2026:DHC:242

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

\+ CS(COMM) 567/2019, I.A. 14008/2019, I.A. 14501/2019, I.A. 8645/2025 & I.A. 10039-40/2025

Reserved on: 08th September, 2025
Date of Decision: 12th January, 2026

COLGATE PALMOLIVE COMPANY & ANR. .....Plaintiffs

Through: Mr. Amit Sibal, Sr. Adv. with Mr. Saif Khan, Mr. Achuthan Sreekumar, Mr. Rohil Bansal and Ms. Smriti Nair, Advs.

versus

DABUR INDIA LTD. .....Defendant

Through: Mr. Sandeep Sethi, Sr. Adv. with Mr. Manish Kumar Mishra, Mr. Jawahar Lal, Ms. Akansha Singh, Mr. Saransh Saini, Ms. Meghna Kumar and Ms. Riya Kumar, Advs.

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CORAM:
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J:

I.A. No. 10040/2025

1. The present suit has been filed by the Plaintiffs seeking inter alia a permanent injunction restraining the Defendant from referring to Plaintiffs' trademark COLGATE and the packaging of COLGATE STRONG TEETH TOOTHPASTE in its advertisement campaigns. The suit also seeks a

permanent injunction restraining the Defendant from making advertisements that may contain misleading information regarding the ingredients of the Plaintiffs' products.

2. I.A. 10040/2025 ['the captioned application'] dated 16th April 2025, under Order VI Rule 17 read with Section 151 of the Code of Civil Procedure, 1908 ['CPC'], has been filed by the Plaintiffs seeking amendment of the plaint dated 9th October 2019, in order to challenge the Defendant's advertisements dated 20th March, 2025 and 14th April, 2025 ['impugned advertisements of 2025'].

CASE SET UP BY THE PLAINTIFFS IN THE APPLICATION

3. Learned senior counsel sets up the Plaintiffs' case as follows:

4. On 20th March 2025, the Defendant published a half-page [front page] advertisement in the Times of India disparaging FLUORIDE-containing toothpaste and making misleading statements that FLUORIDE can cause lower IQ in kids, make bones brittle and create spots on teeth and calling on the general public to give up toothpaste containing FLUORIDE completely.

4.1. In the same newspaper, i.e., the Times of India dated 20th March 2025, the full cover page carried the advertisement of the Plaintiffs, and the Defendant's advertisement strategically appeared just after the Plaintiffs' advertisement.

4.2. The Plaintiffs filed a fresh injunction application, being I.A. No. 8645/2025, which was heard by this Court on 3rd April 2025, wherein the Court directed the Defendant to place on record materials to justify its claims of 'lower IQ', 'brittle bones' and 'spotting on teeth' as made in the said advertisement. In addition, the Court directed the Defendant to delete the word 'FAVOURITE' from the said advertisement.

4.3. On 14th April 2025, the Defendant once again came up with a modified advertisement for DABUR RED and DABUR MESWAK wherein it disparaged all FLUORIDE-containing toothpaste by stating that 'excessive fluoride may lead to health problems such as lower Intelligence Quotient ['IQ'] in kids, brittle bones and spotting on teeth'. The said advertisement is the same as the one which was published by the Defendant on 20th March 2025, except for the fact that now the word 'FAVOURITE' has been dropped by the Defendant.

4.4. This Court vide order dated 26th May 2025 issued further directions to the Defendant for carrying out two [2] modifications, i.e., to include the words 'Swallowing of' before the words 'Excessive Fluoride' to the impugned advertisement with respect to intake of FLUORIDE.

4.5. The Defendant's impugned advertisements of 2025 disparage FLUORIDE-containing toothpaste as a class. It is stated that the cause of action in the instant suit is a continuous one as the impugned advertisements of 2025 are aimed at not just disparaging the Plaintiffs' products/toothpaste but also the ingredient thereof, i.e., FLUORIDE.

4.6. The statements made by the Defendant are scientifically incorrect, as white spotted teeth [Dental Fluorosis] is a cosmetic dental condition, and the other two [2] problems, i.e., low IQ and brittle bones, are very serious systemic conditions; however, neither is caused by FLUORIDE in toothpaste.

With respect to the claim of lowering the IQ, there is no evidence of a causative effect of excess FLUORIDE leading to lower IQ in children.

4.7. The central message that the Defendant is trying to convey through these impugned advertisements of 2025 is that all fluoridated toothpastes

have high concentrations of FLUORIDE, and such toothpastes should not be used. It is a settled law that even generic disparagement of a class of products is not permitted. The Defendant is not only hampering the market for the FLUORIDE-containing toothpastes but also propagating misinformation that FLUORIDE in any and all quantities is bad for kids.

4.8. The Plaintiffs also have FLUORIDE-free toothpastes, not because they think of it as unsafe, but rather to meet all customer preferences.

4.9. A perusal of paragraph nos. '21 to 33' of the original plaint filed in 2019, also shows that the factum of disparagement on account of inaccurate reporting and dissemination of misinformation about the health effects of FLUORIDE in toothpaste has been pleaded at the very inception of initiating these proceedings. In fact, prayer clause '63(v)' of the original plaint shows that the Plaintiffs have prayed for a decree and order of permanent injunction restraining the Defendant from advertising misleading information regarding the ingredients of the Plaintiffs' products.

4.10. Pursuant to the interim order dated 10th October 2019, the packaging of the rival product may have been changed in the impugned advertisements of 2025, but the generic disparagement of FLUORIDE-containing toothpaste as a class still continues.

SUBMISSIONS BY THE DEFENDANT

5. Mr. Sandeep Sethi, learned senior counsel for the Defendant, states that at the outset, the Defendant has nowhere in its impugned advertisements of 2025 stated that FLUORIDE per se is bad for children or that toothpastes containing FLUORIDE are bad for children. The Defendant has clearly conveyed in the said advertisements that an *excess* of FLUORIDE intake can lead to Fluorosis.

5.1. The impugned advertisements of 2025 only convey that excessive FLUORIDE intake, particularly when combined with FLUORIDE already present in drinking water in several districts of India, may lead to Fluorosis, a fact not disputed by the Plaintiffs and supported by the research material placed on record by both parties. While adequate FLUORIDE intake is necessary for dental health, it is equally established that *excess* FLUORIDE intake is harmful, which is why all FLUORIDE-containing toothpastes, including those of the Plaintiffs, carry disclaimers requiring adult supervision for children under six [6] to prevent swallowing and consequent health issues.

5.2. The Defendant has relied on research demonstrating that *excess* FLUORIDE intake may cause fluorosis, and the impugned advertisements of 2025 merely highlight this fact and draw attention to the existing disclaimers, without misrepresentation.

5.3. It is highly misconceived on the part of the Plaintiffs to state that dental fluorosis is largely a cosmetic issue, which can cause tooth loss, pain and an overall reduction in the quality of life.

5.4. The present suit was originally filed by the Plaintiffs in October 2019, alleging disparagement on the ground that the packaging of the toothpaste [in red and blue colour combination] of the rival product shown in the advertisement/Television Commercial [‘TVC’] belonged to the Plaintiffs [‘impugned advertisement of 2019’]. However, there is no pleading nor prayer in the original plaint with respect to the generic disparagement of the entire class of FLUORIDE-based toothpastes.

5.5. Reliance is placed upon paragraph '36' of the original plaint, wherein the infringing packaging is pleaded and discussed; however, there is no mention of FLUORIDE or FLUORIDE toothpaste.

5.6. The suit is not for generic class disparagement, which is further confirmed in the order dated 18th October 2019 at paragraph '3' wherein yet again only the packaging in the impugned advertisement of 2019 finds mention.

5.7. It is settled law that an amendment which changes the nature of the suit cannot be permitted. In this regard, reliance is being placed upon the judgment by a Division Bench of the Supreme Court in **Life Insurance Corporation of India v. Sanjeev Builders Pvt. Ltd. & Anr[1].**

5.8. The ground of generic class disparagement was never raised in the original plaint, which is being sought to be raised, by virtue of the captioned application.

5.9. The proposed amendments are not necessary for the determination of the real controversies in the suit, since they alter/substitute a new cause of action on the basis of which the original lis was raised.

5.10. It is trite law that a pleading can only be amended if it is to substantiate, elucidate and expand the pre-existing facts already contained in the original pleading, but, under the guise of an amendment, a new cause of action and a case cannot be substituted and the Courts cannot be allowed upon to decide the alternative case instead of the original case. Reliance is being placed upon a judgment by the Co-ordinate Bench of this Court in **Madhu Sudan Gupta v. Dinesh Gupta[2].**

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[1]2022 SCC OnLine SC 1128 [Paragraph No. 71]
[2] 2006 SCC OnlIne Del 1247 [Paragraph No.10]

There are common issues arising for consideration on the basis of the impugned advertisements, and the only commonality is the parties herein.

5.11. Thus, the amendment sought would change the nature of the suit and would cause injustice to the Defendant.

5.12. The Defendant stopped telecasting the impugned advertisement of 2019 after the injunction order dated 10th October 2019. The modified TVCs, following the order dated 18th October 2019, with reference to the ill effects of FLUORIDE, have been in continuous circulation since then.

5.13. The Defendant published various print media advertisements in 2025, in addition to the modified TVCs. However, the Plaintiffs, in spite of knowing the same, objected to only the impugned advertisement dated 20th March 2025 by way of I.A. 8645/2025, which was modified pursuant to the order dated 3rd April 2025.

5.14. The Defendant has also published various advertisements on social media pages, namely Instagram, YouTube, etc.; however, the conduct of the Plaintiffs to object to the advertisements selectively establishes malafide and lacks due diligence.

5.15. Objecting to the FLUORIDE-related content, which is based on research material after a lapse of six [6] years, specifically considering that the modified TVC has been in continuous and uninterrupted use, would cause grave prejudice to the Defendant, who has bona fide invested in the said advertisements from 2019 to date. It is settled law that an amendment causing injustice or prejudice to a party ought not to be permitted.

5.16. The Plaintiffs had made a similar attempt to enlarge the scope of the suit by way of I.A. nos. 17079/2019 and 17080/2019, under Order XXXIX Rule 2A and under Section 151, CPC, respectively. These applications were

withdrawn vide order dated 4th December 2019, and the liberty granted was only with respect to the pending application and not for any future applications.

5.17. It is stated that the captioned application is not maintainable, considering it does not specify which paragraph of the original plaint is being amended and the reason for amending the plaint at this belated stage.

5.18. It is stated that the Commercial Courts Act, 2015 [‘Act of 2015’] was implemented with the objective of ensuring the speedy disposal of the high-value commercial disputes through the strict adherence to the procedural discipline and the time-bound stages of the trial. Amendment at such a belated stage [after 6 years] will result in the reopening of the proceedings, delaying the trial and causing prejudice to the Defendant. Allowing such an amendment would be against the objective of the Act of 2015. Reliance is being placed upon the judgment of a Division Bench of the Supreme Court in **Owners and Parties Interested in the Vessel v. Banque Cantonale De Geneve**[3].

5.18.1. The pleadings in the suit were completed in 2020. The admission/denial is yet to be conducted, and six [6] years have gone by. The suit should now proceed to trial on the cause of action as set out in the original plaint.

5.19. Additionally, the Plaintiffs have relied upon Order II Rule 3 CPC, and multiplicity of proceedings is irrelevant since the said provision gives the Plaintiffs the right to join cause of action which is available to the Plaintiffs at the time of filing of the suit and not on a subsequent stage.

[3](2024) 5 SCC 750 [Paragraph Nos. 58, 59, 62, 66, 68, 70, and 76]

5.20. The Plaintiffs will have to file a separate suit for impugning the advertisements published in March and April, 2025, and they are not entitled to keep amending the suit endlessly. Such a deliberate act is also made to avoid Court Fees.

SUBMISSIONS BY THE PLAINTIFFS

6. In rejoinder, Mr. Amit Sibal, learned senior counsel for the Plaintiffs, has put forth the following arguments: -

6.1. The law in relation to Order VI Rule 17 CPC is well settled. An application seeking amendment can only be disallowed when it changes the nature of the suit or the cause of action so as to set up an entirely new case. However, where the amendment sought is only with respect to the relief in the plaint, and is predicated on facts which are already pleaded in the plaint, as is the case herein, ordinarily the amendment is required to be allowed. Reliance is being placed upon **Life Insurance Corporation of India v. Sanjeev Builders Pvt. Ltd. & Anr**[4].

6.2. The common thread in the advertisement impugned in the original plaint, and the proposed amended plaint is that FLUORIDE is harmful to health, and, therefore, influences consumers to switch to the Defendant's toothpaste, which does not contain FLUORIDE. Additionally, the suit is for an injunction against the same Defendant.

6.3. The nature of the cause of action is for the disparagement of the same product and the same ingredient, i.e., FLOURIDE, by way of the impugned advertisements. Therefore, there is no separate cause of action.

6.4. The injunction order dated 10th October 2019, records in paragraph '10' that the impugned advertisement of 2019 discourages the use of

FLUORIDE toothpaste by portraying FLUORIDE itself as a risk to children, which is clearly disparaging within the meaning of judgment by a Division Bench of this Court in **Colgate Palmolive v. Hindustan Unilever Ltd[5].**

6.5. No attempt was made by the Plaintiffs to enlarge the scope of the suit by way of I.A. 17079 of 2019 & I.A. 17080 of 2019. The order dated 4th December 2019 does not give any such impression. On the contrary, the order expressly records that the '*withdrawal of these applications will not prejudice the rights and contentions of the parties in all pending applications*'. As on that date, I.A. No. 14008/2019 [the first injunction application] and I.A. No. 14501/2019 [Defendant's application for vacation of stay] were pending adjudication, wherein the issue of disparagement of fluoridated toothpaste was specifically pleaded in paragraphs '22 to 34' and prayer clause 60(v) of I.A. No. 14008/2019, and in paragraphs '8, 10, 12 to 38' and prayer clause '54(III)' of the reply to I.A. No. 14501/2019. Accordingly, no question arises of the Plaintiffs having given up their right to claim generic disparagement by withdrawal of the said applications.

6.6. As regards the order dated 18th October 2019, only the Defendant's application [I.A. 14501/2019] was listed on that date, the Court merely made a prima facie observation that the changes made by the Defendant to the first modified TVC appeared to satisfy the injunction granted, and issued notice. The said application has not yet been disposed of and remains ripe for hearing. Consequently, there is no basis to contend that the order dated 18th October 2019 has settled the issue that the present suit is not one for generic disparagement.

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[4]2022 SCC OnLine SC 1128 [Paragraph No. 71.10]
[5]2013 SCC OnLine Del 4986 [Paragraph No.30]

6.7. The issue of ingredient disparagement, namely the disparagement of FLUORIDE as an ingredient in toothpaste, has already been pleaded in the original plaint in paragraph nos. '21' to '33', with a specific prayer in this regard contained in paragraph '63(v)' of the plaint.

6.8. The amended plaint filed along with the captioned application clearly highlights the amendments proposed to the original plaint, and therefore there is no procedural non-compliance.

6.9. Order II Rule 2(2) or (3) of the CPC is inapplicable to the present case, as the said provision does not apply to amendments of the plaint and, in any event, the issue of ingredient disparagement, namely, disparagement of the entire class of FLUORIDE-containing toothpaste, has already been pleaded in the original plaint. In this regard, reliance is being placed upon **Life Insurance Corporation of India v. Sanjeev Builders Pvt. Ltd. & Anr**[supra].

6.10. Further, Order II Rule 3 of the CPC expressly permits the joinder of several causes of action against the same Defendant. Reliance is being placed upon the judgment of a Co-ordinate Bench of this Court in **Puja Agarwal v. Pravesh Narula[6],** wherein it was held that amendments should be allowed to avoid multiplicity of proceedings.

6.11. The orders dated 3rd April 2025 and 26th May 2025 have already directed modifications to the impugned advertisements of 2025 before allowing the present application. Had the Court been of the view that the impugned advertisements of 2025 did not form part of the same cause of action, it would not have directed the Defendant to modify the impugned advertisements of 2025.

ANALYSIS

7. This Court has heard the learned senior counsel for the parties and perused the record.

8. As per the Plaintiffs, the cause of action for filing the instant suit arose on account of the impugned advertisement of 2019, published by the Defendant in order to promote their toothpaste under the brand DABUR RED, wherein the Plaintiffs' popular product in the red and blue colour combination, namely COLGATE STRONG TEETH TOOTHPASTE, was depicted in a derogatory and disparaging manner, whilst also targeting and maligning the use of the ingredient FLUORIDE in the Plaintiffs' product/toothpaste.

9. Vide order dated 10th October 2019, this Court granted an ex-parte ad-interim injunction in I.A. No. 14008/2019, directing the Defendant to take down the impugned advertisement of 2019 upon observing that the rival product shown in the advertisement is likely to be identified by consumers as the Plaintiffs' product. The Court further noted that the impugned advertisement of 2019, by discouraging the use of any FLUORIDE toothpaste, was disparaging. The relevant paragraph of the order reads as follows: -

> "9. Having regard to the aforesaid, I am of the view that the plaintiffs have made out a good prima facie case for grant of an order of injunction. The red and blue packaging with the distinctive curved arch separating the two is clearly visible in the impugned advertisement/video. The advertisement/video further emphasises the disclaimer used in the plaintiffs' product, "Children under 6 years of age should have adult supervision. Do not swallow. Use only a pea sized amount". Mr. Anand has produced a compilation showing the packaging of five other toothpastes containing

[6]2025 SCC OnLine Del 4238 [Paragraph Nos. 14 to 19]

> fluoride, prevalent in the Indian market. While all of them contain disclaimers, some of which are in similar terms to the above, the words used in the defendant's impugned advertisement/video are a verbatim reproduction of the disclaimer contained on the plaintiffs' product. The use of the said colour combination and curved arch prima facie constitute an infinngement of the registered trademark of the plaintiffs under Section 29(8) of the Trade Marks Act, 1999. The identification of the product in the defendant's advertisement/video by the consumers as that of the plaintiffs is also probable.
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> 10. The advertisement released by the defendant, inasmuch as it discourages the use of any fluoride toothpaste on the basis that fluoride itself constitutes a risk to children, is clearly disparaging within the meaning of paragraph 30 of the judgment in Colgate Pamolive (supra) extracted above."

The said I.A. 14008/2019 is still pending adjudication, wherein the Plaintiffs seek specific interim relief restraining the Defendant from indulging in ingredient disparagement in its advertisement campaigns.

10. Aggrieved by the ex-parte injunction order dated 10th October, 2019, the Defendant herein filed an application I.A. No. 14501/2019 to vacate the said injunction order. The said application was listed before the Court on 18th October 2019, wherein the Defendant submitted that it had modified the impugned advertisement of 2019 and had stopped showing the rival product in a colour combination of red and blue. It stated that the modified advertisement now shows a white carton and tube to represent the rival product. It was further stated that until the disposal of I.A. 14501/2019, the impugned advertisement of 2019 will be published with the aforesaid modification. The Plaintiffs were also present at the hearing.

The Court opined that the modified advertisement prima facie satisfies the injunction granted on 10th October, 2019 and permitted the Defendant to publish the modified advertisement, while issuing notice to the

Plaintiffs on the said application. The said application of the Defendant, I.A. No. 14501/2019, seeking vacation of the order dated 10th October, 2019 is still pending consideration.

11. However, the Plaintiffs filed I.A. No. 17080/2019 seeking recall of the aforesaid order dated 18th October, 2019 granting permission to the Defendant to publish the modified advertisement and separately I.A. 17079/2019 under Order XXXIX Rule 2A CPC, alleging that the modified advertisement is in violation of the ad interim injunction order dated 10th October 2019, as it continues to discourage the use of any FLUORIDE toothpaste by consumers and is therefore disparaging. The said applications were, however, withdrawn by the Plaintiffs vide order dated 4th December 2019, reserving their rights and pleas in pending applications. The said order reads as follows: -

> **"O R D E R**
> **04.12.2019**
>
> **I.A. 17079/2019 (Application under Order XXXIX Rule 2A of the CPC) & 17080/2019 (Application by plaintiffs seeking recall of the order dated 18.10.2019**
>
> Mr. Sudhir Chandra, learned Senior Counsel for the plaintiffs, does not press these applications. They are therefore dismissed as withdrawn.
>
> Withdrawal of these applications will not prejudice the rights and contentions of the parties in the pending applications."

12. The Defendant thus continued with the publication of modified advertisement as permitted vide order dated 18th October 2019. The modified advertisement continued to propagate the ill effects of excessive intake of FLUORIDE, which is an ingredient in the Plaintiffs'

product/toothpaste. As per the Defendant this advertisement campaign has continued from 2019 till 2025.

13. The Defendant has, thereafter, on 20th March 2025 and 14th April 2025, come up with new advertisements, which continue to propagate the ill effects of excessive intake of FLUORIDE through the use of toothpaste.

14. The Plaintiffs have filed the captioned application to amend their plaint to impugn these new advertisements. By way of the proposed amendments, the Plaintiffs seek to incorporate a specific challenge to the impugned advertisements published on 20th March 2025 and 14th April, 2025.

14.1. It is the case of the Plaintiffs that the challenge to these impugned advertisements of 2025 is in continuation of the challenge already set up in the plaint to the impugned advertisement published in October, 2019, and all relevant facts for maintaining the challenge have already been set out in the original plaint.

14.2. The Plaintiffs have taken a categorical stand that paragraph nos. '21 to 33' and prayer clause '63(v)' of the original plaint dated 9th October 2019, specifically deal with the grievance of the Plaintiffs with respect to the issue of ingredient disparagement, i.e., disparagement of FLUORIDE as an ingredient in toothpaste. It is stated that the issue of disparagement of fluoridated toothpaste was also specifically pleaded at paragraph nos. '22 to 34' and prayer paragraph '60(v)' of I.A. 14008/2019. It is stated that the issue of disparagement was also specifically pleaded in reply to the Defendant's I.A. 14501/2019 seeking vacation of the interim order dated 10th October, 2019.

14.3. It is stated that both, the impugned advertisement of 2019 and the impugned advertisements of 2025 sought to be challenged by the proposed amendment convey the same message, namely, that FLUORIDE is harmful to health and that consumers ought to switch to the Defendant's non-fluoride toothpaste. It is stated that since the advertisements of 2019 and 2025 pertain to disparagement of the same product and same ingredient by way of advertising, the cause of action is the same, and by way of the proposed amendments, there is no alteration in the nature of the suit.

15. However, the Defendant has contended that the proposed amendments are ex facie beyond the scope of the original plaint filed in October, 2019. It is stated that if the amendment is allowed, it will change the nature and scope of the suit. It is stated that in the original plaint, no case was made out and no pleading or prayers were made with respect to generic disparagement [disparagement of the entire Class of FLUORIDE toothpaste of the Plaintiffs], which the Plaintiffs are now trying to incorporate by way of the amendment in the plaint.

15.1. The Defendant has relied upon the withdrawal of I.A. 17079/2019 and I.A. 17080/2019 by the Plaintiffs at the hearing dated 4th December 2019, to contend that the Plaintiffs' challenge to the FLUORIDE-awareness advertisement campaign with respect to the ill-effects of the FLUORIDE ingredient in a toothpaste has failed. It is stated that the modified advertisement, which was permitted vide order dated 18th October 2019, has been in continuous and uninterrupted circulation for more than six [6] years. In this background, it is stated that the challenge to the impugned advertisements of 2025 is selective and without any basis.

15.2. It is stated that the proposed amendments are liable to be rejected on the basis of the procedural delay of six [6] years, as well as for being in contravention of the objective of the Act of 2015, which is directed towards speedy disposal.

15.3. It is also stated that the challenge to the impugned advertisements of 2025 is a fresh cause of action, and the Plaintiffs ought to file a separate suit, as they cannot amend the present suit endlessly every time a new advertisement is published.

I. No change in the nature/scope of the suit

16. This Court has perused the original plaint and, more specifically, paragraph nos. '21 to 33' of the original plaint and the prayer in relation thereto, made in paragraph '63(v)' of the plaint. This Court finds merit in the submissions of the Plaintiffs that the issue of ingredient disparagement, i.e., disparagement of FLUORIDE as an ingredient in toothpaste, is already pleaded in the original plaint.

16.1. This Court has also perused I.A. 14008/2019, which was filed by the Plaintiffs under Order XXXIX Rules 1 and 2 CPC, along with the plaint and finds that similarly, the issue of disparagement of fluoridated toothpaste has been pleaded in paragraph nos. '22 to 34' and interim prayer sought at paragraph '60(v)'.

16.2. This Court has also perused the written statement filed by the Defendant to the said paras contesting the plaint.

16.3. Upon a perusal of the pleadings filed by the parties it is apparent that the issue of whether Defendant's advertisement campaign results in ingredient disparagement arises for consideration on the basis of the said pleadings.

16.4. This Court therefore does not find merit in the submission of the Defendant that the challenge of the Plaintiffs to the impugned advertisements of 2025 by filing I.A. No. 8645/2025 and I.A. 10039/2025 and seeking interim injunction is beyond the scope of the plaint or an attempt to enlarge or change the nature/scope of the suit. However, this Court finds that there is no requirement for the Plaintiffs to amend the plaint in order to maintain a challenge to the impugned advertisements of 2025.

II. No Estoppel against the Plaintiffs from raising the issue of ingredient disparagement on account of the order dated 4th December 2019

17. Next, the Defendant has contended that the issue of ingredient disparagement raised by the Plaintiffs does not survive in view of their withdrawal of I.A. 17079/2019 and I.A. 17080/2019 vide order dated 4th December 2019.

17.1. This Court finds no merit in this submission of the Defendant. The pleas relating to ingredient disparagement, as raised by the Plaintiffs in the original plaint and in I.A. 14008/2019, continue to remain pending for adjudication and have not been decided against the Plaintiffs. The Defendant has opposed the reliefs sought by the Plaintiffs vis-à-vis restraint on FLUORIDE awareness campaign both in its written statement and by filing I.A. 14501/2019. The Defendant's defences and pleas raised therein, including the contention that there is no ingredient disparagement, are pending consideration, and no final opinion has yet been expressed by this Court on those issues.

17.2. The order dated 4th December 2019 expressly records that the applications I.A. 17079/2019 and 17080/2019 are being permitted to be withdrawn, without prejudice to the contentions raised by the Plaintiffs in

pending applications i.e., I.A. 14008/2019 and reply to I.A. 14501/2019, and therefore, the order clearly reserves all rights and contentions of the Plaintiffs vis-à-vis the issue of ingredient disparagement.

17.3. The only effect of the order dated 4th December 2019 is that the predecessor Court was not persuaded by the Plaintiffs' submissions that the modified advertisement published by the Defendant, in pursuance to the liberty granted vide order dated 18th October 2019, was in violation of the interim order dated 10th October 2019. And, the Court was not willing to recall its order dated 18th October 2019 permitting the publication and circulation of the modified advertisement.

17.4. However, the said order dated 18th October 2019 is not an expression of opinion by the Court on the issue of ingredient disparagement raised by the Plaintiffs in the original plaint and the defence of the Defendant on the said plea in I.A. 14501/2019.

17.5. The issue of ingredient disparagement remains sub-judice to be decided in the appropriate applications already pending before this Court.

III. No necessity to amend the plaint as existing pleadings are sufficient and disclose no new cause of action

18. In the aforenoted facts, since this Court has come to a conclusion that the issue of disparagement of FLUORIDE as an ingredient in toothpaste is already pleaded in the original plaint and is an issue arising for consideration, this Court finds that there is no legal necessity for the Plaintiffs to amend the plaint in order to maintain their challenge to the impugned advertisements of 2025.

18.1. It is the contention of the Defendant that it has continued with the FLUORIDE campaign continuously since 2019 till 2025, and in the opinion

of this Court, the impugned advertisements of 2025 are merely a variation of its FLUORIDE awareness campaign initiated in 2019. Therefore, the issue of disparagement of FLUORIDE as an ingredient of toothpaste is an issue already arising for consideration in this suit, and the final determination of the said issue would apply to all the FLUORIDE advertisements/campaigns run by the Defendant.

18.2. Additionally, the Plaintiffs in their I.A. 8645/2025 and I.A. 10039/2025 under XXXIX Rules 1 and 2 CPC filed pursuant to the publishing of the impugned advertisements of 2025, have specifically stated that the main issues pending adjudication before this Court on the basis of the *original* plaint are two-fold:

> "7. As set forth in the plaint and the injunction application (I.A. 14008/2019), the Plaintiffs' arguments are 2-fold;
> (a) The Defendant uses the Plaintiffs' well-known packaging  without authorization as part of its advertisements and the Plaintiffs are the owner of the intellectual property and common law rights to said packaging; and
> (b) The Defendant disparages all FLUORIDE containing toothpastes, while applicable regulations permit the use of FLUORIDE in toothpaste at a prescribed level in a certain proportion and FLUORIDE is scientifically / medically proven to help fight dental caries.
>
> 8. Given that the above 2 issues are pending adjudication before this Hon'ble Court, it is the Defendant's duty not to precipitate the matter by publishing new advertisements that disparage toothpaste that contain FLUORIDE and/or the brands / packaging of the Plaintiffs.
>
> 9. It would be important to mention here the larger issue that is pending consideration before this Hon'ble Court is whether the Defendant have intentionally disparaged all the toothpastes containing FLUORIDE through their intentional acts of continuously coming up with advertisements that create a fear psychosis in the minds of the general public as if FLUORIDE is some poison or harmful substance that can create serious and irreparable

health issues, despite very well knowing that the use of FLUORIDE up to 1000ppm is allowed as per Bureau of Indian Standards for toothpaste in India."

[emphasis supplied]

18.3. In the captioned application filed under Order VI Rule 17 CPC, also the Plaintiffs pleads that all necessary facts have already been set out in the *original* plaint. The relevant paragraph reads as follows: -

"48. A mere perusal of paragraph nos. 21-33 of the Plaint as filed in the year 2019 will show that the factum of disparagement on account of inaccurate reporting and dissemination of information about the health effects of FLUORIDE in toothpaste has been pleaded at the very inception of initiating these proceedings. In fact even the prayer clause at paragraph no. 63 (v) clearly shows that the Plaintiffs herein have prayed for a decree and order of permanent injunction restraining the Defendants and directing them to stop making any advertisements or any other form of communication to the public that may contain misleading information regarding the ingredients of the Plaintiffs' products. Therefore, it is imperative that all the facts narrated hereinabove ought to be brought on record before this Hon'ble Court by way of an amended Plaint and the Defendant ought to be directed to file an appropriate response to the same as these facts form part of the same cause of action which is continuing and recurring in nature."

18.4. Accordingly, this Court finds no legal necessity for the Plaintiffs to amend the plaint to incorporate a specific challenge to the said impugned advertisements. This conclusion of the Court is further strengthened from the submission made by the Plaintiffs in their written submissions dated 28th July 2025. It is stated therein that the Defendant has published yet another variation of its FLUORIDE awareness campaign on 22nd July 2025, which is not the subject matter of the present amendment application; however, the Plaintiffs are aggrieved from the same. Thus, if the Plaintiffs' contention were to be accepted that the plaint needs to be amended to challenge the impugned advertisements of March and April 2025, they would be required

to file successive amendment applications for July 2025 and each time a new variation of the campaign is released.

18.5. The Plaintiffs themselves have averred written submissions that all necessary pleadings and prayer clauses are already on record in the original plaint.

18.6. In view thereof, this Court is of the opinion that the variations of the said FLUORIDE awareness campaign of the Defendant need not be specifically challenged and shall be deemed to form part of the subject matter of the original plaint. And, in case the Court finds in favour of the case set up by the Plaintiffs on the issue of disparagement of FLUORIDE, the Defendant would be permanently injuncted from carrying out any FLUORIDE awareness campaign.

19. In addition, for the reasons recorded above there is no merit in the submission of the Defendant that these impugned advertisements of 2025 give rise to a new cause of action, and the Plaintiffs should be directed to file a separate suit for challenging the impugned advertisements of 2025.

As held above, the challenge to these impugned advertisements is covered within the existing pleading of the original plaint and its prayer clause.

IV. The captioned application fails to set out sufficient reasoning for the proposed amendment

20. The Plaintiffs in the captioned application have not identified the amendments proposed by them. They have merely set out a narration of facts in 49 paragraphs and annexed an amended plaint where the deleted portions are shown in strike-through, and the additions are shown in bold and underline. The application by itself neither identifies the specific

portions of the amended plaint nor does it specifically explain the purpose of these amendments. The omission of this aspect in the application renders it difficult to appreciate the legal basis on which the Plaintiffs seek amendment of the plaint and for the Court to assess whether the proposed amendment falls within the parameters of Order VI Rule 17 of the CPC.

20.1. The captioned application, in a curious manner, after setting out facts at paragraph nos. '1 to 48' simpliciter states at paragraph 49' that the cause of action has continued, without in any manner explaining how the proposed amendment falls within the scope of Order VI Rule 17 CPC necessitating the amendment of the plaint. The relevant paragraph 49 read as follows:

> 49. It would not be out of place to mention here that all the facts mentioned hereinabove go to show that the cause of action in this suit is a continuous one. Therefore, the instant application ought to be allowed as the balance of convenience tilts in favour of the Plaintiffs and against the Defendant. It is vehemently submitted that grave prejudice would be caused to the Plaintiffs if the instant application is not allowed and the Plaintiffs are not allowed to file the amended Plaint whereas no prejudice would be caused to the Defendant if the instant application is allowed."

20.2. The Plaintiffs, in their written submissions dated 16th September 2025, have contended that the amendments sought to prayer clause (v) are founded upon facts already pleaded in the original plaint and, therefore, ought to be permitted.

20.3. However, this Court finds that the original plaint itself sufficiently covers the pleadings at paragraphs '21 to 33' and prayer clause '63(v)' of the plaint and no ground is made out after six [6] years for amending the prayer clause.

20.4. The captioned application has failed to give sufficient reasoning necessitating the amendment of the plaint after six [6] years.

V. Plaintiffs' inaction in prosecuting the suit for five [5] years from 2020-2025

21. The suit was filed in October, 2019, written statement was filed on 24th December 2019, and the replication was also filed on 5th February 2020. Thereafter, as per the Act of 2015 and the Delhi High Court (Original Side) Rules, 2018, the Plaintiffs should have ideally filed the joint document schedule, and the parties should have completed the recording of admission/denial of the documents and marking of exhibits, whereafter, the issues would have been framed, and the parties would have proceeded to trial. However, six [6] years have gone by, and the Plaintiffs have not taken any steps for completion of the next steps leading to trial.

21.1. On perusal of the order sheet, this Court finds that neither the Plaintiffs nor the Defendant have proceeded with the matter between 2019-2025, and neither party has pressed its interim applications i.e., I.A 14008/2019 and I.A. 14501/2019.

21.2. On the other hand, the Defendant has continued with publication of its modified advertisement as permitted by the Court vide order dated 18th October 2019 and the impugned advertisements of 2025 are the variation of the 2019 advertisement.

VI. The prayer for amendment is liable to be rejected as it does not fall within the parameters of Order VI Rule 17 CPC

22. The Plaintiffs and the Defendant have relied upon **LIC v. Sanjeev Builders** (supra). In the said judgment, the Supreme Court has held that the Court will allow an amendment if it is required for effective and appropriate adjudication of the controversy between the parties.

> "**71.3.1.** If the amendment is required for effective and proper adjudication of the controversy between the parties."

23. There is no doubt that the amendments have to be allowed liberally. However, this Court finds that allowing this application neither serves the objective of Order VI Rule 17 CPC, which is to substantiate, elucidate or expand the pre-existing facts, nor subserve the intent of the Act of 2015, which aims at an expeditious trial.

24. In the facts of this case, having observed that all necessary averments pertaining to ingredient disparagement are already set out in the original plaint, permitting these amendments will simply set at naught the period of six [6] years which has gone by and not serve any purpose.

25. This Court therefore concludes that the amendments prayed for do not satisfy the test set out at paragraph '71.3.1' of the aforesaid judgment and therefore the prayer seeking relief to amend the plaint is hereby rejected.

VII. The impugned advertisements are directed to be taken on record

26. In practice, in view of the case set up in the original plaint the Plaintiffs were only required to place these impugned advertisements of March and April, 2025 by way of additional documents as per Order XI CPC as amended by the Act of 2015 in support of their existing pleadings to be relied upon at the time of disposal of I.A. 14008/2019 and I.A. 14501/2019. There was no requirement for filing the amendment application.

27. The said impugned advertisements are hereby directed to be taken on record, and the Plaintiffs shall be entitled to rely upon the same.

28. The captioned application I.A. 10040/2025 is disposed of with the aforesaid observations to the effect that the Plaintiffs' challenge to the

impugned advertisement dated 20th March 2025 and 14th April 2025 by way of the captioned application already finds basis in the challenge set out at paragraphs '21 to 33' of the plaint and prayer clause '63(v)' of the original plaint and adjudication on the issue of ingredient disparagement raised in the pleadings shall cover the said advertisements.

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29. The Plaintiffs are cautioned to proceed with trial in the suit, failing which it shall be liable to be dismissed for non-prosecution.

30. List on 14.01.2026, date already fixed.

MANMEET PRITAM SINGH ARORA, J

JAUNARY 12, 2026/msh/aa