintiff's registered trademark "SUNLARGE" thereby amounting to infringement of trademark and/or passing off;

d. To grant a decree of permanent injunction restraining the defendants its agents or representatives and/or any one claiming under them in any manner whatsoever, from passing off their goods and/or services under the trademark "SUNLARGE" or any deceptive variant thereof which is identical and/or similar to the plaintiff's registered

trademark "SUNLARGE" thereby amounting to infringement of trademark and/or passing off;

e. To grant a decree of permanent injunction restraining the defendants jointly and/or severally from using the name of "SUNLARGE" in its Trade Name in any manner whatsoever;

f. To grant a decree directing the 1<sup>st</sup> and 2<sup>nd</sup> defendants to deliver up all the infringing and impugned pamphlets, letter heads, posters or any printed materials infringing mark bearing the impugned mark of "SUNLARGE", as the case may be, to an authorized representative of the plaintiff for destruction of impugned mark;

g. To direct the 1<sup>st</sup> and 2<sup>nd</sup> defendants to produce the entire books of accounts, balance sheet, profit and loss account from 01.04.2022 up to the date of decree for assessing the monetary damages caused to the plaintiff by virtue of infringement of its trademark;

h. For any other consequential relief/s including exemplary court costs of the suit as the court may deem fit to grant in the circumstances of the case.

**20.** The averments of plaint, applications and objections filed by other side are already narrated in detail and same need not be repeated. In support of his case plaintiff produced copies of certificates of incorporation of defendant Nos.1 and 2 companies. On going through said certificates it discloses that,

initially plaintiff has got himself incorporated M/s Spalarge Consultants Private Limited on 09.04.2008 and he has also got changed name of company by name Sudharkar Pai Corporate Services Private Limited as Spalarge Consultants Private Limited on 05.02.2004 itself. The another certificate incorporation dtd.09.04.2008 discloses that, plaintiff has got changed the name of Spalarge Properties and Agencies Pvt Ltd. to Sunlarge Properties Private Limited. The plaintiff has further produced another certificate of incorporation dtd.05.02.2004 showing registration of Spalarge Properties and Agencies Private Ltd., another certificate incorporation of Sunlarge Industries Private Ltd., dtd.20.02.2008, another certificate of incorporation of Sunlarge Filaments Pvt Ltd., dtd 27.01.2015. The counsel for plaintiff has much relief upon aforesaid certificates of incorporation and certificates of change of name of above companies and argued that, initially defendant Nos.1 and 2 companies were standing in the name of plaintiff himself as Sudhakar Pai Corporate Services Pvt Ltd and the name Spalarge also denotes the name of plaintiff i.e., "SPA" as Sudhakar Pai. Hence he

has vehemently argued that plaintiff himself is a Founder of defendant Nos.1 and 2 companies by contributing his time and huge money for the development of the same and subsequently the present Directors of defendant Nos.1 and 2 were inducted in said companies.

**21.** Most importantly, plaintiff has further produced 12 additional representations submitted by him to the office of Trademark Registry Chennai dtd.12.03.2015, which clearly shows that plaintiff himself had applied for trademark of Sunlarge as a propose user under various class and various products intended to be manufactured under his company. Further plaintiff has also produced online scan certificates trademark by name Sunlarge registered in his name on 12.03.2015 for various products and materials under registration number and class mentioned in table referred above. It is pertinent to note that the aforesaid trademark Sunlarge has been registered in the individual name of plaintiff and same are not registered either in the name of defendants company or any other third person. It further shows that, several trademark

certificates are valid upto 12.03.2035 and the above documents are not deemed to have been disputed by defendants side.

**22.** The plaintiff has further produced copies of resolution of defendant Nos.1 and 2 company dtd.19.05.2022 showing removal of plaintiff as a Director of both companies by virtue of resolution dtd.28.01.2022 along with necessary enclosures of meeting. Further plaintiff has produced office copy of legal notice dtd.05.08.2023 issued by him to defendant Nos.1 and 2 companies and its directors, calling upon them to cease and desist from using aforesaid trademark Sunlarge in all their representations on the ground that plaintiff is a sole owner of said trademark in his personal capacity. The plaintiff has also produced office copy reply notice issued by defendants and its Directors dtd.05.09.2023 alleging manipulation of books of accounts, cheating clients by siphoning of money against plaintiff and asserting their right and entitlement to conduct their business in the name of Sunlarge. The plaintiff has also produced copy of

non-starter report issued by DLSA, Bengaluru Urban in PIM No.3113/2024.

**23.** On the basis of aforesaid documents, counsel for plaintiff has vehemently argued that, plaintiff being founder and registered Proprietor of registered trademark since 2007 has developed business of defendant companies and acquired substantial goodwill and secondary meaning in relation to the business. It is further argued by plaintiff side that, the above documents clearly establish that plaintiff is originator, he is first adopter and prior user of aforesaid mark. It is further argued by counsel for plaintiff, after admission of Dr. Pundaleeka Sarode as a Director to defendant Nos.1 and 2 companies, the defendant companies were permitted to use aforesaid trademark by specifically intimating the Directors that the trademark Sunlarge exclusively belong to plaintiff and usage of said trademark is permitted only so long as the plaintiff remains Director of said companies. Accordingly defendant Nos.1 and 2 were permitted to use aforesaid trademark for above limited period, which amounts to permissive use and not an adoption. It is further

argued by counsel for plaintiff that despite plaintiff has secured the trademark registration of aforesaid trademark, defendants have not challenged its registration in favour of plaintiff, except taking vague defence that plaintiff has fraudulently registered said trademark in his name. It is further argued that after ouster of plaintiff from defendant companies, he has objected the use of aforesaid trademark by them and once such permission is withdrawn, use of such trademark becomes unauthorized, dishonest and infringing. It is further argued by plaintiff side that, plaintiff trademark would be diluted if injunction is refused and he is at high risk of losing his brand that was created by him before inception of defendants companies. Further defendants will continue to benefit from trademark of plaintiff and unjustly enriched themselves. Hence in view of express revocation of permission by plaintiff vide legal notice, defendants have no right to further use the aforesaid trademark by infringing the rights of plaintiff over the same.

**24.** On the other hand, counsel for defendants has vehemently argued that, the plaintiff has

misrepresented the court that he was a prior and existing user of above trademark and he had permitted the use of said trademark only till his association with defendants, without producing any materials in that regard. It is further argued by defendants side that, the trademark was surreptitiously registered in his own name without consent of defendants despite being fully aware that defendants have been using it since their incorporation. The counsel for defendants have relied upon following caselaw of Kusha Duruka and argued that when plaintiff approaches the court with unclean hand and by suppressing material facts, he is not entitled for equitable relief of injunction. The relevant portion is culled out as under:-

**(2024) 4 SCC 432 between Kusha Duruka V/s State of Odisha. (Hon'ble Supreme Court)**

“6. It was held in the judgments referred to above that one of the two cherished basic values by Indian society for centuries is “satya” (truth) and the same has been put under the carpet by the petitioner. Truth constituted an integral part of the justice-delivery system in the pre-independence era, however, post-Independence period has seen drastic changes in our value system. The materialism has overshadowed the old ethos and the quest for personal gain has become so intense that those involved in litigation do not hesitate to take shelter of falsehood, misrepresentation

and suppression of facts in the court proceedings. In the last 40 years, the values have gone down and now a litigants can go to any extent to mislead the court. They have no respect for the truth. The principle has been evolved to meet the challenges posed by this new breed of litigants. **Now it is well settled that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final. Suppression of material facts from the court of law, is actually playing fraud with the court. The maxim supressio veri, expression falsi, i.e. suppression of the truth is equivalent to the expression of falsehood, gets attracted.** It is nothing but degradation of moral values in the society, may be because of our education system. Now we are more happy to hear anything except truth; read anything except truth; speak anything except truth and believe anything except truth. Someone rightly said that: "Lies are very sweet, while truth is bitter, that's why most people prefer telling lies."

**25.** It is further argued by counsel for defendant that defendants have been operating under their respective names since their incorporation, whereas plaintiff has registered his trademark on 12.03.2015 and certificate of registration was issued on 21.02.2019. Further the said counsel has relied upon Sec.34 of Trademarks Act and vehemently argued that right of prior user are recognized as superior to that of any registration and even a registered

Proprietor cannot interfere with the right of prior user. In this regard counsel for defendants has relied upon case of S Syed Mohideen V/s P. Sulochana Bai and relevant portion is culled out as under:-

**(2016) 2 SCC 683 between S. Syed MohideenV/s P. Sulochana Bai (Hon'ble Supreme Court)**

**“30.4.** Section 34 of the Trade Marks Act, 1999 provides that nothing in this Act shall entitle the registered proprietor or registered user to interfere with the rights of prior user. Conjoint reading of Section 34, 27 and 28 would show that the rights of registration are subject to Section 34 which can be seen from the opening words of Section 28 of the Act which states

“Subject to the other provisions of this Act, the registration of a trade mark shall, if valid, give to the registered proprietor....” and also **the opening words of Section 34 which states “Nothing in this Act shall entitle the proprietor or a registered user of registered trade mark to interfere.....”**. Thus, **the scheme of the Act is such where rights of prior user are recognized superior than that of the registration and even the registered proprietor cannot disturb / interfere with the rights of prior user. The overall effect of collective reading of the provisions of the Act is that the action for passing off which is premised on the rights of prior user generating a goodwill shall be unaffected by any registration provided under the Act.** This proposition has been discussed in extenso in the case of N.R. Dongre And Ors. v. Whirlpool Corporation And Anr<sup>1</sup> wherein Division Bench of Delhi High Court recognized that the registration is not an indefeasible right and the same is subject to rights of prior user. The said decision of Whirlpool was

further affirmed by Supreme Court of India in the case of N.R. Dongre And Ors v. Whirlpool Corporation.”

**26.** It is further argued by counsel for defendant that defendants did not have knowledge about registration of aforesaid trademark in the name of plaintiff and the plaintiff despite knowing that the defendant companies are incorporated in the year 2009 and 2015 that is prior to his application before Trademark Authorities, he has fraudulently got registered said trademark in his individual name without knowledge of defendants or is Directors. It is further argued by defendants side that, when plaintiff is not using the aforesaid trademark, there is no question of suffering any damage or injury and in this regard defendants have relied upon case law of Neon Laboratories Limited which is culled out as under:-

**(2016) 2 SCC 672 between Neon Laboratories Limited V/s Medical Technologies Limited & Ors., (Hon'ble Supreme Court)**

**“9. Section 47 of the Act is in the same vein and statutory strain inasmuch as it postulates the possibility of a registered mark being taken off the register on an application being made by any aggrieved person, inter alia, on the ground that for a continuous period of five years and three months**

**from the date on which the trademark was registered, there was no bona fide use thereof.** In the case in hand, prima facie, it appears that for over five years after a registration application was made by the Defendant-Appellant, the mark was not used. Facially, the Act does not permit the hoarding of or appropriation without utilization of a trademark; nay the Defendant-Appellant has allowed or acquiesced in the user of the Plaintiff-Respondents for several years. **The legislative intent behind this Section was to ordain that an applicant of a trademark does not have a permanent right by virtue of its application alone. Such a right is lost if it is not exercised within a reasonable time."**

**27.** On the basis of aforesaid caselaw, it is vehemently argued by counsel for defendants that the registration of trademark does not vest the permanent right on owner and such right will be lost if not exercised within reasonable time of five years. The defendants have further argued that when no more prima facie case and balance of convenience is made out by plaintiff, he is not entitled for discretionary relief of injunction. Further defendants have pointed out another ground that plaintiff had delayed in seeking interim relief and as such he has waived off his right over aforesaid trademark for nearly 3.5 years after his removal from defendant companies. Hence in view of not providing any

explanation for aforesaid delay, there is no reason to grant aforesaid temporary injunction, as prayed for in the suit.

**28.** However it is not denied and disputed that plaintiff himself has incorporated the defendant companies as it's founder director with various names and finally he himself has got changed the names of above companies as "SUNLARGE" as per aforesaid undisputed certificates produced by him. The certificates of aforesaid trademark registration clearly goes to show that the about 12 trademarks under name "SUNLARGE" are registered in the individual name of plaintiff under various classes and for various products. Further though defendants assert that plaintiff has got registered said trademark fraudulently and surreptitiously, absolutely nothing is put forth by defendants at this stage to prove said aspect at this stage. Further as rightly asserted by plaintiff's counsel, if plaintiff had got registered said trademark fraudulently without knowledge of defendants, defendants could have definitely taken suitable steps challenging such registration. But no documents are produced by defendants to show that

they have challenged said registration of trademark in the name of plaintiff till today. This aspect raises doubt with regard to plea of defendants about their prior and bonafide use of above trademark. Further it is also not denied and disputed by defendants that subsequent to joining of other directors, including Dr. K Pundaleeka Sarode, they have continued to use the aforesaid trademark, while plaintiff was continuing as director of said companies along with them and as such at this stage, there are prima-facie materials to believe that deemed permission is granted by plaintiff to defendants companies to use aforesaid trademark.

**29.** Further plaintiff has asserted that at the time of his joining of above companies, the trademark "SUNLARGE" was already in existence in the name of plaintiff and defendant Nos.1 and 2 were permitted to use the said mark, which was well within knowledge of Dr. Pundaleeka Sarode. However when the directors of defendant companies have taken over the management of company since more than 10 to 15 years, it is difficult to believe that they were totally unaware about registration of above trademarks in the individual name of plaintiff. Further

it is not in dispute that plaintiff got issued a legal notice to defendants dtd.05.08.2023 calling upon them among other companies to cease and desist from using the trademark "SUNLARGE", and defendants issued reply notice dtd.05.09.2023 by denying claims of plaintiff. The said documents disclose that defendants do not deny and dispute registration of above trademark in the name of plaintiff and as such there are prima facie materials to believe that defendants were using said trademark in day to day business with permission of plaintiff.

**30.** As far as plea of defendants contending to be prior user of above trademark is concerned, defendants assert that since 2015, plaintiff has acquiesced to defendant's use of said trademark by not objecting to it until legal notice dtd. 05.08.2023 demanding defendants to cease and desist from using his purported trademark. It is further contention of defendants that, plaintiff dishonestly registered the trademark "SUNLARGE" in his name without consent of defendants, despite being aware that defendants are prior and extensive user of said trademark. Further defendants have contended that,

plaintiff did not object use of above trademark by defendants and now plaintiff cannot seek any equitable relief of temporary injunction after significant delay.

**31.** However, plaintiff has specifically contended that at the time of incorporation of above companies, plaintiff was a shareholder and founder Director of defendant Nos.1 and 2 companies and he had permitted said companies to use the mark "SUNLARGE". Further mere keeping silence by plaintiff for certain period cannot be a ground to assume waiver of right over above trademark by plaintiff. Further plaintiff has asserted that he has been continuously objecting use of said trademark by plaintiff since his removal from directorship of said companies. The legal notice and approach of plaintiff to DLSA for Pre-Institution Mediation prima facie show that plaintiff has been objecting use and infringement of above trademark by plaintiff. Further whether defendants are prior user of trademark has to be determined after full fledged trial and when the registration of above trademark in the name of plaintiff is not denied and disputed, the defendants must be restrained from infringing such rights of

plaintiff, until they prove their entitlement to use above trademark as prior users.

**32.** It is further contention of defendants that plaintiff being purported applicant and registered user of trademark "SUNLARGE" never had any real intention to use said trademark himself in respect of the goods for which it was registered. Further as per sec.47(1)(b) of the Act postulates possibility of its registered trademark being taken off the register on the ground that for a continuous period of five years and 3 months from the date of registration of trademark, there is no bonafide use thereof. It is further contended that plaintiff has filed present suit after nearly 3.5 years of his removal from defendant's companies and nearly 17 and 10 years after incorporation of both companies. The plaintiff has not explained the aforesaid delay in filing present suit. However it is specific case of plaintiff that, after admission of Dr. Pundaleeka Sarode as a Director to defendant Nos.1 and 2 companies, the defendant companies were permitted to use aforesaid trademark by specifically intimating the Directors that the trademark "SUNLARGE" exclusively belong to plaintiff and usage of said trademark is permitted only so long

as the plaintiff remains Director of said companies. Accordingly defendant Nos.1 and 2 were permitted to use aforesaid trademark for above limited period, which amounts to permissive use and not an adoption. Further as already stated above documents produced by plaintiff prima-facie establish, his assertion of right over above trademark and objecting use of said trademark by defendants, by way of legal notice and initiation of legal proceedings. Further plaintiff has specifically alleged that, defendants themselves delayed the proceedings of PIM. Hence the plea of non using of above trademark and delay in claiming above right are to be decided after full fledged trial of the case. However the materials placed on record prima facie show right and ownership of plaintiff over disputed trademark.

**33.** Plaintiff has specifically stated that unauthorized use of aforesaid mark by defendants amounts to infringement of said trademark as defendants are conducting trade activities, misleading and confusing the public at large. Further defendant's continued unauthorized use of above trademark constitutes a clear instances of bad faith adoption intended to unlawfully benefit from the goodwill associated with

plaintiff's mark. Defendants have no authority license or entitlement to use aforesaid trademark name for passing of their goods and plaintiff has not authorized them to utilize the same. Hence if business activities of these defendants in violation of above trademark, is not restrained and if defendants are not prevented from fraudulently benefiting from illegal use of above trademark, it may result into irreparable loss and injury to plaintiff.

**34.** Further as rightly argued by counsel for plaintiffs side, at this stage, the Court is required to consider existence of prima facie materials at the time of considering application for injunction and it need not go into deep merits of the case, by calling upon plaintiff to prove entire allegations on merits of the case. In this regard it is necessary to rely upon following case law.

**(1992) 1 SCC 719 between Dalpat Kumar & Anr V/s Prahlad Singh & Ors., (Hon'ble Supreme Court).**

**“5.** Therefore, the burden is on the plaintiff by evidence aliunde by affidavit or otherwise that there is "a prima facie case" in his favour which needs adjudication at the trial. The existence of the prima facie right and infraction of the enjoyment of his property or the right is a condition for the grant of temporary injunction. **Prima facie case is not to**

**be confused with prima facie title which has to be established, on evidence at the trial. Only prima facie case is a substantial question raised, bona fide, which needs investigation and a decision on merits. Satisfaction that there is a prima facie case by itself is not sufficient to grant injunction. The Court further has to satisfy that non-interference by the Court would result in "irreparable injury" to the party seeking relief and that there is no other remedy available to the party except one to grant injunction and he needs protection from the consequences of apprehended injury or dispossession. Irreparable injury, however, does not mean that there must be no physical possibility of repairing the injury, but means only that the injury must be a material one, namely one that cannot be adequately compensated by way of damages.** The third condition also is that "the balance of convenience" must be in favour of granting injunction. The Court while granting or refusing to grant injunction should exercise sound judicial discretion to find the amount of substantial mischief or injury which is likely to be caused to the parties, if the injunction is refused and compare it with that it is likely to be caused to the other side if the injunction is granted. If on weighing competing possibilities or probabilities of likelihood of injury and if the Court considers that pending the suit, the subject-matter should be maintained in status quo, an injunction would be issued. Thus the Court has to exercise its sound judicial discretion in granting or refusing the relief of ad interim injunction pending the suit."

**35.** Hence as per ratio laid down in aforesaid caselaw and for the reasons stated above, it is incumbent upon this Court to hold that plaintiff has definitely made out a prima-facie case for grant of temporary injunction as prayed for in I.A.s No.1 and balance of convenience lies in his favour. In case if T.I. is not granted and in case defendants will proceed to commit act of infringement and passing off of above trademark of plaintiff, the plaintiff will be put irreparable loss and injury, which cannot be compensated by any means and the very suit may become infructuous. For these reasons plaintiff is definitely entitled for discretionary relief of temporary injunction against defendants as prayed for in the above application. **Hence, Point Nos.1 to 3 are answered in the Affirmative.**

**36. Point No.4:-** For the reasons stated and findings given on point Nos.1 to 3, following is:

**ORDER**

**IA No.II filed by plaintiff  
Under Order XXXIX Rules 1 and 2  
R/w Sec.151 of CPC, is hereby  
allowed.**

**The defendants or anyone acting through them or on behalf of them are hereby restrained from passing off their goods as that of the plaintiff's by using the plaintiff's trademark "SUNLARGE" or any part thereof till the disposal the suit.**

**No order as to costs.**

[Dictated to the Stenographer Grade-III, directly on the computer, typed by her, then corrected and signed by me and pronounced in the Open Court, dated **this the 4<sup>th</sup> day of December 2025**]

**(ANAND T. CHAVAN)**

LXXXIV Addl.City Civil & Sessions Judge,  
Bengaluru.