

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

IA No.GA 1 of 2020
CS 94 of 2020
DUROPLY INDUSTRIES LIMITED & ANR.
VS.
MA MANSA ENTERPRISES PVT. LTD.

IA No.GA 2 of 2020
CS 94 of 2020
DUROPLY INDUSTRIES LIMITED & ANR.
VS.
MA MANSA ENTERPRISES PVT. LTD.

BEFORE:

The Hon'ble JUSTICE ARINDAM MUKHERJEE

Date: 2nd March, 2021

Mr.Debnath Ghosh, Mr. Sarosij Dasgupta, Advocates
for the plaintiffs.

Ms. Sonal Shah, Mr. Kushagra Shah, Mr. Sourish Roy,
Advocates for defendant.

The Court : On 8th October, 2020 an interim order was passed in this matter. The operative portion is as follows :

“ In view of the above, this Court is inclined to allow the application in terms of prayer (a). The respondent and/or its agents and assigns are restrained from manufacturing, distributing and selling their goods under the mark ‘Duro Touch’ or any other mark which is deceptively similar to the petitioners’ mark ‘Duroply’ .”

The interim order so passed was operative till 20th October, 2020 and thereafter has been extended from time to time. Ultimately for reasons recorded in the order dated 22nd February, 2021, the order dated 8th

October, 2020 was recalled and the learned Judge after hearing the aforesaid applications released the same.

The two applications being IA No.GA 1 of 2020 inter alia for injunction and IA No.GA 2 of 2020 for vacating the order of injunction have been assigned to this Bench. On behalf of the plaintiffs/petitioners it is submitted that pursuant to the order dated 22nd February, 2021 being passed, the interim order which was continuing since 8th October, 2020 is no more in subsistence. The plaintiffs/petitioners further submit that an interim protection may be given to the plaintiffs till the applications are finally heard out.

Considering the fact that the order dated 8th October, 2020 has been specifically vacated, this Court has to rehear the matter before passing any interim order.

On behalf of the respondent it is submitted that the mark 'Duro Touch' or any other mark which is deceptively similar to the petitioners' mark 'Duroply' has not been used by the respondent ever since passing of the order dated 8th October, 2020. The respondent also does not intend to use the same during the interregnum till the applications are finally heard out.

In the aforesaid facts and circumstances, no specific order of injunction is passed keeping in mind the assurance given by the respondent to this Court as recorded hereinabove. Let the applications appear in the list on 10th March, 2021.

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