

Defendants called out – absent.

Heard learned counsel for the plaintiff on I.A.No.1 to 3.

I.A.No.1 is filed by the plaintiff under Section 135 of Trademarks Act r/w Order 39 Rule 1 and 2 r/w Section 151 of C.P.C., for grant of ex parte ad-interim injunction by dispensing the notice against the defendants and restraining the defendants, their agents, legal representatives, assignees etc. or the persons claiming through them from using the deceptively similar mark to that of the plaintiff either singularly or in composite form in any medium including but not limited to print, digital and any and all mediums of communication to public whatsoever pending disposal of this suit, in the interest of justice and equity.

I.A.No.2 is filed by the plaintiff under Order 26 Rule 9 of C.P.C. r/w Section 135(2) (b) of Trademarks Act, to appoint Advocate Commissioner for preserving the infringed goods, products and empty bags etc., with infringed labels from the petition schedule property, in the interest of justice and equity.

Similarly, I.A.No.3 is filed under Order 5 Rule 9-A r/w Section 151 of C.P.C., to grant leave to send the summons, plaint, interlocutory applications, copy of the list of documents and material papers in electronic form through E-mail and WhatsApp mobile application in addition to the regular summons to the defendants, in the interest of justice and equity.

Perused the plaint averments, documents produced, contents of I.A.No.1 to 3.

Plaintiff being the Living Seeds Technologies LLP is dealing in rice business under the Trademark name as “Super Aman” and defendants are making use of the deceptively similar trademark called as “Sree

Amman". It is stated that, by using such a deceptive trademark, plaintiff is deprived of its business and the plaintiff is making use of this trademark "Super Aman" right from the year 2009 onwards. It is stated that, in the year 2017, the Managing Partner separated from the Company and started using the trademark on his own individually and later in 2019, for securing the interest incorporated the plaintiff-Company. It is stated that, the plaintiff registered the trademark under the name "Super Aman" and has developed a goodwill PAN India over a period of time. If the defendants are permitted to use deceptively similar trade name of the plaintiff, the plaintiff's business will be hampered and already the plaintiff has suffered loss. Therefore, the plaintiff has filed the present suit against defendants not only for permanent injunction restraining the defendants, their agents etc. from using the deceptively similar marks of "Super Aman Gold" and "Sree Amman" to that of the plaintiff either singularly or in composite form in any medium, so also have claimed compensation and damages to the extent of Rs.14,00,000/- with interest at the rate of 18% per annum from the date of filing the suit till realization.

The counsel for the plaintiff has also brought the similar brand name products before the Court and has showed the same that how the defendants are making use of the deceptively similar name of the plaintiff.

I have scrupulously perused the plaint averments, documents produced, contents of I.A.No.1 to 3.

At this stage, on reading the same, I am satisfied that, the plaintiff has made out a prima facie case so as to pass an ad-interim order of injunction against the defendants restraining them, their agents, legal representatives, assignees etc. claiming through them from using the deceptively similar mark to that of the plaintiff either singularly or in composite form in any

medium including but not limited to print, digital and any and all mediums of communication to public. Therefore, it is just and proper to issue ad-interim injunction against the defendants as prayed in I.A.No.1.

So far as I.A.No.2 is concerned, to pass an order to that effect, the presence of the defendants is quite necessary as natural justice demands to hear the defendants.

So far as I.A.No.3 is concerned, the plaintiff is seeking leave to send the summons, plaint, interlocutory applications, so also documents through electronic process. The same is permissible as per the amended C.P.C. now. Hence, I pass the following:

ORDER

I.A.No.1 and 3 are allowed, with no order as to cost.

Defendants, their agents, legal representatives, assignees etc. and any persons claiming through them are hereby restrained from using the deceptively similar mark to that of the plaintiff either singularly or in composite form in any medium including but not limited to print, digital and any and all mediums of communication to public, till they appear before the Court or till next date of hearing, whichever is earlier.

Issue notice of I.A.No.1, 2 and 3 to the defendants along with suit summons through Court process by RPAD as well as electronic media as prayed in I.A.No.3.

Plaintiff to comply the provisions of Rule 3(a) of Order 39 of C.P.C.

Call on for appearance of defendants by 30.01.2021.

Prl. District Judge,
Mysuru.

