



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
INTERIM APPLICATION NO. 3522 OF 2025
IN
COMMERCIAL IP SUIT NO. 386 OF 2017

Dr. Ashok M Bhat

...Applicant/Plaintiff

Versus

R. V. Pharmaceuticals & Anr.

...Respondents/Defendants

Mr. Vinod Bhagat a/w Ms. Sonam Pradhan and Ms. Rashmi Thakur i/b Vinod A. Bhagat, for the Applicant/Plaintiff.

CORAM : ARIF S. DOCTOR, J.
DATE : 11th NOVEMBER 2025

P.C.

1. The present Interim Application has been filed under the provisions of Order XXXIX Rule 2A of the Code of Civil Procedure, 1908 ("CPC").
2. Heard learned counsel Mr. Bhagat. He, at the outset, has tendered an affidavit of service to prove service of the Interim Application upon the Defendant. Affidavit of service is taken on record.
3. Mr. Bhagat then invites my attention to the ex-parte ad-interim order dated 19th January 2017 and points out that by the said order, this Court had granted the Applicant/Plaintiff ad-interim relief in terms of prayer clauses (a), (b) and (d) of the Interim Application. The said prayer clauses, for convenience, are reproduced below:

"(a) that pending the hearing and final disposal of the suit, the Defendants by themselves, their proprietors/partners, servants, agents, assignees, transferees and all those connected with them in their business be restrained by an



order and injunction of this Hon'ble Court from in any manner manufacturing, marketing, selling and/or using in relation to their skin and hair cream (mis-described as vaselene) and on other cosmetic goods, the impugned carton and label of MOON which bears a color scheme, get up, lay out, design, style and representation being identical with and/or substantially similar to the original artistic work as depicted on the Plaintiff's carton and label of NOVA, so as to infringe upon the Plaintiff's copyright registered under Nos. A-13658/75, 13659/75 dated 30.07.1975;

(b) that pending the hearing and final disposal of the suit, the Defendants by themselves, their proprietors/partners, servants, agents, assignees, transferees and all those connected with them in their business be restrained by an order and injunction of this Hon'ble Court from in any manner manufacturing, marketing, selling and/or using in relation to their skin and hair cream (mis-described as vaselene) and on other cosmetic goods, the impugned carton and label of MOON bearing a trade dress identical with and/or deceptively similar to the Plaintiff's label mark and trade dress of NOVA, so as to infringe upon the Plaintiff's said label mark registered under Nos. 126502, 1070856 and 1070857, all in class 03;

(d) that pending the hearing and final disposal of this suit, the Court Receiver, High Court, Bombay, or such other fit and proper person/s as this Hon'ble Court thinks fit, be appointed Receiver/s with all powers under Order XL Rule 1 and Order XXXIX Rule 7 of the Code of Civil Procedure, 1908, to attend and search the premises, shops, retail outlets, offices, factories, godowns, warehouses of the Defendants, their distributors and stockists and other premises, at any time of the day or night, including on holidays, wherever the goods viz. Skin and hair cream (mis-



described as vaselene) and other cosmetic goods including labels, bottles, pouches, wrappers, stickers, packaging and advertisement materials bearing the impugned mark INOVA under a pirated artwork or any other mark/s and artwork/s deceptively/substantially similar to the Plaintiff's trade mark and original artistic work of NOVA as may be found, stocked or are lying and to break open such locks with police assistance (if needed), make an inventory and take custody/possession thereof by sealing the said products at the Defendants' premises under lock and key and also of all related items such as stationery, production registers, invoices, printing materials, blocks, moulds, dyes, stencils and master plates used to print counterfeit packaging materials, lying at the premises, offices or factories of the Defendants or their printers, their stockists or agents or at any other place/s and the Defendants by themselves, their partners/proprietor, heirs, servants, employees, representatives, agents, stockists be ordered and directed to deliver up all of the aforesaid to the Court Receiver or to such other fit and proper person as this Hon'ble Court thinks fit and the Court Receiver must carry out such search and seizure with local police assistance if necessary;"

4. Mr. Bhagat points out that the Notice of Motion was subsequently made absolute by order dated 20th January 2021 and the ex-parte ad-interim order was confirmed. Learned counsel further submits that the Defendant was aware of the ex-parte ad-interim order, as is made clear from the fact that the Defendant has appeared before this Court on 20th February 2017.

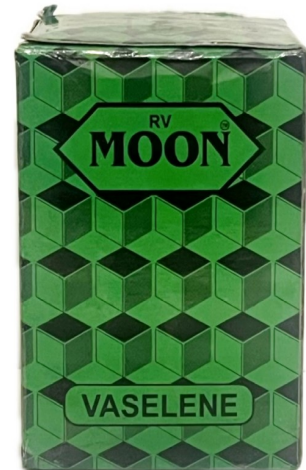
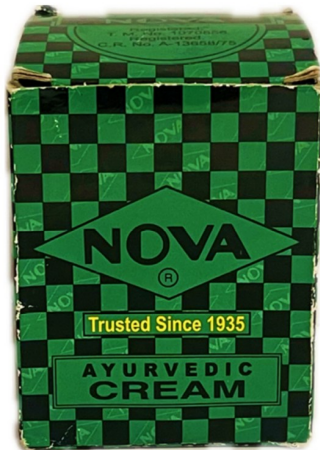
5. Mr. Bhagat submits that, despite the orders passed by this Court, it has come to the knowledge of the Plaintiff that the Defendant has, in disregard of these orders, once again commenced the manufacturing and marketing of the



impugned goods by using the impugned mark. He has invited my attention to the exhibits appended to the Interim Application, which show the Defendant's use of a virtually identical impugned mark. As also the fact that these products are now being manufactured in the year 2024, as is evident from the date of manufacture.

6. For convenience, Mr. Bhagat has prepared the following chart, which shows (i) the Applicant's label, (ii) the original label used by the Defendant at the time when the suit was filed and (iii) the impugned label which is now being used by the Respondents. For convenience, the same is scanned and reproduced below.

**APPLICANT'S LABEL ORG. DEFENDANTS' LABEL IMPUGNED LABEL OF
RESPONDENT NOS.1 & 2**





7. It is in the backdrop of these facts that, Mr. Bhagat has today pressed for prayer clauses (e), (g), (h) and (j) of the captioned Interim Application which reads thus:

(e) pending the hearing and final disposal of the present Interim Application/Petition, the Respondents by themselves, their proprietor, servants, agents, assignees, stockists, distributors, their representatives and all other persons claiming under them be directed to comply with the said orders dated 19.01.2017, 09.02.2017, 28.02.2017 and 20.01.2021 passed by this Hon'ble Court by stopping their use of the impugned label / artwork bearing the mark RV MOON as shown at Exhibit - H, I and J to the present Interim Application and / or any other label which is a reproduction / substantial reproduction of and / or deceptively similar to the Applicant's NOVA label mark / artwork as shown at Exhibit - K to the present Interim Application

(g) pending the hearing and final disposal of the suit, the Court Receiver, High Court, Bombay, or such other fit and proper person/s including Special Court Receiver/s as this Hon'ble Court thinks fit, be appointed Receiver/s with all powers under Order XL Rule 1 and Order XXXIX Rule 7 of the Code of Civil Procedure, 1908, to attend and search the premises, shops, retail outlets, offices, factories, manufacturing units, godowns, warehouses, storages of the Respondents, other premises wherever the goods, skin and hair creams hair cream and other cosmetic good, bearing the impugned label mark depicted under a pirated artwork of MOON or any mark or artwork, identical with and/or deceptively similar to the Plaintiff's trade mark, artwork and trade dress of NOVA as may be found, stocked, sealed or are lying and to break open such locks with police assistance, make an inventory, seize and take custody possession of the infringing goods and report the status of the seized infringing goods and of all related items such as stationery, production registers, invoices, printing and packaging materials, screens, cylinders, blocks, moulds, dyes, stencils, machinery and master plates used to print the infringing packaging materials, lying at the premises, offices or factories, manufacturing units, godowns, warehouses of the Respondents or at any other place/s and the Respondents by themselves, their proprietor, servants, agents, assignees, stockists, distributors, their representatives be ordered and directed to deliver up all of the aforesaid to the Court Receiver



including Addl. Spl. Receiver/s or to such other fit and proper person/s as this Hon'ble Court thinks fit and the Court Receiver must carry out such search and seizure with local police assistance, if necessary, at no costs;

(h) pending the hearing and final disposal of the Petition, this Hon'ble Court be pleased to direct the Court Receiver to report on the status of the infringing goods seized by him during the raid conducted at the Defendants/Respondents premises on 13.02.2017 and to submit its report thereon and more particular detailed in EXHIBIT C of this Petition;

(j) pending the hearing and final disposal of the present Interim Application, Respondent No. 2 be directed to remain present during the course of hearings before this Hon'ble Court and not to leave the jurisdiction of this Hon'ble Court;

8. Having heard Mr. Bhagat and being satisfied that the Defendant, though served, are not present today, I am of the view that the Defendant is plainly in prima facie breach of the orders passed by this Court, more particularly the orders dated 19th January 2017 and 20th January 2021. Hence, in my view the Applicant has made out a case for the grant of the aforesaid reliefs as prayed for.

9. Hence, there shall be an ad-interim relief in terms of prayer clauses (e), (g), (h) and (j) of the captioned Interim Application which are reproduced hereinabove. Let a copy of this order be served upon the Defendant.

10. Stand over to **9th December 2025**.

[ARIF S. DOCTOR, J.]