



THE HIGH COURT OF ORISSA AT CUTTACK

CMP No.387 of 2026

CNR No. ODHC010151842026

M/s Jinardi Biri Factory &

Anr.

Petitioner(s)

Mohammed Mstaq Ansari,

Advocate

-Versus-

M/s Danish Enterprises &

Ors.

Opposite Party (s)

CORAM:

HON'BLE DR. JUSTICE SANJEEB K PANIGRAHI

ORDER

21.08.2026

Order No.

03.

1. This matter is taken up through hybrid arrangement.
2. The Petitioners have filed this CMP challenging the order dated 06.01.2026 passed by the learned Civil Judge (Senior Division), Commercial Court, Sambalpur in C.S. No.31 of 2025.
3. Learned counsel for the Petitioners submits that the C.S. No.31 of 2025 was filed invoking Sections 134 and 135 of Trademark Act, 1999 read with Sections 51 and 55 of the Copyright Act, 1957 with the following grounds: -

a)

To

pass a decree of permanent and mandatory injunction restraining the Defendants by themselves as also through their individual



proprietors/partners, agents, representatives, distributors, assigns, heirs, successors, stockists, affiliates and all others acting for and on their behalf from manufacturing, marketing, refurbishing, revamping, purveying, supplying using, selling, soliciting, exporting, displaying, advertising or by any other mode or manner dealing in or using directly or indirectly in relation to its product "SHIBA BIRI 480™" and/or any other allied or cognate goods, the mark "SHIBA BIRI488™" and associated trade-dress which is deceptively similar to the Plaintiffs registered word/level trademark "SHIBA BIRI 480™" and associated trade dress and/or any other "SHIBA BIRI 488" mark/trade dress/packaging deceptively similar to the Plaintiffs registered Trade Mark and associated Trade Dress in the present plaint amount to infringement of Trade Mark;

- (i) Infringement of Plaintiffs aforesaid registered "SHIBA Biri 480™,*
 - (ii) Passing off and violation of the Plaintiffs rights in the Plaintiffs said trade mark "SHIBA BIRI 480™",*
 - (iii) Infringement of Plaintiffs copyrights in "SHIBA BIRI 480™",*
- b) to pass an order restraining the Defendants from disposing off or dealing with their assets including their premises at the addresses mentioned in the Memo of Parties*



and their stocks- in-trade or any other assets as may be brought to the notice of the Hon'ble Court during the course of the proceedings and on the Defendants disclosure thereof and which the Defendants are called upon to disclose and/or on its ascertainment by the Plaintiffs as the Plaintiffs are not aware of the same as per Section 135(2)(c) of the Trade Marks Act,1999 as it could adversely affect the Plaintiffs ability to recover the costs and pecuniary reliefs thereon.

c) to pass an order for delivery up of all the impugned finished and unfinished materials bearing the impugned and violative trade mark "SHIBA BIRI 480TM, "or any other word/mark which may be identical or deceptively similar to the Plaintiffs said trade mark/label SHIBA BIRI 480TM, " including its blocks, labels, display board, sign boards, trade literatures and goods etc. to the Plaintiffs for the purposes of destruction and erasure.

d) to pass an order for rendition of accounts of profits earned by the Defendants by their impugned illegal trade activities and a decree for the amount so found, in favor of the Plaintiffs on such rendition of accounts.

e) to pass a decree for the amount to the tune of Rs.25,00,000/- [Rupees Twenty-Five



Lakhs Only) on account of damages sustained by the Plaintiffs due to the impugned acts of the Defendants.

f) to pass a decree of punitive and exemplary damages in favor of the Plaintiff.

g) to pass an order for cost of proceedings against the defendants and

h) to pass such other order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

4. The main grounds taken by the learned counsel for the Petitioners is that the defendants in the suit/Opposite Parties in the present CMP have infringed trademark of **"SHIBA BIRI 480"** with deceptively similar brand called **"SHIBA BIRI 488"**. The Petitioners have been in this trade for the last 30 years whereas the Opposite Parties have surfaced in the BIRI mark very recently infringing the trade mark of the present petitioners thereby the petitioners are losing its business reputation, profit and mark capitalization.

5. He further submits that since the opposite parties have infringed the trade mark of the present Petitioners and captured the certain segment of its market thereby enrich unjustly, hence, a sum of Rs.25 lakh as damage amount can be collected from the defendant/Opposite Parties for the impugned acts.



6. He further prayed for appointment of a Court Commissioner to assess the extent of damage caused by the Opposite Parties and how much profit he has cornered because of such infringement. He further prays for seizure of all the goods which are allegedly infringed by the Opposite Parties.

7. Despite service of notice, no body has appeared on behalf of the Opposite Parties.

8. However, in the interest of justice, one last chance is granted to the Opposite Parties to appear in the matter, failing which, this Court shall proceed with the matter *ex parte*.

9. List this matter on 27.08.2026.

(*Dr. Sanjeeb K Panigrahi*)
Judge