



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
NOTICE OF MOTION (L) NO. 1908 OF 2018
IN
COMMERCIAL IP (L) NO. 1070 OF 2018

B.D. Textile Mills Pvt. Ltd. ... Plaintiff

Versus

V.D. Textile Mills ... Defendant

Mr. Hiren Kamod alongwith Mr. Mahesh A. Mahadgut and Ms. Poonam Teddu
instructed by Mr. Mahesh Mahadgut for the Plaintiff.

Ms. Smita Gaidhani for the Defendant.

Mrs. Dimple Kagrecha, Proprietor of Defendant present.

Mr. Mukesh Kagrecha, Husband of Dimple Kagrecha, present.

CORAM : S.J. KATHAWALLA, J.
DATED : 31st AUGUST, 2018

P.C.:

1. Leave under Clause XIV of the Letters Patent Act is granted. The Leave
Petition is according disposed off.

2. Heard the Learned Advocates appearing for the parties and the following order
is passed, by consent :-

(i) The suit is decree in terms of prayer clauses (a), (b), (c) and (e), which are
reproduced hereunder :-

*“(a) That the Defendant by itself, its servants, dealers, distributors, stockiest,
agents, sister concerns, subsidiaries, representatives, and/or successors in title,
affiliates and/or assigns and all persons acting for and on its behalf be restrained*

by a perpetual order and injunction of this Hon'ble Court from in any manner manufacturing, marketing, selling, distributing, exporting and/or using in relation to textile goods and/or such allied and cognate goods the impugned trade



marks , 'V. D. Textile'; imagination, invitation, or any other



mark deceptively similar to the Plaintiff's mark 'B. D. Textile' ,
imaginings, invitation, Platinum, Coronation, Pancholi, Rose Queen, Pakeeza, 4689 so as to infringe the Plaintiff's registered trademarks bearing Nos. 354788, 1670789, 1670790, 1671168, 1671170, 1671171, 1671172, 3238039 and 2420383 all in class 24 or otherwise howsoever.

(b) That the Defendant by itself, its servants, dealers, distributors, stockiest, agents, sister concerns, subsidiaries, representatives, and/or successors in title, affiliates and/or assigns and all persons acting for and on its behalf be restrained by a perpetual order and injunction of this Hon'ble Court from in any manner manufacturing, marketing, selling, distributing, exporting and/or using the impugned logo being Exhibit "M" to the Plaint, the impugned trade dress being Exhibit "N" to the Plaint , the impugned art work being Exhibit "O-1" to "O-3" to the Plaint or use any other logo Packaging/artwork/trade dress similar to that of Plaintiff's Logo / packaging /art work/ trade dress being Exhibits "D", "G-1" to "G-8" and "H-1" to "H-3" to the Plaint or which is reproduction and/ or substantial reproduction of Plaintiff's logo Packaging/artwork/trade dress so as to infringe the Plaintiff's Copyright in the original artistic work or by

reproducing the same in any material form or using the same or any colour imitation thereof or otherwise howsoever;

(c) That the Defendant by itself, its servants, dealers, distributors, stockiest, agents, sister concerns, subsidiaries, representatives, and/or successors in title, affiliates and/or assigns and all persons acting for and on its behalf be restrained by a perpetual order and injunction of this Hon'ble Court from in any manner manufacturing, marketing, selling, distributing, exporting and/or using in relation to textile goods and/or such allied and cognate goods the impugned trade



marks , 'V. D. Textile'; *imagination, invitation, or any other*



mark deceptively similar to the Plaintiff's mark 'B. D. Textile' , imaginations, invitation, Platinum, Coronation, Pancholi, Rose Queen, Pakeeza, 4689 and also from using the impugned logo being Exhibit "M" to the Plaintiff, the impugned trade dress being Exhibit "N" to the Plaintiff, the impugned art work being Exhibit "O-1" to "O-3" to the Plaintiff or using any other logo Packaging/artwork/trade dress similar to that of Plaintiff's Logo / packaging /art work/ trade dress being Exhibits "D", "G-1" to "G-8" and "H-1" to "H-3" to the Plaintiff or which is reproduction and/ or substantial reproduction of Plaintiff's logo Packaging/artwork/trade dress so as to pass off its goods as and for those of the Plaintiff;

(e) that the Defendant be ordered and decreed to deliver up for destruction to the Plaintiff or to the authorised representatives of Plaintiff all the Defendants' goods, trade dress, printing screen, labels, stickers, ribbon, wrappers, dies, packing

material, and things bearing the impugned trade mark 'V. D. Textile' the impugned logo the impugned packaging and trade dress as referred to herein the Plaintiff."

- (ii) The Proprietor of Defendant and her husband is present in Court. They undertake to pay an amount of Rs.20 Lakhs by way of Demand Draft in favour of Plaintiff and an amount of Rs.5 Lakhs by way of Demand Draft in favour of Tata Memorial Hospital on or before 6th September, 2018. Upon them depositing the said costs, the goods against which the order dated 28th August, 2018 shall stand vacated.
- (iii) As far as the goods seized by the Court Receiver are concerned, the impugned marks shall be removed and the goods shall be handed over to the Respondent. The Court Receiver thereafter, stands discharged without passing accounts but subject to payment of his costs, charges and expenses by the Plaintiffs.
- (iv) The Defendant undertakes to withdraw the application filed before the Trade Mark Registry, Mumbai within a period of one week from today and after withdrawing the said application he shall forthwith forward a copy of the application to the Advocate for the Plaintiff alongwith the acknowledgment of the Trade Mark Registry having received the same. The underking is accepted.
- (v) The Suit as well as Notice of Motion are disposed off.
- (vi) Refund of Court fees, if any, as per Rules.
- (vii) Though the above Suit and Notice of Motion are disposed off, place the above matter on 6th September, 2018 for compliance.

(S.J.KATHAWALLA,J.)