

**IN THE COURT OF THE ADDL. DISTRICT JUDGE-IV,
THIRUVANANTHAPURAM.**

PRESENT: SRI. SUDHAKANTH. R, ADDITIONAL DISTRICT JUDGE-IV

Thursday the 19th day of March ,2026/ 28th Phalguna, 1947

OS. 3/2021

Plaintiffs :-

- 1 M/s. Raja Biri Private Ltd, Putikhali, Krishnaganj, Majdia, Nadia District, West Bengal represented by its Managing Director Harekrishna Biswas, PIN-741507
- 2 Harekrishna Biswas, aged 61 years, S/o. Mr.Sadananda Biswas, Rail Bazar P.O, Majdia, Nadia District, West Bengal, PIN-741507.
- 3 Mugal Trade Links, Medavathukkal Jama Ath Building Complex, Attinkuzhi, Kazhakootam.P.O, Thiruvananthapuram, PIN-695582 represented by its proprietor Mr. Sudheer.S

***(By Adv. Babu Karukapadath, Adv. P.U.Vinod Kumar and
Adv. Vaisakhi V)***

Defendants:-

1. M/s. H. Enterprises, TC. 6/606, NLRA 25, Ulloor, Medical College.P.O, Thiruvananthapuram-695011
2. M/s. N.S. Marketing, Near Pravachambalam, Nemom, Thiruvananthapuram, Pin- 695 020

(By Adv. Poonthura Tharif. B for D1)

(By Adv. B. Jayachandran Nair for D2)

This petition having been finally heard on **30.01.2026** and the court on **19.03.2026** passed the following :-

J U D G M E N T

Suit for permanent prohibitory injunction.

2. The plaint averments can be summarized as follows :

The 1st plaintiff is a private company registered under the companies Act 2013. The 2nd plaintiff is the managing director of the 1st plaintiff company. The 2nd plaintiff's wife Smt. Lili Biswas and his brother Mr. Bishnupada Biswas are the other directors and the share holders of the 1st plaintiff company. The 1st plaintiff company is conducting business of tobacco raw material and manufacturer of tobacco product and conducting sale of tobacco products including beedi since the year 1995. The 1st plaintiff company is using the trade mark RAJA BEEDI and RAJA BIRI for promoting its a products since 1995. The 2nd plaintiff is using the above trade mark for the purpose of promoting the business of the 1st plaintiff company extensively right from 1995 and the above trade marks is being used in languages namely Bengali, Hindi and English for effective promotion and propagation thereon. The 2nd plaintiff is using the trade mark with the word " RAJA" as the principal, predominant and essential part of the name of trade mark for promoting the business of manufacturing and sale of Beedis assigning the name " RAJA BEEDI" "RAJA BIRI" in English , Bengali and Hindi having identical name and meaning. Though the business of the 2nd plaintiff by using the trademark / trade names " RAJA BEEDI" "RAJA BIRI" originally started using in Bengali and due to high quality of beedi due to extensive used , by business promotion utilizing the huge amount time

and energy, the trademark “ RAJA BEEDI” and “RAJA BIRI” became popular in the State of Kerala and other part of India. The 2nd plaintiff has appointed stockists in various states for conducting sale and promoting business . The 2nd plaintiff has appointed the 3rd plaintiff as the stockists and distributor of RAJA Beedi in the state of Kerala since the year 2006. Thereafter the 3rd plaintiff is also associating with plaintiff 1 and 2 for the purpose of promoting the business of Raja beedi in the State of Kerala using the trade mark “RAJA BIDI “ and RAJA BIRI” . The 2nd plaintiff got the trade mark RAJA BIRI with effect from 24/12/2019 with number 894105 in Class 34 with registrar of trade mark Kolkata under the trade marks Act 1999. According to the plaintiffs , 2nd plaintiff is the registered proprietor and the owner of the trademark RAJA BIRI / RAJA BIDI . Inorder to protect the copy right over the trade mark and related trade description in the manner invented , coined and artistically designed by the 2nd plaintiff the same was registered under the copy right as well such artistic description works prepared have been registered by the 2nd plaintiff under the copy right act in English, Hindi and Bengali with effect from 2002 with registration No. A 61265 /2002 dated 11/02/2002 with Registrar of copy right. The said artistic work under the Copt rights Act also contain the trade mark of the plaintiff RAJA BIRI and RAJA BEEDI with the word RAJA as Principal predominant and essential part of the same the word RAJA is a part of cooperate name of 1st plaintiff company and used for the promotion of business in tobacco raw material , manufacture and sale of tobacco products utilizing the trade mark RAJA BIRI and RAJA BEEDI coined by the 2nd plaintiff . The 1st plaintiff is using the trade mark as authorized by the 2nd plaintiffs and the plaintiffs have jointly promoting same. The trade marks RAJA BIRI and RAJA BEEDI with the word RAJA as Principal predominant and essential part of the same

acquired high reputation and good will and it has become distinctive in association with the plaintiffs business in beedies . It is by virtue of long extensive and continuous use of trade mark RAJA BIRI and RAJA BEEDI, It has acquired high reputation and good will and extensively identified by the customers and the public at large. it is submitted that as the registered trade mark holder, originator, and first user of the above trade mark, the plaintiffs have become absolute owners and proprietors of the trade mark RAJA BIRI and RAJA BEEDI . No one else has any right to use said trade mark for a similar or identical trade mark or principal for predominant part of the same with variation like RAJA BIDI, RAJA BEEDI , RAJA BIRI, RAJ BIDI , RAJ BEEDI, RAJU BIRI, RAJU BIDI, RAJU BEEDI, RAJAN BIRI , RAJA BIDI, RAJAN BEEDI, RAJ BIRI, RAJA , RAJ, RAJU or RAJAN for any business products similar to the business products of the plaintiff including BEEDI and TOBACCO products .

3. The defendants are wholesale beedi and tobacco merchants and they had never used the trade mark / trade names RAJA BIDI, RAJA BEEDI , RAJA BIRI, RAJ BIDI , RAJ BEEDI, RAJU BIRI, RAJU BIDI, RAJU BEEDI, RAJAN BIRI , RAJA BIDI, RAJAN BEEDI, RAJ BIRI, RAJA, RAJ, RAJU or RAJAN or its principal or predominant part or its variations or RAJA, RAJ, RAJU or RAJAN for any business products. While so , in the month of July 2018 the 2nd plaintiff came to know that the 2nd defendant and certain others and selling beedies using the trade mark / trade name RAJ BIDI or RAJ BIRI with the word RAJ which is the principal predominant and the essential part of the registered trade name and registered copy right of the artistic work of the plaintiff. The plaintiff's filed a suit as OS.8/2018 before the Hon'ble Court against the 2nd defendant and others seeking for the

permanent prohibitory injunction restraining them from using the trade mark/ trade name of the plaintiff and for compensation. The Hon'ble Court pleased to grant ad interim injunction as per order in IA. 2650/2018 in OS. 08/2018 against the defendant . Thereafter the defendant stopped using the trade marks of the plaintiffs. While so , on 04/10/2019 the plaint in OS. 08/2018 was rejected by the court for none payment of balance court fee. The plaintiff filed IA. 2870/2019 in OS. 8/2018 inter alia seeking a review of the order rejecting the plaint , but the petition could be heard and disposed by the court because of the a evasive conduct of the defendants. It is came to the knowledge of the plaintiff that some shop owners , who are selling the products of the plaintiffs at Thiruvananthapuram are selling beedies by trade names and RAJU BIRI, RAJU BIDI, RAJU BEEDI, RAJA BIRI, RAJAN BIDI , RAJA BEEDI with RAJA, RAJU, RAJAN and its principal predominant part with the words RAJA, RAJ, RAJU or RAJAN. The defendants are illegally using the trade mark of plaintiff for their business in beedies by using RAJU BIRI, RAJU BIDI, RAJU BEEDI, RAJA BIRI, RAJAN BIDI , RAJA BEEDI with RAJA, RAJU, RAJAN and its principal predominant part with the words RAJA, RAJ, RAJU or RAJAN. Which are completely similar to the trade mark/ trade name of the plaintiff. There is no reason or justification for the defendant to use the trade mark of the plaintiff or any trade mark identical or similar to the same. It is submitted that a bare look at the trade marks/ trade name of the defendants, as mentioned above especially its principal and predominant part- RAJA, RAJU, RAJAN, RAJ will create an impression and understanding in the mind of any person that it is a trade mark of the plaintiff and products and that of the plaintiff produced by its establishment. The packet cover and containers of the beedi of the defendants are having the same and identical trade mark and trade description of the plaintiff and thus

defendants are using false trade mark and false trade name so as to cheat and its customers. It is difficult for an ordinary person having average intelligence to distinguish the trade mark used by the defendants with the trade marks of the plaintiff. It is submitted that the name / brand trade / business name given the defendants to their business products are identical with the trade mark of the plaintiff " RAJA BIDI and RAJA BIRI" and as such defendant have infringed the right of the plaintiff over the trademark both under the provisions of trade mark Act and Copy right Act. It is pertinent to note that the colour and letter style used by the defendant on their name board of their establishment are also same that of plaintiffs. The channels of the trade and the class of customers of the plaintiff and the defendants is one and the same. The attempt of the defendant is only to have unlawful enrichment at the cost of plaintiff and diverting the customers of the plaintiffs, who under a misconception are purchasing the products believing that of the plaintiffs. The defendants are so far succeeded in creating a confusion among the customers of the plaintiff and it is necessary to restrain the defendants from continuing the same by a decree of permanent prohibitory injunction. If the unlawful act being conducted by the defendant is not restrained, the plaintiff will be put into irreparable injury and hardships. The defendants may restrained by permanent prohibitory injunction from using the trade mark/ trade names of the plaintiffs namely RAJA BEEDI, RAJA BIRI or names RAJU BBIDI, RAJU BEEDI , RAJA BIRI , RAJAN BIDI , RAJAN BEEDI or any other trade name or trade mark with the words RAJA, RAJU, RAJAN or RAJ or with any variations there of identical or deceptively similar to that of plaintiff trademark products and establishment . The plaintiffs are entitled to for a decree of mandatory injunction directing the defendants to remove the boards , advertisement if any exhibited by them

with the names RAJA BEEDI, RAJA BIRI or names RAJU BBIDI, RAJU BEEDI , RAJA BIRI , RAJAN BIDI , RAJAN BEEDI or any other trade name or trade mark with the words RAJA, RAJU, RAJAN or RAJ or with any other name deceptively similar to that of the the trademark of plaintiffs . The defendants may also directed to hand over the cartons , wording , banners , visualize, price list and literatures and advertisement if any bearing RAJA BEEDI, RAJA BIRI or names RAJU BIDI, RAJU BEEDI , RAJA BIRI , RAJAN BIDI , RAJAN BEEDI or any other trade name or trade mark with the words RAJA, RAJU, RAJAN or RAJ or any trade name identical to the trade mark of the plaintiff. The cause action for the suit has arisen in the last week of December 2020 when the plaintiffs got information as to infringement of their trade mark and copy right and passing of their goods as that of plaintiff in Thiruvananthapuram District in which the defendant are voluntarily business carrying their business which is within the jurisdictional court.

4. The defendants were set exparte on 14/03/2022 for not filing the written statement and the 1st defendant filed the IA to set aside the exparte order and receive the written and same was allowed as per order dated 04/04/2025.

5. The 1st defendant entered appearance and filed a written statement contending as follows :-

The suit is not maintainable either in law or on facts. Plaintiffs have no locus standi to file the suit against the defendants . The suit is bad for non – joinder of necessary parties. The 1st plaintiff is represented by managing director but the 2nd plaintiff is having no authority to represent the 1st plaintiff company to institute the suit for want of resolution to the effect particularly

for no compliance of the mandate under clause 76 of MU. The trade mark and copy right alleged by the plaintiff are pending renewal. They are not substantiating any valid document regarding the renewal with effect, justifying their averments. The 1st defendant has been wrongly added in the above suit, which is not a legal person. The suit filed by the plaintiff as OS. 08/2018 was dismissed for not remitting the balance court fee . The application for restoring the suit was also dismissed for want of taking steps for the service of notice , the intention of the plaintiffs is to unnecessarily vex and harass the defendant who is not a necessary party to the suit. There is no similarity in the trade name or copy right of the defendant firm with that of plaintiff . The 2nd defendant is the sole proprietor of the 1st defendant firm . Therefore the suit bad for mis joinder of parties . The 2nd defendant is sole proprietor of the 1st defendant firm and he is authorized distributor of the tobacco products and smoking articles, manufactured by Thoushif Ahammed Trading, a single firm in the brand name BENGAL RAJ BIRI . The 1st defendant is not a manufacturer of tobacco products. If a necessary parties in not impleaded, the suit is to be dismissed in the light of the provision under Order I Rule 10 (2) of Code Civil Procedure. The defendant company is incorporated under the companies Act 2013 only on 05/12/2017. The 2nd defendant is the proprietor of 1st defendant firm dealing with the business and distribution of the goods supplied by the manufactures. On the basis of misrepresentation of the fact the court passed an interim order on 09/03.2021 against the 1st defendant proprietary concern, who is not a manufacturer of tobacco products. The 1st defendant firm is wrongly made as a party and it has no separate legal entity of its own . The interim order of injunction passed by the court has no legal binding on the 1st defendant. The action taken by the advocate commissioner in furtherance of the interim order in IAs. 2,3,4 /

2021 is null and void and will not bind upon the first defendant. The suit is bad for non joinder of necessary party as the manufacturer of alleged tobacco product has not been arrayed as defendant in the suit. The claim of the plaintiff is that the first plaintiff company is having valid trade mark registration for the goods under the branch name RAJA BEEDI and RAJA BIRI. The documents produced to corroborate the claim of the plaintiffs are fake and forged . The certificate of registration of trade mark bearing No. 894105 dated 24/12/1999 only shows that trade mark of RAJA BEEDI is granted in the name of HARE KRISHNA BISWAS Traders and not in the name of plaintiff company . The documents produced by the plaintiff would show that the owner of the products is Hare Krishna Biswas Traders and not in the name of 1st plaintiff company . Where as the digital trade mark registration of RAJA BIRI was valid only up to 24/12/2019 . The digital print dated 12/05/2021 obtained from IP INDIA Website shows that the trade mark registration for the brand name RAJA BIRI was filed on 16/07/2010 in West Bengal in the name of Hare Krishna Biswas in West Bengal and its shows that the status has objected. Thus the plaintiff company is not legally entitled to claim any right for the infringement of trade mark. The plaintiff company did not possess a valid certificate of trademark for the trade name RAJA BIRI. The suit is at the instance of 3rd plaintiff who is the open end of the defendants in the business . The plaintiff have no legal rights to seize the goods belong to the defendants and no right to disturb the business of the defendants . The defendant is the distributor from the seller of the product under the branch name BENGAL RAJA BIRI which is produced by Thoushif Ahmed Trading having valid license no. APIPA4578 GEM 002 and GSTN 19APPA 4578G2ZP and applied for getting trade mark registration no. in TM – A under class 34 of the Trade mark Act- 1999 vide

application No. 3671757 dated 07/01/2017. The 1st defendant is the dealer of Bengal Raja BIRI for the distribution and sale in the district of Thiruvananthapuram in the state of Kerala. As per the dealership with the manufacturer, the 1st defendant has purchased 25 bags of beedi from the aforesaid manufacturer for an amount of Rs. 2,40,000/-. One bag of beedi contains 168 packets of 20 pieces. The 1st defendant is not selling any products under the name RAJA BIRI or RAJA BIDI which is available across the country. Therefore the 1st defendant cannot be accused for committing infringement of copy right. The plaintiff has no cause of action. Therefore the suit is to be dismissed.

6. The above case was posted for trial on 19/01/2026. On that date the defendants remained absent and the 2nd plaintiff appeared in person and filed proof affidavit in lieu of chief examination affirming the averments in the plaint. The affirmation as to be contention of proof affidavit was recorded by deputing a Bengali translator deputed by the court and the 2nd plaintiff was examined as PW1 and the documents produced were marked as Ext. A1 to A9, Ext. A10 series 12 in number, Ext. A11 to A15 and C1 and C2 marked. The defendants did not turn up to cross examine PW1. Thus the averments the PW1 stands challenged.

7. The issues that arise for consideration are :-

1. Whether the permanent prohibitory injunction as prayed for allowable?
2. Whether the mandatory injunction as prayed for allowable?
3. Reliefs and costs.

8. **Issues Nos. 1 and 2:-** The 2nd plaintiff filed proof affidavit and examined before the court as PW1. It is sworn by PW1 in the chief affidavit

that he is the managing director 1st plaintiff company and he himself and his wife Lili Biswas are the only directors and share holders of the 1st plaintiff company. According to PW1 he is conducting business of tobacco products and beedi since 1995 and for promoting the products, he invented and coined the mark / name RAJA BIDI and RAJA BIRI as trade mark with word RAJA as the principal, prominent and essential part of the trade name and he was using the same for promoting the business. The above trade mark is being used mainly 3 languages such Bengali, Hindi and English for effective promoting and propagation . Though initially using the trade mark RAJA BIDI and RAJA BIRI was originally started in Bengal due to high quality of beedi, the business expanded to Kerala state . The first plaintiff company appointed different stockist for different places and 3rd plaintiff is the exclusive stockist and distributor of RAJA BIDI in the State of Kerala since the year 2016. PW1 has stated that he got the trade mark RAJA BIRI being registered on 24/12/1999 with no. 894105 in class 34 with Registrar of trade mark Kolkata under Trademark Act 1999. The devise, forming part of registration would indicated that the above trade mark is indicated in 3 languages namely English, Hindi, and Bengal . The trade marks RAJA BIDI was registered as word mark as well so as to ensure the languages as well . The original certificate of registration of trade mark RAJA BIDI with effect from 24/09/2019 marked as Ext. A1 . According to PW1 By virtue of Ext. A1 he has become the registered owner of the trade mark. Thereafter the 2nd plaintiff and subsequently with his permission and after incorporation of the 1st plaintiff company the above trade mark has been extensively used for promotion of the 1st plaintiff company. It is further sworn by PW1 that the trade mark RAJA BIDI and RAJA BIRI was registered on his application under the Copy Right Act in English, Hindi and Bengali with effect from 2002

and the original of certificate of registration produced was marked as Ext. A2. According to PW1 the word RAJA is also a part of cooperate name business and the company incorporated principally for the promotion of business in tobacco material and manufacture and sale of tobacco products including beedi utilizing trad mark RAJA BIDI and RAJA BIRI originally coined by him. The original certificate of trade mark RAJA BIDI in the name of 1st plaintiff company is marked as Ext. A3. It is also sworn by PW1 that as he is the originator and 1st user of trademark and being the director of the 1st plaintiff company, which is permitted use the trade mark RAJA BIDI and RAJA BIRI with the word RAJA as the principal predominant and essential part of the trade name, no one else is vested with a right to use the trade name similar to trade mark of plaintiffs 1 and 2. The legal validity certificate with respect to RAJA BIRI as word mark in the name of plaintiff company was marked as Ext. A4. The legal validity certificate with respect to the trade mark RAJA BIRI as device mark in the name of 1st plaintiff company was marked as Ext. A5. The certificate dated 22/07/2019 issued by the copy right office of the Government of India indicating the changes made in the register of copy right showing that the ownership of copy right is that of 1st plaintiff company is marked as Ext. A6. The memorandum of articles of association of the company is marked as Ext. A7 and the letter of Assistant commissioner central excise Berhampore division is marked as Ext. A8. The letter dated 22/12/1999 issued superintendent of Central Exchange Range – 8 of the Kallyani division, Krishna Nagar, Nadia was marked as Ext. A9. The return submitted by the 2nd plaintiff to the Central excise department for the month of April 2001 to March 2002 were marked as Ext.A10 series. According to PW1 the defendants being the wholesale beedi and tobacco merchant, they are supplying beedi to small and petty shop owners. It is further sworn by

PW1 the defendant had never dealt with any tobacco products having the similarities of the trade name and trade mark of the plaintiffs. The case of PW1 is that in the month of July 2018 the 2nd plaintiff came to know that the 2nd defendant and certain other persons are selling beedi's using the trade name RAJA BIDI and RAJA BIRI with the word RAJ . Which the principal, predominant part of the registered trade name and registered copy right and artistic trade of plaintiff . According to PW1 the defendant are selling the promoting business using the same artistic work registered under the copy right act with slightest variations and using the predominant and principle part of trade mark of plaintiffs for attracting the customers and by making a false impression that the products are that of plaintiffs. The case of PW1 is that the above act of the defendant is infringement of the proprietorship of the plaintiffs of the registered trade mark and registered copy right and same need to be restrained. The large cover used for packing small packets of beedi is marked as Ext. A11 and the packet of small beedi is marked as Ext. A12 and the packet used for packing small packets of beedi with name RAJAN BIRI is marked as Ext. A13. The labelled small packets of beedi in Bengali language was marked as Ext. A14. The copy of resolution of the director board authorizing PW1 and his son Sadanatha Viswas as directors of RAJA BIRI private limited was marked as Ext. A15.

9. It is true that trial has been commenced without framing issues . The 1st defendant is stated to be a proprietary concern owned by the 2nd defendant. The 2nd defendant filed written statement for the 1st defendant in his capacity as its a proprietor. As such written statement submitted can be considered as a written statement of defendant 1 and 2 . As the parties appeared and contest the suit having the knowledge of the real nature of

dispute and the issue to be decided in the case , this court is of the considered view that not framing issue prior to the commencement of the trial is not fatal to the case.

10. Ext. A1 is the trade mark certificate in the name of PW1 and issued on 24/12/1999. It can be seen that PW1 was conducting business at that time with name and style RAJA BIRI. Ext. A2 is the the extract of register of copy right dated 11/05/2002 for the registration of artistic work of the name RAJA BIRI in English, Hindi and Bengali and it is in the name of PW1 . Ext. A3 is the certificate registration of trade mark RAJA BIRI in the name of 1st defendant company and it is dated 18/08/2019. Ext. A4 is the extract of trade mark registry certifying that the word mark RAJA BIRI is a registered in the name of 1st plaintiff company. Ext. A5 is also extract of trade mark registry certifying that the word mark RAJA BIRI in the name of the 1st plaintiff company. Ext. A6 is the certificate issued by Government of India Copy Right Office changing the copy right of the trade name RAJA BIRI to the 1st plaintiff company and it is dated 22/07/2019. Ext. A7 is the memorandum of articles of association of the 1st plaintiff company to prove that the PW1 is the director company and he is a competent to sue and be sued representing the 1st plaintiff company. Ext. A8 is dated 20/12/1995 and it is an acknowledgment for intimation of the letter issued by M/S RAJA BIRI and signed by Assistant Commissioner of Cental Excise Berhampore Division . Ext. A9 is the letter dated 22/12/1999 issued by the authorized officer of centralized to PW1 describing him has proprietor of M/s RAJA BIRI . Ext. A10 series are the sale tax return submitted by the 2nd plaintiff in form RT 12 for the period from April 2001 to March 2002 to prove that return was submitted the name and style M/s RAJA BIRI and it is for the sale

of tobacco products . The above documents would only indicate that the 2nd plaintiff in his individual capacity was conducting the sale of tobacco products including beedi since 1999 and he had obtained registration of the trade mark RAJA BIRI and RAJA BIDI and same has been now transferred in the name of 1st plaintiff company.

11. The contention of the 1st defendant in the written statement is that he is the proprietor of the 1st defendant enterprises and only a distributor of the beedi and tobacco products of Bengal RAJA BIRI which is produced by Thoushif Ahammed trading company located at state of West Bengal and he is not the manufacture of the same. Thus it has been admitted by the contesting defendant that he is conducting the sale of the products with the trade name Bengal RAJA BIRI , which is similar to the trademark and trade name which was and has been used by the 2nd plaintiff for his business and since the year 1999 and consequently transferred the proprietorship by registration in favour of the 1st plaintiff company . The trademark is defined u/s 2(zb) and mark “ is defined u/s 2(m) include a device, brand , heading , label , word, letter ,packaging or combination coloured and name’ as defined u/s 2(o) include any abbreviation of name in the decision in **Sumat Prasad v. Sheojanan Prasad reported in AIR 1972 SC 2488** ‘ a trademark means a mark used in relation to goods for the purpose of indicating or so as to indicate the connection in the course of trade between the goods and some person having the right as proprietor to use that mark. The function of trademark is to give and indication to purchaser or a possible purchaser as to the manufacture or the quality of goods, to give indication to his eye to the trade source from which the goods come , or the trade hands through which they pass on the way to the market.

It is admitted by the 1st defendant that , the 2nd defendant being its a proprietor is conducting business of beedi in the name of style Bengal RAJA BIRI and the above name is a very similar in its appearance and pronunciation to the trade name and the trade mark being used by the 1st plaintiff company.

In a similar case the Hon'ble Apex court has held in the decision **Amritdhara pharmacy , Appellant v. Satya Dev Gupta reported in AIR 1963 Supreme Court 449** that ' 13. On a consideration of all the circumstances we have come to the conclusion that the over all similarities between the 2 names in respect of the same description of goods was likely to cause to deception or confusion within in the meaning of section 10(1) of the Act and the registrar was right in the view he expressed . The High court was in error in taking a contrary view' . The contesting defendants is having no case he was selling the products with the similar name and trademark of that of 1st plaintiff , which was being used prior to the year 1999 by its manufacturer and thereby he is legally entitled to sell the products with similar trade name and trademark . The trade name and the trademark of the products sold by the 2nd defendant in his capacity as the proprietor of the first defendant is similar to with trade name and trademark of the 1st plaintiff company, their exist likely hood of breeding confusion in the mind of general public and the customers of the products , which will adversely affect the business of the 1st plaintiff company and it will amount to infringement of the copy right as well as the infringement of the copy right of the 1st plaintiff company. It is not a disputed fact that the products of the 1st plaintiff company is being consumed by migrant workers from the north east region of India and most of them are not much educated . If the 1st defendant is allowed to sell the tobacco products with the name similar to that of 1st

plaintiff company it will create confusion in the mind of his customers. It is pertinent to note that the advocate commissioner deputed in the above case was able to seize from the 1st defendant the beedi packets in the large packet with the RAJA BIRI , Bengal RAJ , RAJAN BIRI and RAJU BIRI . On a scrutiny of the above facts it is to find that the plaintiff had made out a prima facie case and balance of convenience is in their favour and 1st plaintiff is having separate legal entity is entitled to get a decree of permanent prohibitory injunction as prayed in the plaint. So far as the relief of mandatory injunction as prayed in the plaint, it cannot be effectively enforced and no decree of mandatory injunction can be granted as prayed in the plaint.

In the result, the suit is partly decreed as follows:-

- 1) The defendants 1 and 2 are restrained by a decree of permanent prohibitory injunction from selling any tobacco products in the trade name or the trademark of the 1st plaintiff company namely RAJ BIDI or RAJA BIRI or the names RAJU BIRI , RAJU BIDI, RAJU BEEDI, RAJAN BIRI, RAJAN BIDI or RAJAN BEEDI or any other name similar to the trade name or trademark of the products 1st plaintiff company . The defendants are also restrained in exhibiting any advertisement in any mode as to any tobacco products similar to trade name and trademark of the 1st plaintiff company.
- 2) The relief sought for mandatory injunction is hereby disallowed.
- 3) Plaintiff is allowed to realize the proportionate cost of the proceedings from defendants 1 and 2 and their assets.

(Dictated to the Confidential Assistant, transcribed by her, corrected and pronounced by me in the open court, this the 19th day of March, 2026).

Sd/-

SUDHAKANTH. R
ADDL. DISTRICT JUDGE-IV

APPENDIX:**Exhibits for the Plaintiff's :-**

A1	24.12.1999	Original certificate of registration
A2	11.05.2002	Original extracts from register of copy rights
A3	28.02.2019	Original certificate of Trade mark RAJA BIRI
A4	07.04.2022	Legal validity certificate
A5	12.05.2022	Legal validity certificate with respect to the trade RAJABIRI
A6	22.07.2019	Certificate issued by the Copy right office of the Government of India
A7		Memorandum and Articles of Association
A8	16.12.1996	Letter of Assistant Commissioner Central Excise Berhampore division
A9	22.12.1999	Letter from Superintendent of Central Excise Range-VIII
A10 series	2001-April to 2002 March	Return submitted by the 2 nd plaintiff for the month of April 2001 to March 2002
A11		The large cover used for packing Small packets of beedi
A12		Packets of small beedi
A13		Packets used for packing small packets of beedi with name RAJAN BIRI
A14		The labelled small packets of beedi in Bengali language
A15	31.12.2020	Certified true copy of the Resolutions passed at the meeting of the Board of Directors of RAJA BIRI Pvt Ltd.

Exhibits for the Defendants :- Nil

Court Exhibits:

- C1 Commission report with inventory list prepared by the
Adv. Commissioner
- C2 Key produced by the Advocate Commissioner

Witness for the Plaintiff:-

PW1 19.01.2026 Harekrishna Biswas (2nd Plaintiff)

Witness for the Defendants:- Nil.

Id/-

Addl. District Judge-IV

// True Copy//

By Order

Sd/-

SHERISTADAR

Typed by: Sreeja
Comp.by: Smitha

Copy of Judgment in
OS.3/2021
Dated: 19.03.2026