

IN THE HIGH COURT AT CALCUTTA
INTELLECTUAL PROPERTY RIGHTS DIVISION
ORIGINAL SIDE

IP-COM/10/2024
(Old No. CS/154/2023)

PANGHAT SAREES PRIVATE LIMITED
VS
ANUP AGARWAL AND ORS.

BEFORE:

The Hon'ble JUSTICE ARINDAM MUKHERJEE

Date: 7th August, 2026.

APPEARANCE:

Mr. Debnath Ghosh, Sr. Adv.
Mr. Gautam Kumar Ray, Adv.
Mr. T. K. Jana, Adv.
Mr. Gopal Das, Adv.
Mr. Sourav Jana, Adv.
Mr. Biswaroop Mukherjee, Adv.
For the plaintiff

Mr. Sayantan Basu, Sr. Adv.
Mr. Tanmoy Roy, Adv.
Mr. Arpayan Mukherjee, Adv.
For the defendants.

THE COURT:- In an undefended suit where the plaintiff alleges infringement and passing off the defendants have only cross-examined the plaintiff's sole witness.

It is the case of the plaintiff that the documents have been tendered and marked as exhibit without any objection and as such at the argument stage the defendants are precluded from raising objection regarding the prove of the document unless the defendants can show from the evidence that the document has not been proved. It is not such a case in the instant suit

according to the plaintiff.

The plaintiff says that having a registered mark the burden of proof in case of infringement is limited. The plaintiff has to only establish that the defendants as by selling their product have infringed the registered mark of the plaintiff. In a passing off action the plaintiff is required to show that it is a prior user and had its trade mark as a product identifier, the defendants are a subsequent entrant in the market and had been selling goods under a mark which is deceptively similar or likely to create confusion amongst the public at large about the origin of the product. The defendants on the other hand contends that the plaintiff has not been able to prove its case made out in the plaint and as such even without the written statement, the suit is likely to fail.

The arguments could not be concluded.

Let this matter appear on 11th September, 2026.

(ARINDAM MUKHERJEE, J.)

snn.

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