

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO. 5232 OF 2022

WITH

NOTICE OF MOTION NO. 2161 OF 2018

IN

COMMERCIAL IP SUIT NO. 249 OF 2015

Ultratech Cement Limited & Anr.

...Applicants/Plaintiffs

Versus

Jai Shree Krishna Cement & Ors.

...Respondents

- Mr. Amit Jamsandekar and Ms. Alka Parelkar i/by M/s. V.A. Associates, for Applicants/Plaintiffs.
- Mr. Balaji Iyer, for Defendant Nos. 1, 1A and 1B.
- Mr. B.N. Poojari, for Defendant Nos. 2 to 4.

CORAM : MANISH PITALE, J

DATE : 21st APRIL, 2023

P. C. :

1. Heard, learned Counsel for the parties.
2. Mr. Jamsandekar, learned Counsel appearing for the Plaintiffs, on instructions, makes a statement that the present application is being pressed only as against Defendant Nos. 1, 1a and 1b and that the prayers made in the application are not being pressed against Defendant Nos. 2, 3 and 4.
3. The learned Counsel appearing for Defendant Nos. 1, 1a and 1b submitted that the grievance raised in the present application, pertains to two trademarks Super Ultra and UrbanTech. According to him, orders of interim injunctions granted in favour of the Plaintiffs

as per earlier orders dated 22nd June, 2015 and 28th January, 2019, did not in any manner cover the aforesaid two trademarks and that therefore, the present application does not deserve favourable consideration. In support of his contentions the learned Counsel for the said Defendants has placed reliance on ad-interim order dated 10th June, 2016 passed by this Court in Notice of Motion No. 76 of 2014 in Suit No. 42 of 2014, wherein the Plaintiffs in the present proceedings were also the Plaintiffs. It is submitted that the said order clearly inures to the benefit of Defendant Nos. 1, 1a and 1b.

4. As against this, learned Counsel appearing for the Plaintiffs submitted that said order of the learned Single Judge of this Court was challenged in appeal. The Division Bench of this Court disposed of the appeal, requesting the learned Single Judge of this Court to decide the Notice of Motion on its own merits, uninfluenced by observations made in the ad-interim order. It was further submitted that subsequent thereto, with effect from 16th November, 2018, the Plaintiffs have obtained registration for the mark Ultra. It is also brought to the notice of this Court that the Registrar of Trade Marks on 16th March, 2017, has specifically included the trademark of the Plaintiffs UltraTech in the list of well-known trademarks. It is submitted that these factors need to be taken into consideration while passing orders in the present application.

5. This Court is of the opinion that the order of the Division Bench of this Court referred to hereinabove needs to be placed before this Court. It is also relevant to note here that the registration with effect from 16th November, 2018 for the trademark Ultra in favour of the Plaintiff is for the word Ultra written in Devnagari script. According to the learned Counsel for the Plaintiff, as per settled law, the said registration would be inure to the benefit of the Plaintiffs in any language. He would like to place on record judgments in support of the said contention.

6. List the application for further consideration on **28th April, 2023**, to be included in the “supplementary list”.

(MANISH PITALE, J.)