

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/APPEAL FROM ORDER NO. 19 of 2025**

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VARUN JAIN PROPRIETOR OF VARUN UDYOG & ANR.
 Versus
 PRAKASH LALJIBHAI SENJALIA SOLE PROPRIETOR DEVKINANDAN
 LACE WORKS

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Appearance:

SIDDHARTH R KHESKANI(9483) for the Appellant(s) No. 1,2

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CORAM: **HONOURABLE MR. JUSTICE A.S. SUPEHIA**
 and
HONOURABLE MS. JUSTICE GITA GOPI

Date : 18/02/2025

ORAL ORDER
(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

Notice returnable on 12.03.2025.

At the outset, prima facie, we find that the final direction issued by the learned Judge, Commercial Court, City Civil Court, Ahmedabad does not reconcile with the actual findings made in Paragraph No.23 of the said order. It is also noticed by us that ad-interim injunction is granted till final disposal of the suit. Learned advocate Mr. Kheskani has also pointed out the provisions of Section 28(3) of Trade Marks Act, 1999 (hereinafter referred to as “the Act”) and has submitted that as per the said provision, the suit of permanent injunction claiming infringement of the registered trade mark is not maintainable against registered trade mark owner i.e. the appellant. It is submitted that the respondent is the manufacturer and hence, the ad-interim injunction, which is passed by the Commercial Court, runs contrary to the provisions of Section 28(3) of the Act. We also find that though the Commercial Court has

incorporated the provision of Section 28(3) of the Act, there is no actual finding recorded with regard to the fact of the present appellant being the owner, whereas, the respondent is the manufacturer and also whether the suit seeking permanent injunction claiming infringement of the registered trade mark is maintainable or not.

Hence, till the next date of hearing, by way of ad-interim relief, the implementation, operation and execution of the order dated 09.12.2024 passed by the learned Judge, Commercial Court, City Civil Court, Ahmedabad in Commercial Trade Mark Civil Suit No.02 of 2024 is stayed. Direct service is permitted.

(A. S. SUPEHIA, J)

(GITA GOPI,J)

Maulik/1