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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(COMM) 512/2020, I.A. 10732/2020 & I.A. 2107/2021**

**SOPARIWALA EXPORTS, THROUGH ITS PARTNER MR. ARIF
FAZLANI & ANR.Plaintiffs**

Through: Ms. Yashi Agrawal, Adv.

versus

**MR. HAJI IQBAL AHMED ANSARI TRADING AS M/S AFZAL
BIDI CO. & ANR.Defendants**

Through: Mr. Shahid Ali (through vc), Mr.
Sameer Tayyeb, Mr. Mohd. Salman
and Mr. Mayank Sharma, Advs.

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **20.08.2025**

I.A. 10732/2020 (application under Order XXXIX Rules 1 & 2 read with
Section 151 of the Code of Civil Procedure, 1908 filed by plaintiffs)

I.A. 2107/2021 (application under Order XXXIX Rule 4 read with Section
151 of Code of Civil Procedure, 1908 filed by defendant no. 1)

1. The present suit has been filed by the plaintiffs seeking a decree of permanent injunction against the defendants for restraining the defendants from infringing the plaintiff's registered trademark 'AFZAL'.
2. There is an ex-parte ad-interim injunction dated 19.11.2020 granted in this suit which has been continuing.
3. Learned counsel for the plaintiffs' state that one of the factors, which forms the basis of the cause of action for filing of this suit was the filing of an application [bearing no. 3916000] by defendant no. 1 before the Registrar



of Trademarks, Delhi for the impugned device mark 'AFZAL BIDI No. 90' under Class 34, claiming use since 01.07.2018.

3.1. She states that the plaintiffs have filed its opposition to the said application. She states that the defendant no. 1 herein failed to file its counter statement to the said opposition and therefore, the Registrar of Trademarks, Delhi passed an order dated 24.07.2023, recording that the Defendant No.1's application is deemed to have been abandoned. She states that to the knowledge of the plaintiffs, the defendant has not applied afresh or challenged the order dated 24.07.2023.

3.2. She states that the plaintiff no. 1 has adopted the trademark 'AFZAL' in 1977, and she refers to the fact that the plaintiff has obtained registrations for the trademark 'AFZAL', both as a wordmark as well as label. She states that the plaintiffs sell 'chewing tobacco' under the said trademark. She states that similarly, defendant no. 1 as well in 2020 at the time of the filing of this suit was selling 'chewing tobacco' under the impugned mark 'AFZAL TAMBAKU No. 90'. She states that the marks of the plaintiffs and defendant no. 1 are deceptively similar.

3.3. She submits that the plaintiffs write the mark in English and Arabic on the product, whereas the defendants write their mark in English and Hindi.

4. In response, learned counsel for the defendants' state that the defendants are the honest adopter of the mark. He states that defendant no.1's son name is Afzal, and the name is common in a Muslim family and thus, the mark 'AFZAL' was adopted by defendant no. 1 bona fide on that basis.

4.1. He states that the defendants mark had been accepted by the



competent authority and allowed to be advertised in the Trade Marks Journal, and which was made available to the public on 10.08.2020 vide the Trade Mark Journal No. 1960.

4.2. He states that the defendants was a small-time manufacturer who was carrying on business in Amroha District, Uttar Pradesh and disputes that plaintiffs have any presence in Amroha District.

4.3. He states that after the grant of the interim injunction in these proceedings, the defendants have discontinued this business and are not undertaking manufacturing of tobacco or *bidi* items under any new mark.

4.4. He states that since the business was at an initial stage no substantive sales were registered in the year 2020 and, therefore, no details of the sale have been provided.

5. This Court has considered the submissions of the parties and has also perused the record.

6. The admitted facts are: The ad-interim injunction order was passed on 19.11.2020 and has continued till date. The defendant admits that its application bearing no. 3916000 filed before the trademark registry for the impugned mark stands abandoned vide order dated 24.07.2023. The defendant admits that it has not challenged the said order. The defendant further admits that it has no substantive sales in the impugned mark even as on 19.11.2020. The defendant admits that it has discontinued the business of manufacture of tobacco and bidis i.e., the products for which the impugned mark was being used.

7. This Court has compared the plaintiffs' mark with the defendant's impugned mark and has also seen the application of these marks on the respective products of the parties.



8. As evident from the comparison of the pictures of the plaintiff's product [enclosed at page 493 of the plaintiff's documents] with the pictures of the defendant's product [enclosed at page nos. 573, 574, and 575 of the plaintiff's documents], it is evident that the plaintiffs' word mark 'AFZAL' is a prominent feature of the defendants' mark. The defendants have entirely subsumed the plaintiff's registered wordmark 'AFZAL' as their impugned mark affixed on the defendant's product.

9. The products of the plaintiffs and the defendants are consumed by the same members of the public, sold at low prices from same kiosk/shops. The nature of the product is such that reference to the product as 'AFZAL' by the consumer may lead to vending of the defendant's products. In these facts a consumer with imperfect re-collection may be unable to differentiate between the two parties. Thus, the likelihood of confusion is very high.

10. Keeping in view the fact that the trademark application has since been abandoned by defendant no.1 and the defendants are not continuing with the business of manufacturing of Bidi and Tobacco and the adoption of the impugned mark, which is deceptively similar to the plaintiffs' registered trademark 'AFZAL' by defendant no. 1 for its tobacco, this Court is satisfied that the order dated 19.11.2020 ought to be confirmed.

11. The application being I.A. No. 2107/2021 under Order XXXIX Rule 4 CPC filed by the defendant no. 1 is hereby dismissed.

12. The application being I.A. No. 10732/2020 under Order XXXIX Rule 1 and 2, filed by the plaintiffs is allowed.

13. With the aforesaid observations, the captioned applications stand disposed of.



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14. List the matter before the Joint Registrar (J) on **18.09.2025** for fixing the dates of trial.

MANMEET PRITAM SINGH ARORA, J

AUGUST 20, 2025/msh/pk/MG