



IN THE HIGH COURT OF ANDHRA PRADESH

AT AMARAVATI

[3311]

(Special Original Jurisdiction)

Wednesday, the fifteenth day of April, two thousand and twenty six

Present

The Honourable Ms. Justice B. S. Bhanumathi

I.A.No.1 of 2026

In

Civil Revision Petition No.1101/2026

Between:

M/s. Sri Sai Baba Impex

...Petitioner

and

Venkateswara Food Products

...Respondent

Counsel for the petitioner:

1. Sri Ashok Ram Kumar, learned senior counsel for
Sri Doddala Prudhvi Teja

Counsel for the respondent:

None

The Court made the following:

ORDER:

This application is filed seeking the following relief:

“to grant an *ex parte* ad-interim injunction restraining the respondent / defendant and his employees, agents, representatives, and all others acting on his behalf from manufacturing, selling, offering for sale, advertising, directly or indirectly dealing in goods / services under the trademark / label “RAM – G Gold” or any other trademark that is identical or deceptively similar to the petitioner’s registered trademark amounting to infringement and passing off, until the final hearing and disposal of I.A.No.598 of 2026 in C.O.S.No.1 of 2026 by the Principal District Judge at Ananthapuramu, and pass such other order or orders as this Court may deem fit and proper in the circumstances of the case.”

2. Heard Sri Ashok Ram Kumar, learned senior counsel appearing on behalf of Sri D. Prudhvi Teja, learned counsel for the petitioner.

3. It is the main case of the petitioner / M/s. Sri Sai Baba Impex, that it is doing business of manufacturing and sale of processed sunflower seeds in and around Bukkarayasamudram and other parts of Ananthapuramu district for several years since 2015, initially under the personal trade name and subsequently, under the name and style of M/s. Sri Sai Baba Agencies from the year 2016 and later in the name of M/s. Sri Sai Baba Impex from the year 2019 onwards, using the mark “RAM-G GOLD” which was registered on 18.04.2022 with use from 01.01.2015 and the devise mark is pending for registration, on application, dated 14.01.2026.

4. The petitioner is aggrieved by the similar marks being used by the respondent and filed the suit in C.O.S. No.1 of 2026 on the file of the Court of Principal District Judge, Ananthapuramu, contending that the petitioner is prior user and also registered with Mark No.1 “SRI RAM-G GOLD”, however, the respondent is deceptively using the same marks without even registration and dealing with the same product, i.e., sunflower seeds. Therefore, the petitioner sought interim injunction, vide I.A. No. 598 of 2026 pending disposal of the suit.

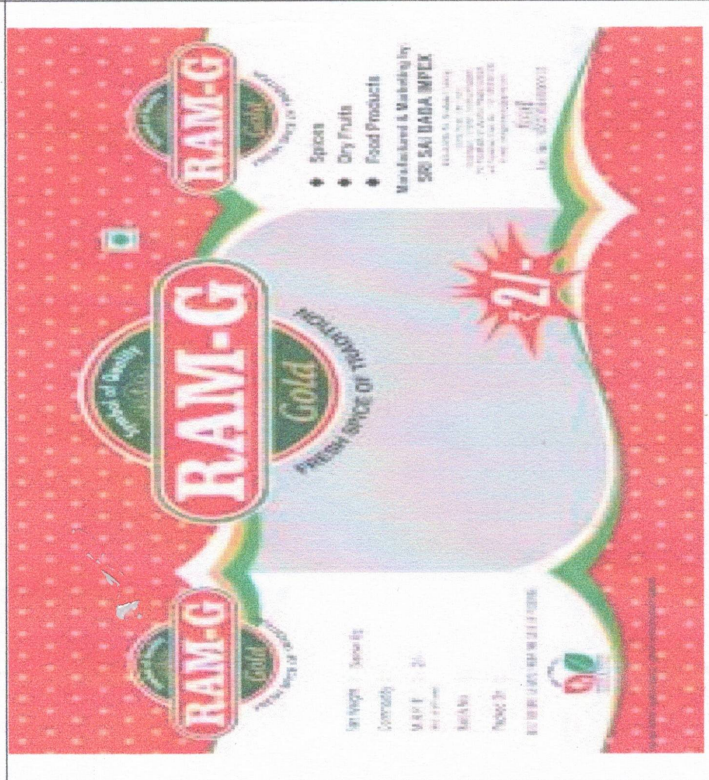
5. The details of the registrations obtained by the petitioner are as follows:

S. No.	Mark	Appln. No.	Class	Appln. date	User detail	Status
1		5412959	29	18/04/2022	01/01/2015	Registered
2		7457428	29	14/01/2026	01/01/2015	Pending registration (objected)

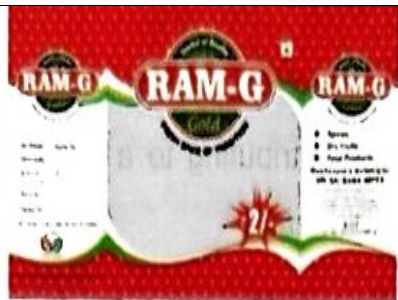
The applications submitted by the respondent are as follows:

S. No.	Mark	Appln. No.	Class	Appln. date	User detail	Status
1	SRI RAM-G GOLD [Word mark]	7405364	29	17/12/2025	30/03/2022	Pending registration (objected)
2		7486040	29	28/01/2026	30/03/2022	Pending registration (objected)

COMPARISON SHEET

PETITIONER'S MARK	RESPONDENT'S LABEL
	

6. The apparent similarities between the petitioner's mark and the respondent's mark stated by the petitioner are detailed as follows:

CRITERIA	PETITIONER'S MARK	RESPONDENT'S LABEL
Marks		
Dominant / Essential Feature	Prominent use of the coined, distinctive and dominant expression "RAM-G Gold"	Identical reproduction of the dominant expression "RAM-G Gold" with the mere addition of the prefix "Sri", which does not alter the commercial impression and retains the exact picture of the registered mark
Phonetic Identity	Pronounced as "Ram-G Gold" with emphasis on the coined term "RAM-G"	Phonetically identical in all material respects; the prefix "Sri" is commonly used and liable to be ignored by an average consumer with imperfect recollection
Visual Similarity	Bold and prominent depiction of "RAM-G" in stylized white font against red background, forming the focal point of the packaging	Identical visual representation, font style, lettering pattern, and prominence of "RAM-G" creating a striking resemblance at first glance
Structural composition	Composite label with "RAM-G" as the central element, accompanied by "GOLD" placed in a secondary but prominent position	Identical structural arrangement with no material variation in placement, hierarchy, or emphasis of elements
Colour Scheme & Get – up		Adoption of an identical colour scheme and get –up, resulting in a deceptive similarity in visual impression

Device / Artistic Elements		Replication of the same device, shape, and bordering elements, demonstrating deliberate imitation of artistic features
Trade Dress & packaging		Substantial reproduction of the petitioner's trade dress, including layout, colour placement, and overall presentation
Nature of Goods		Processed sunflower seeds
Trade channels & Consumers	Sold in identical geographical markets, primarily to rural consumers	Sold in the same markets and catering to the same class of consumers, increasing likelihood of confusion

7. On 24.03.2026, after hearing the learned counsel for the petitioner / plaintiff, the trial Court ordered issuance of urgent notice to the respondent, instead of granting an ad-interim injunction, with an observation that without hearing the other side, the trial Court cannot pass ad-interim injunction against the respondent since the respondent filed an application No.7486040 under Clause 29 before the Registrar of Trade Marks, Chennai. The matter was adjourned to 06.04.2026. On the next date of hearing, i.e., 06.04.2026, upon receipt of notice, the respondent made appearance through an advocate and the trial Court directed the office to refer the case to cause list-I to be called on 13.04.2026. On 13.04.2026, as per the oral representation of the learned senior counsel for the petitioner, the matter had been adjourned to 24.04.2026 as the Presiding Officer was on leave on 13.04.2026.

8. At that juncture, the petitioner / plaintiff approached this Court through this lunch motion, mainly contending that the trial Court failed to exercise its discretion in a proper and legal manner under misconception of law that during the pendency of the application of the

respondent, no interim injunction can be granted and that the trial Court failed to appreciate the strong *prima facie* case in favour of the petitioner and thereby, the right of the petitioner is defeated due to indefinite postponement of hearing of the interlocutory application without any kind of protection in spite of the best case placed before the trial Court.

9. The learned senior counsel for the petitioner submitted that the registered mark RAM-G is graphically copied by the respondent by deceptively prefixing the same with the word “SRI” which is not noticeable in view of the size and style used. He further submitted that an impression at a glance given to the marks used by the petitioner and the respondent does not provide a person with imperfect recollection to distinguish them. He further submitted that the good will earned due to the efforts of the petitioner in generating and developing the product in the market associated with the mark cannot be allowed to be used by the respondent to sell his product of the same type of seeds by using his mark deceptively similar. He further submitted that the mark of the petitioner and the deceptive mark of the respondent, when compared, it would pass the triple test for trade mark violation by the respondent.

10. In support of his argument that interim injunction need not be declined merely due to pendency of an application for registration submitted by the respondent, interim injunction need not be declined, he placed reliance on the judgment of the High Court of Delhi in **Metro Playing Card Co. Vs. Wazir Chand Kapoor**¹, wherein, at paragraph No.13, it was held as follows:

¹
AIR 1972 Delhi 248

“13. We are entirely in agreement with the learned Single Judge that the mere acceptance of an application for registration of a trade-mark or its advertisement confers no right on the appellant and, prima facie, there is an infringement of the trade-mark. There is also. Prima facie, no evidence on the record to show honest concurrent user.”

11. Nextly, he submitted that when the trial Court fails to exercise its discretion, an appellate Court has jurisdiction to interfere with the order of the trial Court and referred to the decision of the Supreme Court in **Ramdev Food Products Pvt. Ltd. Vs. Arvindbhai Rambhai Patel and others**², wherein at paragraph No.70, it was held as follows:

“70. We are not oblivious that normally the appellate Court would be slow to interfere with the discretionary jurisdiction of the trial court. The grant of an interlocutory injunction is in exercise of discretionary power and hence, the appellate courts will usually not interfere with it. However, appellate courts will substitute their discretion if they find that discretion has been exercised arbitrarily, capriciously, perversely, or where the court has ignored settled principles of law regulating the grant or refusal of interlocutory injunctions. This principle has been stated by this Court time and time again. [See for example **Wander Ltd. v. Antox India P. Ltd.** MANU/SC/0595/1990, **Lakshmikant V. Patel v. Chetan Bhai Shah** [AIR 2002 SC 275] and **Seema Arshad**

²

AIR 2006 SC 3304

Zaheer v. MC of Greater Mumbai [(2006) 5 SCC 282]

The appellate court may not reassess the material and seek to reach a conclusion different from the one reached by the court below if the one reached by that court was reasonably possible on the material. The appellate Court would normally not be justified in interfering with the exercise of discretion under appeal solely on the ground that if it had considered the matter at the trial stage it would have come to a contrary conclusion. However, in this case the courts below proceeded on a prima facie misconstruction of documents. They adopted and applied wrong standards. We, therefore, are of the opinion that a case for interference has been made out.”

12. Under circumstances similar to the case on hand, when the trial Court declined to give interim protection and ordered notice to the respondent, the Division Bench of the High Court for the State of Telangana at Hyderabad, interfered with the order of the trial Court in a case between **Tata Sons Private Limited and another Vs. Manhanshika Agro Foods and Beverages Private Limited**³, wherein at paragraphs Nos.15, 16, 17 and 19, it was held as follows:

“15. It is therefore apparent the ill motives of the defendants to drive undue advantage, secure illegal gains by creating false impression among consumers that the impugned products are products of the plaintiffs.

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I.A.No.1 of 2023 in C.R.P.No.1710 of 2023 and I.A.No.1 of 2023 in C.R.P.No.1713 of 2023,
dt.23.06.2023

16. As consistently held by the Hon'ble Supreme Court, when the plaintiff makes out a prima facie case of infringement in an infringement action, the plaintiff is entitled to ex parte injunction.

17. In **Ruston & Hornsby Ltd. Vs. Zamindara Engineering Co.** [MANU/SC/0304/1969], Hon'ble Supreme Court held "in an infringement action, an injunction would issue as soon as it is proved that the defendant is improperly using the plaintiffs mark". The action for infringement is a statutory right. Hon'ble Supreme Court held:

"6.....In an action for infringement where the defendant's trade mark is identical with the plaintiff's mark, the Court will not enquire whether the infringement is such as is likely to deceive or cause confusion. But where the alleged infringement consists of using not the exact mark on the register, but something similar to it, the test of infringement is the same as in an action for passing-off. In other words, the test as to likelihood of confusion or deception arising from similarity of marks is the same both in infringement and passing-off actions."

17.1 In **Laxmikant V.Patel Vs. Chetanbhai Shah** [MANU/SC/0763/2001], Hon'ble Supreme Court held:

"14....Once a case of passing-off is made out the practice is generally to grant a prompt ex parte injunction followed by appointment of Local Commissioner, if necessary. In our opinion the trial

Court was fully justified in granting the *ex parte* injunction to the plaintiff based on the material made available by him to the Court. The trial Court fell in error in vacating the injunction and similar error has crept in the order of the High Court. The reasons assigned by the trial Court as also by the High Court for refusing the relief of injunction to the plaintiff are wholly unsustainable.”

17.2 In **Midas Hygiene Industries (P) Ltd. Vs. Sudhir Bhatia** [MANU/SC/0186/2004], Hon'ble Supreme Court reiterated same opinion. Paragraph 5 reads as under:

“5.The law on the subject is well settled. In cases of infringement either of trade mark or of copyright, normally an injunction must follow. Mere delay in bringing action is not sufficient to defeat grant of injunction in such cases. The grant of injunction also becomes necessary if it *prima facie* appears that the adoption of the mark was itself dishonest.”

19. We are *prima facie* satisfied on the claim of plaintiffs on infringement of its products by defendant. Having regard to law on the subject, the trial Court grossly erred in not exercising its discretion and grant ad-interim *ex parte* injunction when plaintiffs made out *prima facie* case and erred in issuing notice.”

13. Further, he referred to the decision of the Division Bench of this Court in **Tonique Beverages India and another Vs. Datla**

Chakravardhan Reddy⁴, wherein the decision of the Division Bench of the High Court for the State of Telangana (*supra*) was followed and ordered, under the similar circumstances as follows:

“He also further submits that by following the above said decisions, the Division Bench of High Court for the State of Telangana also granted similar relief of *ex parte* injunction in I.A.No.1 of 2023 in C.R.P.Nos.1710 & 1713 of 2023 dated 23.06.2023. He also relies upon the judgment of the Hon’ble Supreme Court in Civil Appeal No.404 of 2022 dated 19.01.2022 in the matter of **Renaissance Hotel Holdings Inc. Vs. B.Vijaya Sai and others** [(2022) 5 SCC 1]

Having regard to the above said facts and circumstances and upon appreciation of the legal position placed before this Court, we are of the view that it is a fit case to grant *ex parte* ad-interim injunction as prayed for pending service of notice to the other side for a period of four (4) weeks till the next date of hearing.”

14. The mark of the petitioner “RAM-G Gold” was in use since 01.01.2015 and it was registered on 18.04.2022, whereas the mark of the respondent “SRI RAM-G Gold” is in use since 30.03.2022 and the application is dated 17.12.2025 and registration is still pending. Similarly, the other mark of the petitioner at serial No.2 in the tabular representation is in use since 01.01.2015 and application for its registration was filed on 14.01.2026 and registration is pending, while the respondent for his similar mark, applied for registration on

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C.R.P.No.1508 of 2025, dated 02.07.2025 (APHC)

28.01.2026 and registration is pending. Thus in respect of both marks, the petitioner is prior user and got one of them, i.e., at Sl.No.1 registered way back in the year 2022, and applied for registration of mark at Sl.No.2 also prior to the respondent. In any way, the petitioner stands first in point of time.

15. It is settled that prior user rights override even subsequent registration, and therefore, cannot be defeated by a mere applicant, vide decision in **S.Syed Mohideen Vs. P.Sulochana Bai**⁵. When the case on hand is examined, this Court found that the trial Court committed error in directing urgent notice without granting any ad-interim injunction in view of the similarity of the marks and graphical style and size of packing of the petitioner and those of the respondent and also prior use of the marks by the petitioner, as detailed in the affidavit. As such, this Court is of the view that, in the circumstances of deferring the case from date to date, in spite of the best possible *prima facie* case shown by the petitioner and under an erroneous impression that pendency of an application for registration is a bar for granting even the temporary relief in favour of the petitioner, it is a case fit to grant temporary injunction in favour of the petitioner at least for a short period enabling the petitioner to approach the trial Court to seek early hearing and disposal of the petition on merits.

16. Therefore, interim injunction, as prayed for, is granted for a period of three (3) weeks.

B.S. BHANUMATHI, J

Dt. 15.04.2026

Note:- Issue C.C by 17.04.2026
(B/o) RAR

⁵ Civil Appeal No.2758 of 2015 (S.L.P (C) No.1267 of 2014), dated 17.03.2015