

IN THE COURT OF THE DISTRICT JUDGE, SOUTH 24-PGS AT ALIPORE

Present : Sri S. Kundu, District Judge

T.S. No.02/18

Dhunseri Tea and Industries Ltd. ... Plaintiff

-vs-

Rajesh N. Panjwani ... Defendant

Order No.1, dated 02.01.2018

This is a suit for infringement u/s 134 of the Trade Marks Act, 1999 read with Section 29 of the said Act wherein the plaintiff has prayed for permanent injunction restraining the defendant and its servants, agents, assigns, dealers and distributors from in any way infringing or causing infringement or enabling others to infringe the plaintiff's registered trade mark LAL GHORA. Register. Requisites put in. Court Fees paid are correct.

The plaintiff also files a petition u/o XXXIX rules 1 and 2 read with section 151 of the CPC.

Marginal note shows that there is no caveat.

The application for ad-interim order of injunction restraining the defendant from infringing or enabling others to infringe the plaintiff's registered trade mark "Lal Ghora" by way of manufacturing/marketing or dealing with any spices, condiment and vinegar as included in Class-30 under the impugned trade mark "Lal Ghora" till disposal of the suit. It is submitted that the plaintiff/company is the registered holder of the trade mark "Lal Ghora" as depicted in annexures 'G' and 'H' from page Nos. 215 to 221. It is alleged that the defendant/company has applied for trade mark "Lal Ghora" along with a picture of a horse in half circle with labels as found from page Nos. 245 and 246. Ld. Advocate for the plaintiff by mentioning annexure 'N' (page No.247) submits that the plaintiff has already raised objection against such deliberate infringement and falsification of registered trade mark "Lal Ghora" owned by the plaintiff/company but the defendant has not yet stopped such infringement and if an order in the form of ad-interim injunction is not passed, the plaintiff/company will suffer from irreparable loss and injury. Perused the documents from where it appears that the plaintiff/company is the owner of the trade mark "Lal Ghora" in Class-29, 42 as well as Class-30 (page No.219). Also perused the annexure "L" and page Nos. 245 and 246 from where it appears that the defendant/company has applied for registration of the said trade mark, both of which are apparently found deceptively similar and under such circumstances, the plaintiff is successful in establishing a strong prima facie case of infringement and passing off allegedly by the defendant and therefore an ad-interim order of injunction restraining the defendant from infringing and passing off is required to be passed for the time being. Hence, allowed.

The defendant is hereby restraining from infringing the registered trade mark "Lal Ghora" and from passing off its goods as a mark "Lal Ghora" in the products mentioned in Class-30 by way of its manufacturing/selling/advertising till 2.2.2018.

Plaintiff is directed to comply with the provisions u/o 39 rule 3(a) & (b) of the CPC at once.

Issue notice upon the defendant directing him to show cause as to why the instant application for injunction will not be allowed fixing 2.2.2018 for S.R. and appearance. Requisites to be put in forthwith.

Dictated & corrected by me

District Judge

Sd/
District Judge