

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE
(COMMERCIAL DIVISION)

IA NO. GA 1 OF 2023
IN
CS 154 OF 2023
IN THE MATTER OF:
PANGHAT SAREES PRIVATE LIMITED
VS
ANUP AGARWAL AND ORS.

BEFORE:

The Hon'ble JUSTICE ARINDAM MUKHERJEE

Date : 7th August, 2023.

Appearance:
Mr. Debnath Ghosh, Adv.
Mr. Gautam Kumar Ray, Adv.
Mr. Tin Kari Jana, Adv.
Mr. Gopal Das, Adv.
Mr. Sourav Jana, Adv.
Mr. Biswaroop Mukherjee, Adv.
For plaintiff

The Court : The plaintiff has adopted the device mark “PANGHAT” since 1999. The plaintiff initially used to sell its sarees by adopting such mark. The plaintiff has provided materials to show that they have been using this mark at least from 2000. The plaintiff has also provided the financial statement since financial year 2004-2005 which clearly indicates the gradual growth of the businesses.

The plaintiff, therefore, has, prima facie, established that it has been in the market with its products i.e., sarees sold under Panghat mark, developed this mark and had ultimately got the device mark registered in its name on 8th November, 2005 under Class 24 of the Trade Marks Act, 1999. The plaintiff has

also subsequently applied for registration of the mark “PANGHAT” *per se* under Class 25 on 19th August, 2014 as also the same mark for goods and services under Class 25 that is readymade garments including saree, ghagra and gown on 3rd July, 2023. In these two applications, the plaintiff has mentioned user date to be 1st April, 1999.

The plaintiff says that the defendants are selling their product by representing the same as “Panghat Kurti and Dresses”, “Panghat Kurti and Anuvik- Studio by Panghat”. The plaintiff says that the defendants have not even applied for registering any mark with the word “Panghat” as will evident from the search report, a copy whereof is annexed at page 100 of the petition. The plaintiff, therefore, seeks a restraint order against the defendants, their men, servants, agents from selling any saree, readymade, garments for women using the word “Panghat”.

After hearing the plaintiff and considering the materials on record, I find that the plaintiff has been able to make out a strong *prima facie* case, particularly in view of its registered mark since 2004 and the applications for the word mark and goods and services including sarees and readymade dress materials. The financial facts and figures given by the plaintiff since 2004 also clearly establish at least *prima facie* that the plaintiff has been in the market selling its product under the mark “PANGHAT”. It is also found that by using the word “PANGHAT” for selling kurti and dresses and using the word Panghat after Anuvik-Studio by Panghat the defendants have further sought to pass off their goods representing the same to be that of the plaintiff. The products sold by the defendants are identical and targeted to the same class of people. The use of word “PANGHAT” either as a suffix or prefix as aforesaid which is borne out from

the photographs placed on record clearly demonstrate that public at large is likely to be confused and deceived as to the origin of the goods and services which are of the same class. The defendants if are permitted to use the word “PANGHAT” for selling their products, the plaintiff will suffer irreparable injury which may not be possible to compensate in money value. Refusal of a restraint order at this stage is likely to cause multiplicity of judicial proceedings. The balance of convenience and inconvenience is also in favour of the plaintiff for the reasons as aforesaid.

In the aforesaid facts and circumstances, the defendants, their men, agents, servants, agent and/or assigns are restrained from selling their sarees, kurties, ghagras, dress materials etc. by using the mark or word “PANGHAT” till 30th September, 2023 or until further orders whichever is earlier.

Let this matter appear in the list on 21st August, 2023.

The plaintiff shall serve a copy of this petition, a copy of the plaint and the copy of the instant order on the defendants and shall file an affidavit of service to that effect on the next date.

(ARINDAM MUKHERJEE, J.)

sb/