

OCD-6

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
(Commercial Division)

CS-COM/198/2024
[OLD NO. CS/94/2020]
IA NO: GA/1/2020

DUROPLY INDUSTRIES LIMITED AND ANR.
VS
MA MANSA ENTERPRISES PRIVATE LIMITED

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date: 28th February, 2024.

Appearance:

Mr. Debnath Ghosh, Adv.
Mr. Sarosij Dasgupta, Adv.
Ms. Alini Agarwal, Adv.
Ms. Baijyanta Banerji, Adv.
... for the plaintiff.

Ms. Sonal Shah, Adv.
Mr. Kushagia Shah, Adv.
Ms. Rittwika Banerjee, Adv.
... for the defendant..

The Court : Mr. Debnath Ghosh, learned Advocate appears for the plaintiff. Ms. Sonal Shah, learned Advocates appears for the defendant.

Counsel for the respective parties filed their admission and denial of the document. Let the same be kept on the record.

Both the parties have filed their suggested issues. Learned Counsel for the respective parties perused the pleadings and suggested issues.

The following issues are framed:-

I) Is the suit filed by the plaintiffs maintainable in its present form?

- II) Does the use of the mark “DURO TOUCH” by the defendant in respect of plywood and other allied products infringes the “DURO” marks registered in favour of the plaintiffs?
- III) Is the defendant guilty of passing off its products as that of the plaintiff’s under the mark “DURO” and/or “DURO TOUCH”?
- IV) Whether the use of the mark “DURO” in respect of plywood and other allied products amount to unfair trade practice?
- V) Are the plaintiffs entitled to perpetual injunction as prayed for in the suit?
- VI) Are the plaintiffs entitled to damages as prayed for in the suit and, if so, how much?
- VII) What other and further reliefs is the plaintiff entitled to by law and equity?
- VIII) Is “Duro” a common generic word and not an expression coined or conceived by the plaintiff?
- IX) Is the mark “Duro” common to the trade and that there is no secondary meaning acquired by the plaintiffs by usage of the word “Duro” or “Duroply”?
- X) Are the plaintiffs entitled to claim any exclusivity in “Duro” or “Duroply”?

XI) Is the plaintiff “prior user” of the “Duro” or “Duroply” mark?

Counsel for the parties submit that an application being GA/1/2020 is pending for hearing. Let GA/1/2020 be listed for hearing on 22nd March, 2024.

The plaintiff is directed to file Judges brief of document in the meantime after serving copy to the learned Counsel for the defendant.

(KRISHNA RAO, J.)