



2025:DHC:3624



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of decision: 7th May, 2025

+ CS(COMM) 182/2023 with I.A. 6120/2023 & I.A. 35988/2024

M/S RAMWAY FOODS LIMITEDPlaintiff

Through: Mr. Amit Jain and Mr. Varun Kajla,
Advocates

versus

RAJENDRA SHARMA & ANR.

.....Defendants

Through:

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

AMIT BANSAL, J. (Oral)

1. The present suit has been filed seeking relief of permanent injunction restraining the defendants from infringement of trade mark and copyright and passing off of their goods as those of the plaintiff along with other ancillary reliefs.

PROCEEDINGS IN THE SUIT

2. Summons in the suit and notice in the application for interim injunction were issued to the defendants on 11th April, 2023. On the same date, an *ex-parte ad interim* injunction in favour of the plaintiff and against the defendants was granted and two Local Commissioners were appointed by this Court.

3. The defendants entered appearance through counsel on 11th July 2023, when the parties were referred for mediation to Delhi High Court Mediation



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and Conciliation Centre. However, the mediation efforts between the parties failed.

4. *Vide* order dated 23rd February 2024, the defendants' application for condonation of delay of 89 days in filing the written statement was dismissed.

5. An application seeking discharge was filed by counsel for the defendants as he was not receiving any instructions from his clients. Thereafter, Court Notice was issued to the defendants on 16th July 2024.

6. Thereafter, an application under Order VIII Rule 10 of the Code of Civil Procedure, 1908 (hereinafter 'CPC') was filed on behalf of the plaintiff.

7. On 9th August 2024, notice in the aforesaid application was issued to the defendants. As recorded in the order dated 4th October 2024, the defendant no.1 was served with the notice through speed post on 11th September 2024. However, no reply to this application has been filed on behalf of the defendants.

8. On 28th October 2024, written statement filed on behalf of the defendants was taken off the record and the defendants were proceeded against *ex-parte*.

CASE SET UP BY THE PLAINTIFF

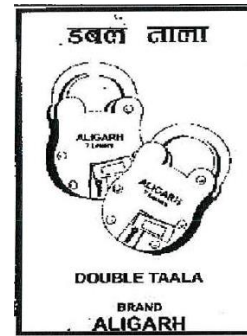
9. The case set up by the plaintiff in the plaint is as follows:

9.1. The plaintiff, a company incorporated in 2005, is engaged in the business of manufacturing and trading in various food items such as choker/ bran, four, maida, white flour, etc. (hereinafter 'plaintiff's goods').

9.2. The plaintiff, in 2011, conceived, adopted and commenced using the



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trade mark DOUBLE TAALA and the label (hereinafter 'DOUBLE TAALA marks') with regard to the plaintiff's goods. Subsequently, the plaintiff adopted several DOUBLE TAALA formative



marks and labels including with regard to the plaintiff's goods.

9.3. The plaintiff's DOUBLE TAALA marks are arbitrary and distinctive comprising a unique packaging, getup and colour scheme and are being continuously and uninterruptedly used by the plaintiff since 2011.

9.4. The plaintiff's sales figures under the DOUBLE TAALA marks since the year 2011-12 to 2021-22 are given in paragraph no.13 of the plaint. Pertinently, the plaintiff's total sales in the financial year 2021-22 amounted to Rs. 97,29,13,712/-. The plaintiff has also spent extensive amount of money, time and effort in promoting and advertising the plaintiff's goods under the DOUBLE TAALA marks.

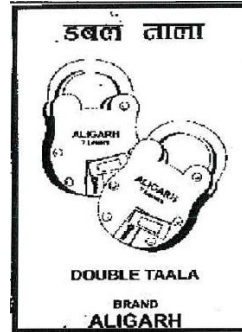
9.5. The plaintiff is supplier to various prominent manufacturers and its clientele includes Anmol Industries, Bikanerwala/ Bikano, Harvest Gold Industries, Priyagold, Bonn, Gopala, Parle and WOW Momos.

9.6. By virtue of continuous and extensive use of the DOUBLE TAALA marks with respect to the plaintiff's goods, the plaintiff has acquired an



exclusive and valuable goodwill and reputation in the same and the said marks are exclusively associated with the plaintiff.

9.7. In addition to the common law rights, the plaintiff is also the



registered proprietor of the mark in classes 29, 30, 31 and 44 since the year 2011. A list of the plaintiff's registrations for the aforesaid mark is provided in paragraph no.5 of the plaint. A list of the plaintiff's pending trade mark applications is provided in paragraph no.6 of the plaint.

9.8. The artistic work contained in the plaintiff's below-mentioned label qualifies to be original artistic work. The plaintiff, being the first owner of the said artistic work, is entitled to claim copyright in the said label.



9.9. The defendants are engaged in an identical business as that of the plaintiff under the mark DOUBLE TAALA CHAVI and the below-



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mentioned label:



9.10. The aforesaid impugned mark of the defendants is deceptively similar to the plaintiff's mark DOUBLE TAALA and the aforesaid impugned label bears an identical design, getup and colour scheme as that of the plaintiff's afore-mentioned label.

9.11. The defendant no.1 previously used to sell the plaintiff's goods under the DOUBLE TAALA marks as its broker. The defendant no.2 is a proprietorship concern of the defendant no.1.

9.12. In the year 2021, the defendant no.1 started raising frivolous complaints about the quality of the plaintiff's goods and started deducting the amount due to be payable to the plaintiff without any basis. Pursuant to the aforesaid, the relationship between the plaintiff and the defendant no.1 came to an end.

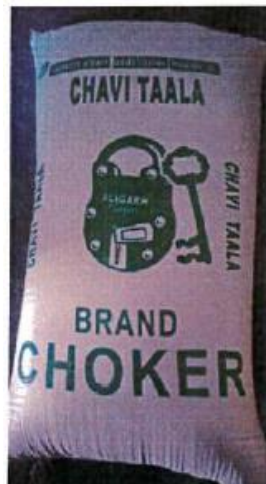
9.13. In view of the past relationship between the plaintiff and the defendant no.1, it is evident that the defendants were aware about the prior adoption, use and registrations of the DOUBLE TAALA marks by the plaintiff. The defendants' subsequent adoption of the aforesaid impugned



mark and label is therefore dishonest and *mala fide*.

9.14. The defendants are selling inferior quality goods under the impugned mark and label and therefore damaging the plaintiff's goodwill and reputation.

9.15. Upon becoming aware about the defendants' business under the impugned mark and label in or around October 2022, the plaintiff issued a cease-and-desist notice dated 3rd October 2022 to the defendant no.2, to which it did not reply. Instead, the defendants thereafter adopted the mark CHAVI TAALA and the following label:



9.16. The plaintiff is aggrieved that use of the aforesaid impugned marks/labels by the defendants will cause confusion and deception amongst the members of trade and public, who would be misled into believing that the impugned goods originate from the plaintiff.

ANALYSIS AND FINDINGS

10. I have heard the submissions of counsel for the plaintiff and perused the material on record.

11. The plaint has been duly verified and is also supported by the affidavit of the plaintiff's authorized representative. In view of the fact that the

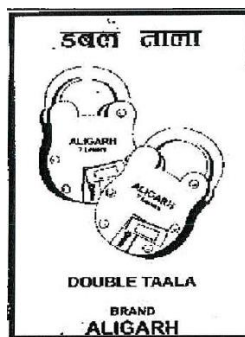


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written statement filed on behalf of the defendants has been taken off the record and they have been proceeded against *ex-parte*, all the averments made in the plaint are deemed to have been admitted. Further, since no affidavit of admission/ denial has been filed on behalf of the defendants in respect of the documents filed with the plaint, the same are deemed to have been admitted in terms of Rule 3 of the Delhi High Court (Original Side) Rules, 2018. Therefore, in my opinion, this suit does not merit trial and is capable of being decreed in terms of Order VIII Rule 10 of the CPC.

12. From the averments made in the plaint and the evidence on record, the plaintiff has been able to prove that it is the registered proprietor of the mark



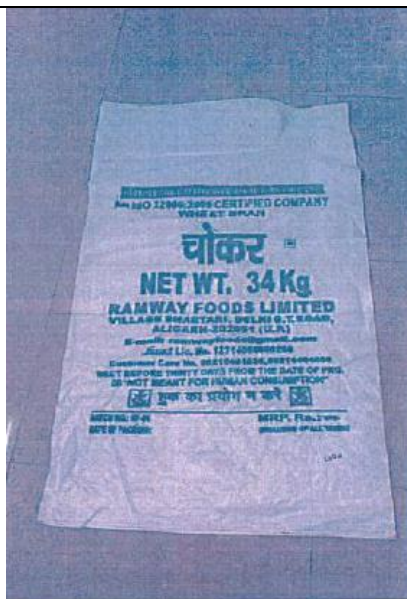
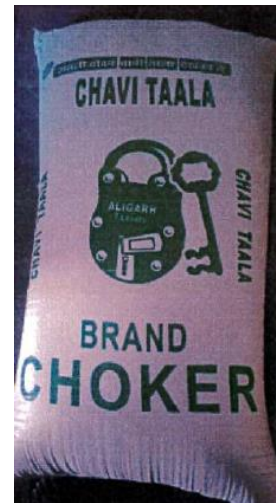
in India in relation to goods in classes 29, 30, 31 and 44 with effect from 9th May 2011 and has been continuously and extensively offering the plaintiff's goods under the DOUBLE TAALA marks in India.

13. A comparison between the plaintiff's goods bearing the DOUBLE TAALA marks and the defendants' goods under the impugned marks and labels is set out below:

PLAINTIFF'S GOODS	DEFENDANTS' GOODS
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14. A bare perusal of the competing goods makes it apparent that the defendants have dishonestly and unauthorizedly adopted and are using the impugned marks/ labels, which are deceptively similar to the plaintiff's registered and/ or well-reputed DOUBLE TAALA marks, in relation to the impugned goods, which are also identical with the plaintiff's goods under the DOUBLE TAALA marks.

15. In addition to the deceptive similarity between the competing marks and labels, the defendants' *mala fide* adoption of the aforesaid impugned marks and labels is evident from the fact that the defendants have also copied other distinctive elements from the plaintiff's label/ trade dress such as the words 'ALIGARH' (denoting the plaintiff's origin from Aligarh, Uttar Pradesh) and '7 Levers' as well as the letters 'RF' from its batch number, which stands for Ramway Foods, the effective part of the plaintiff's corporate name.

16. In view of the above, a clear case of infringement of trade marks is made out in favour of the plaintiff and against the defendants.



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17. The plaintiff, through its long and continuous use of the DOUBLE TAALA marks in India, significant sales made thereunder and promotion thereof, has been able to establish its goodwill and reputation under the DOUBLE TAALA marks in India. The defendants have been taking unfair advantage of the plaintiff's reputation and goodwill under the DOUBLE TAALA marks and have also deceived the unwary consumers of their association with the plaintiff by dishonestly and unauthorizedly adopting and using the deceptively similar impugned marks/ labels without any plausible explanation. Therefore, the plaintiff has established a case of passing off as well.

18. At this stage, it may be relevant to note that mediation efforts between the parties failed and the defendants' written statement has been taken off the record. Further, despite service of the notice in the application under Order VIII Rule 10 of the CPC on 11th September 2024, none has appeared on behalf of the defendants nor any communication in respect of the plaintiff's allegations has been placed on record on their behalf. In light of the aforesaid, it is evident that the defendants have no defence to put forth on merits.

19. In view of the discussion above, the plaintiff would be entitled to a decree of permanent injunction against the defendants in terms of prayer clause contained in paragraph no.48(a), (b) and (c) of the plaint.

20. Counsel for the plaintiff also presses for the reliefs of damages and costs.

21. Insofar as the reliefs of damages and costs sought in prayer clause contained in paragraph no.48(e) are concerned, reference may be made to the judgment in *M/s Inter Ikea Systems BV v. Imtiaz Ahamed & Anr*, 2016



SCC OnLine Del 6717. The relevant observations are set out below:

“21. The court is mindful of the fact that in such a situation where the defendant chooses to stay away from the court proceedings, he should not be permitted to enjoy the benefits of such an evasion. Any view to the contrary would result in a situation where a compliant defendant who appears in court pursuant to summons being issued, participates in the proceedings and submits his account books, etc., for assessment of damages, would end up on a worse footing, vis-a-vis a defendant who chooses to conveniently stay away after being served with the summons in the suit. That was certainly not the intention of the Statute. Section 135 (1) of the Trademarks Act, 1999 provides that relief that may be granted in any suit for infringement of or for passing off includes injunction and at the option of the plaintiff, either damages or an account of profits. The plaintiffs in the present case have opted for claiming damages and have established beyond doubt that they have suffered damages on account of the conduct of the defendants which are a result of infringement of their trademark and copyright.”

[Emphasis Supplied]

22. In light of the foregoing analysis, this Court concludes that the conduct of the defendants not only warrants but also necessitates the imposition of both costs and aggravated damages. Thus, in addition to the decree passed in the terms already mentioned above and taking into account the entire facts and circumstances of this case, this Court also awards damages and costs amounting to Rs. 5,00,000/- in favour of the plaintiff and against the defendants.

23. Counsel for the plaintiff does not press for the remaining reliefs claimed in the suit.

24. Let the decree sheet be drawn up accordingly.

25. All pending applications stand disposed of.

AMIT BANSAL, J

MAY 7, 2025

Vivek/-