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ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

TEMPAPO-IPD/2/2026
WITH IP.COM/3/2026
IA NO:GA-COM/1/2026
GODREJ CONSUMER PRODUCTS LIMITED
-VS-
RECKITT BENCKISTER INDIA PRIVATE LIMITED

BEFORE:
The Hon'ble JUSTICE RAJASEKHAR MANTHA
And
The Hon'ble JUSTICE MD. SHABBAR RASHIDI
Date: 27.02.2026.

APPEARANCE OF ADVOCATES FOR APPELLANT/PETITIONER:
Mr. M. Rohatgi, Sr. Adv.
Mr. R. Bachawat, Sr. Adv.
Mr. R. Bhattacharya, Sr. Adv.
Mr. S. Roychowdhury, Adv.
Mr. S. Mitra, Adv.
Mr. A. Chaturvedi, Adv.
Mr. N. Nadkarni, Adv.
Ms. D. Singh, Adv.
Ms. V. Pandey, Adv.
Mr. S. Mukherjee, Adv.
Ms. A. Bohra, Adv.
Ms. S. Khannum, Adv.

APPEARANC OF ADVOCATES FOR RESPONDENT:
Mr. S. Sarkar, Sr. Adv.
Mr. S.N. Mookherjee, Sr. Adv.
Mr. R. Banerji, Sr. Adv.
Mr. S. Ginodia, Adv.
Mr. J. Lal, Adv.
Ms. N. Roy, Adv.
Mr. Shwetank Ginodia, Adv.
Ms. M. Agarwal, Adv.
Mr. N. Choudhury, Adv.
Ms. S. Firdous, Adv.

1. The Court: Affidavit-of-service filed in Court is taken on record.
2. The instant appeal is directed against an ad interim order dated February 25, 2026, passed by a Single Bench of this Court.
3. By the impugned order, the appellant, defendant in the suit, has been restrained from using its product. The product, common to both the appellant-defendant and the respondent-plaintiff, is a toilet cleaning liquid.
4. The bone of contention between the parties is with regard to the shape of the bottle which contains the cleaning liquid sold by either of them.
5. Mr. Sudipto Sarkar, learned senior counsel appearing for the plaintiff-respondent, submits that his client has obtained three several registrations of the trade mark of the 'DEVICE' called "HARPIC BOTTLE AND CAP". The plaintiff is in the market with its product HARPIC TOILET CLEANER for a substantial period of time.
6. It is an admitted position that the plaintiff-respondent enjoyed a registered design under the Designs Act, 2000, the registration of which has since expired by efflux of time in terms of the provisions of the Act.
7. The proprietorship of the spouted, duck head like head and shape of the bottle has ended. It is now generic. The bottle of the plaintiff is blue in colour with a spouted cap closed, dispenser. The name of the product is displayed in bold English alphabets. The defendant entered into the market with its toilet cleaner named 'spic' sometime in October 2025.
8. The colour of the appellant/defendant's bottle is black and its label is completely different from the appellant's product. The design of the bottle is different. There is only similarity in shape of the dispenser. The caps of the bottles of the plaintiff

and defendant are different. The dispenser is similar as its aim is to reach under the rim of a toilet commode. The plaintiff-respondent was and is aware of the launch and use of the defendant's product, as is evident from the pleadings made in the plaint.

9. The respondent's suit was filed sometime in February, 2026 primarily assailing disparaging advertisements by the appellants comparing and showing down the product of the plaintiff. The allegedly disparaging advertisements were being published since October, 2025. Pleading extreme urgency before the single bench, an application under Order 39 Rule 1 & 2 was filed and sought to be moved ex parte. On intervention by the learned advocates of the appellants, service of the applications comprising in four volumes was ordered and the matter was fixed for hearing in an hour's time. The matter was heard and fixed for orders the next day, when it was heard further and the impugned order was passed.

10. Paragraphs 1 to 60 of the plaint allege that the appellant has issued advertisements in the market which disparage the product of the plaintiff-respondent. Infringement of the trade mark is an ancillary prayer.

11. The respondent-plaintiff argued that it was entitled to move ever ex-parte for injunction on the principle that once an infringement of a trade mark is alleged, injunction should follow as a matter of course.

12. Mr. Mukul Rohatgi, learned senior counsel appearing for the appellant, would vehemently argue that the alleged disparaging advertisements were being published since October, 2025, the plaintiff/ respondent mislead the single bench pleading urgency to seek injunction at the ad-interim stage. There is substance in

this argument. Indeed the records indicate that the subject advertisements were being published since October 2025, the single bench ought to have allowed the defendants/appellant to use an affidavit to response to the application under Order 39 Rule 1 & 2.

13. Paragraphs 1 to 68 of the plaint and its concise statement indicate that cause of action placed in the plaint, was to challenge the disparaging advertisements by the defendant of the plaintiff's products. The undertaking of the appellant before the single bench to stop advertisement should have sufficed as an interim protection to the plaintiff.

14. It is only in paragraphs 69 to 79 of the plaint that the plaintiff has, an afterthought, alleged infringement of its Trademark and passing off by the appellant /defendant. Across the bar, counsels for the respondents have admitted that this was not a suit for passing off. The plaintiff therefore could not have maintained a case for injunction, given the main pleadings in the plaint. The undertakings of the defendants not to publish the allegedly disparaging advertisement had addressed the principal grievance of the plaintiff at the ad interim stage.

15. The next question is whether the plaintiff-respondent obtained any enforceable trade mark in the light of sections 9 and 17 of the Act and even if the same is lawfully granted, whether the product and the bottle of the defendant-appellant have infringed any such mark of the plaintiff.

16. This court notes from the Trademark Registration Certificate annexed to the application that the trade mark of the plaintiff is entitled to HARPIC BOTTLE AND CAP and that too as a 'Device'.

17. On a plain look at the two bottles, i.e. the one belonging to the plaintiff-respondent, namely HARPIC BOTTLE AND CAP and the one introduced in the market by the appellant-defendant, clearly indicate that the defendant-appellant's is distinctly and visibly different from the plaintiff-respondent.

18. The said mark must be seen as a whole, i.e. "the device HARPIC BOTTLE AND CAP". The shape of the bottle alone could not have been the subject matter of any trade mark infringement thereof unless the bottle of the product of the defendant copies the colour, name, writing and display of the product of the plaintiff-respondent.

19. Apart from being vague the grant of trademark to the plaintiffs after expiry of its design under the Act of 2000 is wholly suspect. There is serious doubt whether the appellant could have obtained the trademark in question to revive indirectly an expired proprietary right of design. Even otherwise a trade mark that requires interpretation cannot be enforced.

20. Mr. Sarkar, learned senior counsel appearing for the respondent-plaintiff, submits that his client has initiated proceedings against such private parties and has obtained injunction. As already stated above, it appears to this Court that the design of the products of such private players is in fact similar in colour, shape and design of the plaintiff's products. The various orders of injunction, referred to in the impugned order cannot have any application to the facts of the instant

case. The ***decision dated April 13, 2023 in the case of Hindutan Unilever Limited v. Reckitt Benckiser(India) in FAO(OS) (COMM) 157/ 2021 and CM No. 42978/2021*** was in respect of an action for disparagement alone.

21. Be that as it may, irrespective of the nature of the proceeding before a civil court, the grant of injunction is governed by the principles of order 39 rules 1 and 2. There is serious doubt as to whether the plaintiff has made out any prima facie case for interlocutory injunction.

22. The suit is one for disparagement. There are some belated pleadings with regard to infringement of Trade mark and passing off in the plaint. The appellant has undertaken before the Single Bench that it shall not publish the advertisements any further. The appellant thus shall be bound by its undertaking and shall not publish any of the advertisements that were specifically referred to in the plaint.

23. The parties may quantify the claims for such disparagement in the final hearing of the suit. These are prima facie observations. The single bench may decide finally the interlocutory applications after receiving affidavits from the parties.

24. Having regard to the discussions made above, this Court is of the view that grant of ad interim order of injunction in the facts and circumstances of the case was and is not warranted. The impugned order of injunction dated February 25, 2026 is set aside.

25. The appellant shall file affidavit-in-opposition to the interlocutory application filed by the respondent within one week from date. Reply thereto, if any, may be filed within a week thereafter. The single bench is requested not to grant any adjournment to either of the parties on the returnable date already fixed.

26. The appeal and the connected application accordingly stand disposed of.

27. Counsel for the plaintiff-respondent seeks stay of the aforesaid order. The same is concerned and refused.

(RAJASEKHAR MANTHA, J.)

(MD. SHABBAR RASHIDI, J.)

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