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

% *Judgment delivered on: 28.03.2026*

+ **CS(COMM) 291/2024, I.A. 5182/2025 & I.A. 7932/2025**

**VARUN CHOPRA & ANR.** .....Plaintiffs

versus

**SHYAM SUNDER CHOPRA SONS HUF  
& ORS.** .....Defendants

**Advocates who appeared in this case**

For the Plaintiffs : Mr. Apoorv Kurup, Senior Advocate with Mr. Puneet Yadav, Mr. Sourabh Gupta, Mr. Akshansh Gupta, Mr. Gurjas Varul, Mr. Vasudev and Ms. Priya Mittal, Advocates.

For the Defendants : Mr. Ankit Jain, Senior Advocate with Mr. Devesh Pratap Singh, Mr. Abhishek Kumar, Mr. Intiaj, Mr. Aditya Mr. Divya Prakash Arya, Mr. Ramadeep, Mr. Parth Gautam and Mr. Eish Kesarwani, Advocates for D-1 to D-5.

**CORAM:  
HON'BLE MR. JUSTICE TEJAS KARIA**


**JUDGMENT**

**TEJAS KARIA, J**

**I.A. 7808/2024**

**INTRODUCTION:**


1. The present Suit has been filed, *inter alia*, for permanently restraining

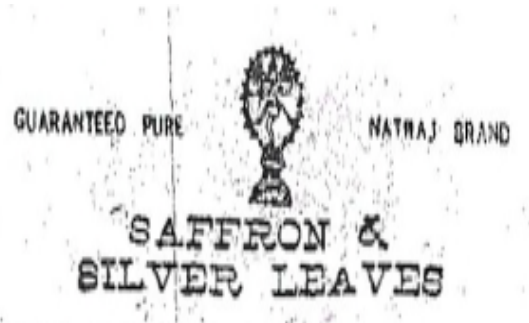
the Defendants from using the Marks 'SV NATRAJ' /  / 'SV




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RAJ' / '  ' / 'RAJNUT' / 'SRI NATRAJ JI' (“**Impugned Marks**”) allegedly infringing the Mark, Device of 'NATRAJ GOD' along with the



words 'NATRAJ BRAND' / '  ', claiming to have been first adopted and put to use by the partnership firm, M/s Raja Traders consisting of two partners, Jagdaman Kumar Chopra (“**J K Chopra**”) and Mohan Lal Chopra, father of J K Chopra, which was registered on 25.12.1978 *vide* registration No. 344176 under the category of saffron and silver foil used in confectionary for decorative purposes (edible) in Class 30 (“**Subject Mark**”).

2. J K Chopra was Plaintiff No. 2 in the Suit however on 11.01.2025, he passed away and *vide* order dated 10.03.2025, he was deleted from the array of Parties. Accordingly, Plaintiff No. 1, Varun Chopra, who is grandson of J K Chopra is the sole Plaintiff. Defendant No. 1 is a Hindu Undivided Family (“**HUF**”) represented by its Karta, Shyam Sunder Chopra, son of J K Chopra. Defendant No. 2, Sampan Chopra is the son of Shyam Sunder Chopra and grandson of J K Chopra. Defendant No. 3 is a partnership / proprietorship firm controlled and represented by Vaibhav Chopra, son of Vinod Kumar Chopra and grandson J K Chopra. Defendant No. 4 is a company incorporated under the Companies Act, 2013, represented through Vaibhav Chopra, who is also Defendant No. 5 in the Suit. Defendant Nos. 6



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and 7 are agents of Defendant Nos. 1 to 5 and are allegedly selling products bearing the Impugned Marks (“**Infringing Products**”) through online portals.

3. This is an Application on behalf of the Plaintiff under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908 (“**CPC**”) for grant of interim injunction against the Defendants restraining them from using the Impugned Marks or any other mark identical or deceptively similar to the Subject Mark in relation to the goods namely saffron and silver foil used in confectionary for decorative purposes (edible) or any other allied and cognate goods and passing off their business as that of the Plaintiff.

**SUBMISSIONS ON BEHALF OF THE PLAINTIFF:**

4. The learned Senior Counsel for the Plaintiff made the following submissions:

- 4.1. J K Chopra along with his father Late Mohan Lal Chopra started the partnership firm M/s Raja Traders in the year 1956, when the Subject Mark was first adopted and put to use.
- 4.2. Mohan Lal Chopra expired on 14.05.1980 and M/s Raja Traders was dissolved and J K Chopra continued to do business as sole proprietor of M/s Raja Traders running the same for the next 46 years and filed the accounts and financial returns including operating the bank accounts of M/s Raja Traders as sole proprietor holding the GST certificate in the name of J K Chopra. The financial returns placed on record, further show that Shyam Sunder Chopra, Vinod Kumar Chopra, and Saurabh Chopra,



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- deceased son of Shyam Sunder Chopra, were working as salaried employees with M/s Raja Traders.
- 4.3. On 22.07.2015, Shyam Sunder Chopra and Vinod Kumar Chopra executed and filed affidavits (“**Affidavits**”) with the Trade Marks Registry for recognizing and affirming the change of ownership of the Subject Mark in favour of J K Chopra (“**Form TM24**”). The Affidavits affirm that J. K. Chopra is owner of Subject Mark and is running M/s Raja Traders as sole proprietor filing its assessment and financial returns. Affidavits further state that J K Chopra had intended to induct Shyam Sunder Chopra and Vinod Kumar Chopra as partners to M/s Raja Traders, however M/s Raja Traders continued as proprietorship by J K Chopra. The Affidavits were witnessed by the Plaintiff, Vaibhav Chopra, Sampan Chopra and Saurabh Chopra, and affirmed by Shyam Sunder Chopra.
- 4.4. Accordingly, Defendant Nos. 1 to 5 have knowledge of the relinquishment of rights in the Subject Mark by Shyam Sunder Chopra and Vinod Kumar Chopra and that J K Chopra was the owner of Subject Mark and, therefore, the Defendants are bound by the principle of estoppel and acquiescence.
- 4.5. In October 2022, the Plaintiff and J K Chopra filed a suit registered as O.S. No. 6788 of 2022 titled as ‘*Varun Chopra vs. Shyam Sunder Chopra & Sons HUF*’ (“**Bengaluru Suit**”) before the XVIII Additional City, Civil Judge at Bengaluru City (“**Bengaluru Court**”). The cause of action to file the Bengaluru Suit arose due to alleged sales of the Infringing Products being made in Bengaluru, Karnataka and that the Defendants were



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- carrying on business on the basis of these alleged sales in Bengaluru, Karnataka. The Defendants had filed their written statement on 11.04.2023 in the Bengaluru Suit. The Bengaluru Court *vide* judgment dated 11.04.2023 returned the plaint to be presented before the jurisdictional court.
- 4.6. On 17.04.2023, being aggrieved by the judgment dated 11.04.2023 passed by the Bengaluru Court, the Plaintiff and J K Chopra filed the Appeal before the High Court of Karnataka. *Vide* interim order dated 19.04.2023, the High Court of Karnataka restrained the Defendants from infringing the Subject Mark. The Defendants, thereafter, filed SLP(C) No. 10125 of 2023 before the Supreme Court against the order dated 19.04.2023, which was dismissed by the Supreme Court *vide* order dated 17.05.2023.
- 4.7. A contempt petition was also filed by the Plaintiff and J K Chopra against the Defendants alleging that the Defendants willfully and knowingly violated the interim order dated 19.04.2023 and *vide* order dated 06.07.2023 notice was issued in the same. On 30.06.2023, the High Court of Karnataka allowed the Appeal and remanded the Bengaluru Suit to the Bengaluru Court for deciding the Application for rejection of Plaint filed by the Defendants under Order VII Rule 11 of CPC afresh in view of the observations made in the judgment dated 30.06.2023 and extended the interim order till 07.07.2023. The Bengaluru Court *vide* order dated 28.08.2023 rejected the plaint in the Bengaluru Suit.
- 4.8. *Vide* judgment dated 28.03.2024, the High Court of Karnataka allowed the Appeal against the order dated 28.03.2024 passed by



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the Bengaluru Court and restored the Bengaluru Suit and directed the parties to the Bengaluru Suit to appear on 06.04.2024 before the Bengaluru Court. *Vide* separate order dated 28.08.2023, the interim order dated 19.04.2023 which was last extended up to 28.03.2024 was vacated keeping open all contentions of the parties on the interim measures sought.

- 4.9. On 02.07.2024, the Bengaluru Court passed an order in the Bengaluru Suit once again returning the plaint with liberty to file the same before jurisdictional commercial court by making necessary modification as per the requirement of the Commercial Courts Act, 2015.
- 4.10. In the meanwhile, 05.04.2024, the Plaintiff and J K Chopra filed the present Suit before this Court against the Defendants who were also the Defendants in the Bengaluru Suit for infringement of the Subject Mark. The present Suit was filed in April 2024, while the Bengaluru Suit was pending and prior to the order dated 02.07.2024 passed by the Bengaluru Court.
- 4.11. The present Suit is not barred under Order II Rule 2 of CPC as the plaint in the Bengaluru Suit was returned *vide* order dated 02.07.2024 to be filed before appropriate jurisdiction court and the same was not dismissed or rejected. The Bengaluru Suit was not decided on merit and there was no adjudication of the issues / infringement action. The provisions of Order II Rule 2 of CPC would not apply on the return of the plaint to be filed before appropriate jurisdiction. As the Defendants contested the Bengaluru Suit stating that there is no cause of action and



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jurisdiction in Bengaluru, it not open for the Defendants to take the same objection in the present Suit. There is no other suit pending adjudication on the Subject Mark between the Parties and therefore the present Suit is maintainable.

- 4.12. The cause of action for filing the present Suit is different from the Bengaluru Suit, wherein the Defendants made an attempt to register the Impugned Mark namely ‘RAJNUT’, ‘SV NATRAJ’ /



, ‘SV RAJ’ / ‘**RAJ**’ etc. The Defendants were also making sales through online websites i.e., [www.babutradingsco.com](http://www.babutradingsco.com) and [www.sujathatraders.com](http://www.sujathatraders.com) and selling silver foils bearing the Impugned Mark ‘SV NATRAJ’ /



, which were ordered and delivered at New Delhi, the Defendants also published advertisement calling for dealerships at New Delhi.

- 4.13. Reliance was placed on *Re: Bengal Waterproof Ltd. v. Bombay Waterproof Manufacturing Co.*, (1997) 1 SCC 99, to submit that an action for passing off is a common law remedy being an action in substance of deceit under the law of Torts and that wherever and whenever fresh deceitful act is committed, the person deceived would naturally have a fresh cause of action in his favour. Thus, every time, when one person passes off his goods as those of another, he commits the act of such deceit. Similarly, whenever and wherever a person commits breach of a registered



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- trade mark of another, he commits a recurring act of breach or infringement of such trade mark giving a recurring and fresh cause of action at each time of such infringement to the party aggrieved.
- 4.14. On 20.06.2022, J K Chopra executed an assignment deed (“**Assignment Deed**”) in favour of the Plaintiff with respect to the Subject Mark, and absolutely and unconditionally assigned and transferred all his rights, goodwill, user rights, and reputation to the Plaintiff, making the Plaintiff the owner of the Subject Mark. J K Chopra had also executed a power of attorney dated 14.04.2023 in favour of the Plaintiff authorizing the Plaintiff to represent him before this Court, which further shows the trust and confidence imposed by J K Chopra on the Plaintiff.
- 4.15. After the death of J K Chopra, the Plaintiff also discovered the Will dated 25.11.2021 of J K Chopra (“**JKC Will**”) which also transferred all rights in the Subject Mark and sole proprietorship M/s Raja Traders in favour of the Plaintiff. Further, the contents of the JKC Will are also consistent with the fact that J K Chopra was the owner of the Subject Mark and the sole proprietor of the firm M/s Raja Traders and that J K Chopra intended to transfer the ownership of the Subject Mark to the Plaintiff and had done through the Assignment Deed.
- 4.16. The Defendants, after more than 55 years, are now propounding a will dated 11.04.1971 of Mohan Lal Chopra (“**MLC Will**”), but no explanation has been offered in the Written Statement filed in the present Suit as to why the MLC Will was not propounded or enforced upon by the Defendants earlier.



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- 4.17. The Defendants have already given up all their rights over the Subject Mark by virtue of doctrine of estoppel due to the continuous and uninterrupted use of the Subject Mark by J K Chopra as proprietor of M/s Raja Traders and further by executing the Affidavits affirming the change of name of J K Chopra and acknowledging that J K Chopra to be the proprietor of M/s Raja Traders and continuous use of the Subject Mark in the said capacity.
- 4.18. There is no mention of the MLC Will in the written statement filed in Bengaluru Suit. The MLC Will first time surfaced on 08.04.2024 in additional objection filed after two years of instituting the Bengaluru Suit, which raises doubt on the authenticity of the MLC Will. Therefore, the MLC Will has been propounded as an afterthought to mislead and evade liability of the Defendants' action.
- 4.19. The Defendants have taken contradictory stands on the Affidavits to disavow the Affidavits and escape their liability. In the Bengaluru Suit, the Affidavits have been replied to by stating that '*mere swearing of so-called affidavit produced has nothing to do with the dissolution of partnership firm*' and later the Defendants say that the Affidavits were signed under undue influence and coercion. In the Written Statement filed in the present Suit, the Defendants have taken a stand that the Affidavits were signed in good faith and under fiduciary relation and later that the Affidavits were intended to use in relation to marks 'SHRI BRAND SAFFRON & SILVER LEAVES'. The Defendants have further




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stated in the Written Statement filed in the present Suit that even if the Affidavits are presumed to be true all legal heirs have not signed the Affidavits, therefore, the Affidavits cannot be relied upon.


4.20. Apart from the fact that the Defendants have acquiesced to running of sole proprietorship M/s Raja Traders by J K Chopra and also execution of the Affidavits, the Defendants are bound by the doctrine of estoppel and cannot claim any right in the Subject Mark.

4.21. Sampan Chopra filed an application for registration of the

Impugned Mark 'SV NATRAJ' /  , in the year 2024 after the filing of the present Suit. In the said application Sampan Chopra further stated that Sampan Chopra is not claiming any ownership over the name 'NATRAJ', which establishes the right and ownership of J K Chopra over the Subject Mark. At the time of registration of the Impugned Mark, 'SV NATRAJ' /

 , Sampan Chopra and Vaibhav Chopra also filed a supporting affidavit to the said application for the registration of

the Impugned Mark 'SV NATRAJ' /  , stating that the Defendants have started using the Impugned Mark 'SV NATRAJ'

/  , recently on 24.04.2022 and spent substantial





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money in advertisement and further acknowledged that the Subject Mark is being used since 1957 by J K Chopra, who was the proprietor of M/s Raja Traders.

4.22. The trade mark application for registration of the Impugned Mark

‘SV NATRAJ’ /  , was withdrawn in January 2025, *inter alia*, mentioning that Sampan Chopra has decided not to carry out the business under the Impugned Mark ‘SV NATRAJ’ /

 , as the application was filed on proposed to be used basis.

4.23. As far as the alleged mutual family settlement dated 31.05.2019 (“*Apsi Samjhautanama*”) is concerned, the existence of such document is contested as the original of the *Apsi Samjhautanama* has not been produced till date and the Plaintiff has also filed a criminal complaint dated 09.04.2024 before Police Station, Saharanpur, Uttar Pradesh against the Defendants for creating the false and fabricated *Apsi Samjhautanama*. Even assuming existence of such *Apsi Samjhautanama*, the said document mentions that J K Chopra is the proprietor of M/s Raja Traders and owner of the Subject Mark thereby not granting any right over the Subject Mark and only appearing to say that the son / grandson should conduct / operate business of different products of M/s Raja Traders in a certain manner as employees of M/s Raja Traders as an internal business arrangement set by the owner of



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M/s Raja traders and has nothing to do with ownership of the Subject Mark.


- 4.24. Further, if the Defendants had the right to use the Subject Mark as per the forged and fabricated *Apsi Samjhautanama*, there would be no reason for the Defendants' registration of different and deceptively similar Impugned Marks 'SV NATRAJ' /



, and 'SHRI NATRAJ JI' in the year 2022. There is no reason why a person will register deceptively similar marks, when he has a right to use the original mark. The above facts clearly show that the Defendants have relinquished / acquiesced and are estopped from using the Subject Mark.

- 4.25. Impugned Marks are deceptively similar and infringing upon the Subject Mark. The Defendants have admitted in the Written Statement filed in the present Suit that the alleged dispute and disagreement arose in family and then the Defendants started the



Impugned Mark 'SV NATRAJ' / '  ' in October 2019. The actions of the Defendants show that the Defendants are knowingly Infringing the Subject Mark. The similarity in the product can be seen from the description / photos of the product bearing the Subject Mark ("**Plaintiff's Products**") and Infringing Products which are being sold at New Delhi.

- 4.26. The *mala fide* conduct of the Defendants is evident from the fact that despite the passing of the interim order dated 19.04.2023 by



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the High Court of Karnataka, the Defendants continued to make sales of the Infringing Products constraining the Plaintiff and J K Chopra to file contempt proceedings against the Defendants. However, despite filing the contempt proceedings also, the Defendants continued to make sales of the Infringing Products based on a vague plea that the Impugned Mark ‘SV NATRAJ’ /



and similar marks do not infringe upon the Subject Mark. The *mala fide* conduct of the Defendants is also evident from the fact that the Defendants made an attempt to register further the Impugned Marks in the same Classes namely 2, 14 and 30 after filing of the Bengaluru Suit.

4.27. Vaibhav Chopra is also stated to have taken No Objection Certificate (“NOC”) from Shyam Sunder Chopra for the Impugned Mark ‘SHRI NATRAJ JI’ when Shyam Sunder Chopra has no right or entitlement over the Subject Mark, which itself shows the *mala fide* intention and ulterior motives of misusing and infringing the Subject Mark. Assuming not admitting all the legal heirs have right in the Subject Mark, only Shyam Sunder Chopra alone could not have given the NOC to Vaibhav Chopra in any circumstances.

4.28. In the present case, the Plaintiff is using the Subject Mark and the NATRAJ Brand together forming a distinctive mark, which can be protected. Further, what is to be considered is what is the essential, prominent, and leading features of the Subject Mark, by whatever name called i.e., label, device or composite word. The Defendants



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cannot contend that they are entitled to exclusive rights over the word 'NATRAJ' by using it in conjunction with the prefix 'SV', particularly when, by their own admission, the word 'NATRAJ' cannot be registered, while the Plaintiff continues to use the Subject Mark incorporating the NATRAJ Brand. The argument of the Defendants defeats the statutory purpose and intent, for it would then open hunting season on every single such registration and every infringer can claim different style or font or placement and thus dilute a mark duly registered and unchallenged. Section 17 of the Trade Marks Act, 1999 ("**Trade Marks Act**") envisages a situation where there are several matters comprising part of the trade mark in which case the registration of the mark would confer exclusivity on the proprietor to use the mark as a whole and, thus, registration of a composite mark confers upon the registered proprietor monopoly over the mark taken as a whole and as part of the determination and evaluation the Court has to determine what is / are the prominent and / or essential features of the mark taken a whole.

- 4.29. The argument of the Defendants that Subject Mark is descriptive, even assuming and not admitting to be true, it is submitted that Subject Mark has acquired secondary meaning. It is an admitted position between the Parties that the Subject Mark is being used since 1956 and was registered in 1978. Therefore, Subject Mark is recognized brand indicator since last more than 70 years. The use of the Subject Mark has been exclusive and no claim / suit /




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proceedings have been filed by anyone claiming rights over the Subject Mark.

- 4.30. The Plaintiff has also filed Chartered Accountant certificate showing sales of the Subject Mark in silver leaf and saffron which shows awareness, recognition, preference and liking of the brand. However, no such sales or turnover has been established by the Defendants, who claim to use the Impugned Mark “SV NATRAJ’



/ ‘’, since 2022. The Subject Mark has been advertised since 1956, and substantial sums have been spent on the advertisement to establish the business under the Subject Mark. A website, [www.natrajsaffron.com](http://www.natrajsaffron.com) also came into being in 2003 and a Facebook page created on 10.09.2013, which also show long, established and exclusive usage of the Subject Mark.

- 4.31. The Defendants themselves have filed profile of M/s Raja Traders from the website, [www.natrajsaffron.com](http://www.natrajsaffron.com), which shows that the Plaintiff essentially supply the product bearing the Subject Mark to B to B i.e., business to business and have nominal direct sales and is, therefore, a recognized brand amongst businesses across India. Further, the products of the Subject Mark also have ISO 9001:2008 ISO 22000:2005 certification.

- 4.32. The Defendants contention that the Plaintiff cannot register the name of god / deity, as trade mark is not correct. Pertinently, the Plaintiff is not claiming trade mark rights over the word ‘NATRAJ’, which is admittedly a god’s / deity’s name. However, the Plaintiff is claiming rights over composite mark in the form of



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the Subject Mark, which is distinct, exclusive and already registered. Reliance was placed on *Pidilite Industries Limited vs. Jubilant Agri and Consumer Products Limited* 2014 SCC online Bom 50 to submit that the essential / prominent feature of the trade mark has to be protected and there is no 'part' of the 'whole' which is distinguishable to apply the provisions of Section 17 of the Trade Marks Act.

- 4.33. In the present case, the entirety of the Subject Mark is subsumed in the Impugned Marks. Thus, the alleged acts of the Defendants constitute unauthorized adoption, use, and infringement of the Plaintiff's exclusive statutory and proprietary rights in its prior, distinctive, and well-known trade mark. The alleged conduct of the Defendants is, *inter alia*, tantamount to trade mark and copyright infringement, misrepresentation, passing off and unfair trade practices.
- 4.34. The use of the Impugned Marks by the Defendants gives an immediate cause of action to the Plaintiff. The acts of the Defendants are in violation of the Plaintiff's exclusive statutory, proprietary, and common law rights in the Subject Mark.
- 4.35. The Plaintiff is legally entitled to interim injunction restraining the infringement as he has statutory rights in the Subject Mark. The Subject Mark has been properly registered in the Plaintiff's name without any restrictions regarding usage or exclusivity. In contrast, the Defendants do not possess registration under the Trade Marks Act, are not prior users of the Subject Mark, nor have they obtained authorization from the Plaintiff to use the



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Subject Mark. Consequently, the Defendants' application of the Impugned Marks on saffron and silver foil used decoratively in confectionery (edible) constitutes unlawful conduct and represents a clear infringement of the Plaintiff's statutory rights.

- 4.36. The Plaintiff and J K Chopra through long and continued use of Subject Mark, have generated substantial goodwill and common law rights in Subject Mark. The Defendants' continued actions in misusing and misrepresenting to the consumers to infer that the Defendants are either authorized to use the Impugned Marks, or are associated with the Plaintiff, are calculated to mislead public at large. The Defendants' actions have caused and continue to cause long-term debasement, devaluation, and disparagement of the Plaintiff's brand. By indulging in such acts, the Defendants are making illegal gains at the cost of Plaintiff's reputation, goodwill and the Subject Mark, garnered over the years i.e., since 1956.
- 4.37. The Defendants' conduct satisfies the 'classical trinity' with respect to an action for passing-off i.e., misrepresentation, damage, and goodwill, and thus the Defendants actions are tantamount to passing off and acts of unfair competition and such misappropriation / misuse is liable to be restrained forthwith. The damage resulting and likely to result in its goodwill, reputation and business and erosion of brand equity on account of the Defendants' unlawful activities is unquantifiable and also cannot be assessed monetarily. The Plaintiff has no knowledge about the extent and quantum of the profits earned by the Defendants on account of use of the Impugned Marks. Further, the loss and injury



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- caused to the Plaintiffs' reputation and goodwill cannot be ascertained in monetary terms.
- 4.38. The judgment dated 18.09.2017 passed in *Sri Krishna Sweets Private Ltd. vs. M Murali*, CMA No. 2266 of 2017 by the Madras High Court, relied upon by the Defendants is not applicable to the facts of the present case. In the present case, Subject Mark is not a family mark and family members cannot claim to be lawful owner of Subject Mark.
- 4.39. In support of the submissions in the present Application, reliance was further placed on the following decisions:
- i. *Empire Spices and Foods Limited Vs. Sanjay Bhimraoji Deshmukh Trading as M/s. Sanskriti Spices*, 2025 SCC OnLine Bom 2559
  - ii. *Daiwa Pharmaceuticals Co. Ltd. Vs. Daiwa Pharmaceuticals Pvt. Ltd. And Others*, 2024 SCC OnLine Bom 1078
  - iii. *Hari Chand Shri Gopal Vs. Shib Sakti Gopla Zarda Factory* 2023 SCC OnLine Del 3531
  - iv. *ITC Limited v. Ganesh Flour Mills*, 2015 SCC OnLine Mad 14273
  - v. *Ist Choice Food Products Vs. M/s. N.A. Thangarajan & Sons, A. Partnership firm*, 2013 SCC OnLine Mad 1263
  - vi. *N.A. Thangarajan and Sons v. Ist Choice Food Products*, 2012 SCC OnLine Mad 5172



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- vii. ***Sri Kumaran Stores a Partnership Firm Represented by its Partner Mr. JE. Jenardhanan Vs. KanchiKumaran Silks***, 2011 SCC OnLine Mad 2949
- viii. ***Hindustan Pencils Pvt. Ltd. Vs. Suneja Copy Products***, 2009 (109) DRJ 283
- ix. ***Hindustan Pencils Limited Vs. G.T.V. Marketing***, 2005 SCC OnLine Del 76
- x. ***Bengal Waterproof Ltd. v. Bombay Waterproof Manufacturing Co.***, (1997) 1 SCC 99
- xi. ***M/s. Hindustan Pencils Private Limited Versus M/s. India Stationary Products Co. & Another***, 1989 SCC OnLine Del 34

4.40. Thus, in view of the above facts and submissions, the Plaintiff has established a strong *prima facie* case in his favour, inasmuch as the Plaintiffs' proprietary and common law rights are being infringed upon by the Defendants who are riding on its goodwill without any authorization.

4.41. Given that the Plaintiff is the registered proprietor of the Subject Mark, and that any usage by the Defendants amounts to infringement and potential instances of disparagement, the balance of convenience is in the Plaintiff's favour.

4.42. The Plaintiff stands to suffer grave and irreparable injury and loss as a result of the actions of the Defendants in using the Subject Mark, as any acts or omissions of the Defendants will be attributed to the Plaintiff. The conduct of the Defendants reeks of *mala fides* and the Defendants are liable to be restrained from



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continuing the alleged activities. In the event the Defendants are allowed to continue with their allegedly illegal actions, it will cause irreparable injury and grave prejudice to the Plaintiff.

**SUBMISSIONS ON BEHALF OF DEFENDANT NOS. 1 TO 5:**

5. The learned Senior Counsel for Defendant Nos. 1 to 5 (“**Defendants**”) made the following submissions:

- 5.1. The judicial history of the Bengaluru Suit before the Bengaluru Court also consistently recorded findings of lack of territorial and pecuniary jurisdiction, culminating in repeated orders for return of the Plaint. The issue of jurisdiction remained central to the proceedings before the Bengaluru Court.
- 5.2. The Bengaluru Court rejecting the plaint in the Bengaluru Suit *vide* order dated 28.08.2023, expressly recorded that the Defendants reside in Saharanpur, Uttar Pradesh, and that the alleged Infringing Products were neither sold nor traded within the territorial jurisdiction of Bengaluru. While the High Court of Karnataka, *vide* judgment dated 30.03.2024 directed the Bengaluru Court to expeditiously decide the application under Order XXXIX Rules 1 and 2 CPC, it consciously declined to continue or revive the *ad interim* injunction earlier granted on 19.04.2023.
- 5.3. Thereafter, the Bengaluru Court, by its final order dated 04.07.2024, conclusively held that the Bengaluru Suit constituted a commercial dispute with a valuation exceeding ₹3 lakhs, and that it consequently lacked pecuniary jurisdiction, directing the return of the plaint to the plaintiff under Order VII Rule 10 CPC.



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The order dated 04.07.2024 granted liberty to the Plaintiff and J K Chopra to institute the suit before the appropriate Commercial Court, subject to compliance with the Commercial Courts Act, 2015, thereby reaffirming the consistent judicial finding that the Bengaluru Court lacked jurisdiction to adjudicate the dispute.

- 5.4. In these circumstances, the continued failure to institute proceedings before the competent forum, despite repeated returns of the plaint, attracts the statutory bar under Order XXIII Rule 1 CPC. The present proceedings, founded on the same cause of action, are therefore not maintainable in law, and the Plaintiff is precluded from reagitating the dispute in disregard of the procedural discipline mandated by the CPC.
- 5.5. M/s Raja Traders, was a partnership concern of Mohan Lal Chopra, and J K Chopra, who started the family business of sale of gold and silver leaves (vark), Saffron under the Subject Mark in the year 1956. The Subject Mark was registered on 25.12.1978 in the name of Mohan Lal Chopra and J K Chopra trading as M/s Raja Traders.
- 5.6. Mohan Lal Chopra died leaving behind the MLC Will wherein it is stated that post demise of Mohan Lal Chopra, the business of M/s Raja Traders will be devolved upon his grandsons namely Chander Sheel Chopra, Vinod Kumar Chopra and Shyam Sunder Chopra and if blessed with any other grandson then such grandson(s) shall also have equal right to the business of M/s Raja Traders, but made no testamentary disposition of Subject Mark. Consequently, Subject Mark constituted ancestral / joint family



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- property, devolving by intestate succession upon all coparceners and legal heirs.
- 5.7. Post the demise of Mohan Lal Chopra on 14.05.1980, the business of M/s Raja Traders continued as a joint family partnership concern, with Shyam Sunder Chopra and Vinod Kumar Chopra actively participating and functioning as partners from the early 1980s until the year 2022. At the time of the death of Mohan Lal Chopra, Vinod Kumar Chopra was aged about 20 years, Shyam Sunder Chopra was about 22 years, and Chander Sheel Chopra was about 24 years, and all three, being grandsons of Mohan Lal Chopra, were coparceners and part-owners in the ancestral estate of Late Mohan Lal Chopra, including his interest in the partnership business of M/s Raja Traders and allied assets.
- 5.8. In 2019, some disagreements arose between family members and in order to maintain harmony, *Apsi Samjhautanama* was arrived at, delineating product-wise use of the 'NATRAJ' brand among family members, without any party relinquishing proprietary rights in the Subject Mark. Despite *Apsi Samjhautanama*, J K Chopra unilaterally executed the Assignment Deed in favour of the Plaintiff, purporting to assign Subject Mark exclusively, without consent of other coparceners, rendering the assignment *vide* the Assignment Deed illegal, void and *non est* in law.
- 5.9. The Affidavits relied upon by the Plaintiff, were executed purely in a fiduciary and trust-based family context and were never intended to acknowledge or confer sole proprietorship of the Subject Mark or to divest other heirs of their lawful rights.



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Without prejudice and in arguendo, even assuming that Shyam Sunder Chopra and Vinod Kumar Chopra had signed the Affidavits, such Affidavits could not, in law, operate as a waiver of the rights of their lineal descendants, including Sampan Chopra and Vaibhav Chopra, as it is a settled principle that a lineal ascendant cannot unilaterally waive, relinquish, or extinguish the vested rights of lineal descendants in ancestral property, including ancestral intellectual property.

- 5.10. Reliance was placed on the decision in *Ramesh Chander v Budha Singh* 2003 SCC Online P&H 833 to submit that mere attestation of a document does not bind the attesting witness to the contents thereof, nor can such attestation be construed as an admission of proprietary rights or exclusivity in favour of the Plaintiff.
- 5.11. Furthermore, no affidavit or declaration whatsoever exists from Chander Sheel Chopra, an equal coparcener and legal heir, whose consent was indispensable. The absence of consent and declaration from all coparceners, renders the alleged claim of exclusive title inherently defective and, consequently, vitiates the very foundation of title claimed by J K Chopra, in respect of the Subject Mark.
- 5.12. The Plaintiff's claim to exclusive rights over the Subject Mark is fundamentally flawed due to the invalid assignment of the Subject Mark from J K Chopra to the Plaintiff, which was done in breach of fiduciary duties and without the consent of the other family members, including the Defendants. Consequently, any registration claims made by the Plaintiff under the guise of




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exclusivity are not legally tenable and are questionable on the parameter of equity.

5.13. Faced with unlawful exclusion and litigation initiated at Bengaluru, Vaibhav Chopra coined the Impugned Mark ‘SV



NATRAJ’ / ‘’, in 2019, consciously refraining from its use till compelled by the Plaintiff’s actions. The Impugned Mark



‘SV NATRAJ’ / ‘’ is visually, phonetically and conceptually distinct, and its adoption is *bona fide*. The present Suit, therefore, is not a case of infringement but a family trade mark dispute, where no exclusive rights vest in the Plaintiff, and consequently, no *prima facie* case, balance of convenience or irreparable injury exists warranting grant of interim injunction.

5.14. Under Section 42 of the Indian Partnership Act, 1932, (“**Partnership Act**”) the death of a partner ordinarily results in dissolution of the firm, unless there is a contract to the contrary; however, dissolution does not confer exclusive ownership upon the surviving partner, nor does it metamorphose the business into a sole proprietorship by operation of law. At best, the surviving partner may continue the business along with the heirs of the deceased partner, if so intended or permitted. In the present case, this technical aspect of partnership dissolution has lost its determinative significance, as the Defendants’ claim is not founded merely on continuation of partnership, but also on



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hereditary and coparcenary rights flowing from Late Mohan Lal Chopra, who was the grandfather of Vinod Kumar Chopra and Shyam Sunder Chopra and the great-grandfather of Sampan Chopra and Vaibhav Chopra. The rights asserted are, therefore, ancestral in nature, and cannot be defeated or extinguished by any unilateral assertion of sole proprietorship.

- 5.15. Until October 2020, the website [www.natrajsaffron.com](http://www.natrajsaffron.com) documented the family's business history and members' roles. HDFC Bank Account No. 03262320000155 of M/s Raja Traders also listed Vinod Kumar Chopra as a nominee until October 2020. Invoices and bills (2017–2021) signed by Vinod Kumar Chopra and Shyam Sunder Chopra also demonstrate their active business participation in activities of M/s Raja Traders.
- 5.16. The Plaintiff's pleadings admitting that the status of M/s Raja Traders changed upon the death of Late Mohan Lal Chopra on 14.05.1980 does not establish exclusive ownership in favour of J K Chopra, nor does it extinguish the hereditary and coparcenary rights of other legal heirs, which continue to subsist in law.
- 5.17. Form TM-48 namely, Authorization of Agent dated 20.10.2015, explicitly lists M/s Raja Traders as a partnership firm reinforcing the argument that the business and the associated Subject Mark were collectively managed by the partners, including Shyam Sunder Chopra and Vinod Kumar Chopra ("**Form TM-48**"). Form TM-12, Renewal Application dated 24.03.1985 also identifies M/s Raja Traders as a partnership of J K Chopra, Shyam Sunder Chopra, and Vinod Kumar Chopra ("**Form TM-12**").



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5.18. Reliance was placed on *Shri Ram Education Trust v. SRF Foundation* 2016 SCC OnLine Del 472 wherein it was observed that:

*“16. One member of the family cannot, without something more being shown to the contrary, claim exclusive ownership of the mark. All the heirs of the person who first adopted a mark and put the same to use and earned goodwill and reputation shall, prima facie, have equal rights to adopt and use the same. Something more than mere prior adoption by one of the heirs would have to be shown so as to extinguish the rights of the other heirs.”*

Therefore, since trade mark is a tool to prevent the business from its competitors, when a situation arises where family members are separated and each member claims to be the lawful owner of the trade mark, all the family members of the owner of trade mark possess lawful right to use the inherited trade mark. No single heir or family member has an exclusive right to use such inherited trademark.

5.19. Reliance was further placed on *Shri Ram Education Trust (supra)*, to submit that one member of a family cannot claim exclusive rights over a name having ancestral and public significance.

5.20. Reliance was placed on *Sri Krishna Sweets Private Ltd. (supra)* wherein the dispute revolved around the use of the mark ‘Sri Krishna Sweets’ by family members. The plaintiff therein, Sri Krishna Sweets, claimed exclusive rights to the mark therein, asserting that it was originally established by their father in 1948. The plaintiff’s brother, the defendant therein, had used the mark therein under an oral license and continued to do so even after



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leaving the business. The trial court in *Sri Krishna Sweets Private Ltd.* (*supra*) refusing to grant an interim injunction, observed that the plaintiff therein had not demonstrated a *prima facie* case and that there had been acquiescence over two decades. The Madras High Court in *Sri Krishna Sweets Private Ltd.* (*supra*) while dismissing the appeal against the trial court's decision further observed that:

“...in *Narasus's Coffee Company v, Narasu's Roller Floru Mill case* wherein the learned Judge has held that when there is a trademark dispute between family members, the Court should not treat it as a trademark dispute simplicitor. On the facts of the said case it was found that some of the family members had a registered trademark for a particular business and others had a registered trademark for other businesses, both of which used the words *Narasus's*. While considering the claim for injunction by one of the parties, learned Judge pointed out that this dispute between the son on one hand and father and sister on the other. Therefore, the Courts must definitely look at it as a dispute among family members.”

5.21. In the present case, the dispute involves Subject Mark similar to *Sri Krishna Sweets* (*supra*), wherein the contention is over the use of a family associated mark. The Madras High Court in *Sri Krishna Sweets* (*supra*) emphasized the family nature of the trade mark dispute. Similarly, the present case also involves historical claims to the Subject Mark by family members. The ongoing use of the Subject Mark by various family members and the lack of clear documentation for exclusive rights further parallel the issues faced in *Sri Krishna Sweets* (*supra*).

5.22. The Plaintiff's argument that the Subject Mark is solely the Plaintiff's despite the historical usage by the family and lack of exclusive claims or licenses, is akin to the arguments rejected in



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*Sri Krishna Sweets (supra)* wherein the Court found that the lack of *prima facie* evidence and the longstanding use by the Defendant weighed against grant of an injunction. Similarly, in the present case, the claim for an interim injunction faces strong rebuttals due to the ongoing use of the Subject Mark by family members and the historical context.

- 5.23. The Plaintiff's claims of exclusive rights are undermined by the shared and historical use of Subject Mark within the family, reflecting the issues found in the *Sri Krishna Sweets (supra)*. The absence of concrete evidence supporting exclusive rights and the established history of use suggest that no immediate relief should be granted.
- 5.24. Reliance was placed on decision of the Madras High Court in *Narasus's Coffee Company Vs. Narasu's Roller Flour Mill* O.S.A. Nos. 234 to 237 of 2008 to submit that all the family members of the owner of trade mark possess lawful right to use the inherited trade mark and no single heir or family member has an exclusive right to use such inherited trade mark unless any contrary appears.
- 5.25. No party can claim exclusivity or monopoly over the name of a deity, and the Plaintiff's case of infringement is fundamentally flawed on this count. A perusal of the Plaint filed in the present Suit, along with the reliefs sought therein, demonstrates that the gravamen of the Plaintiff's allegation of infringement is centered around the use of the word 'NATRAJ' *per se*. 'NATRAJ' is the name of a Hindu deity, denoting Lord Shiva in His cosmic form,



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- and being a word of religious, cultural and public significance, no exclusivity or proprietary right can be claimed over such a term under trade mark law.
- 5.26. Reliance was further placed on the decision of this Court in *Bhole Baba Milk Food Industries Ltd. v. Parul Food Specialties (P) Ltd.*, CS (OS) No. 107/2010, *Soothe Healthcare Private Limited v Dabur India Limited* FAO (OS) (COMM) 100/2022 and *Vardhman Buildtech Pvt Ltd v Vardhman Properties Ltd*, 2016 SCC Online Del 4738 to submit that no monopoly can be claimed over common, religious or descriptive expressions, particularly when the mark is required to be assessed in its entirety.
- 5.27. Further, 'NATRAJ' is not the prominent or dominant feature of Subject Mark when viewed as a whole, and the Plaintiff cannot dissect Subject Mark to claim exclusivity over a single word divorced from its overall visual and structural composition. Section 17 of the Act expressly mandates that protection is conferred upon a registered trade mark as a whole, and no monopoly can be claimed over a part or component thereof unless such exclusivity is separately established in law.
- 5.28. In 2019, the *Apsi Samjhuatnama* was also executed on non-judicial stamp paper among key members of the Chopra family, including between Shyam Sunder Chopra, Vinod Kumar Chopra, J K Chopra, the Plaintiff, and Sampan Chopra. The *Apsi Samjhuatnama* facilitated in the presence of Shri Swami Buddh Puri Ji and his disciples, aimed to address and resolve family disputes over the use of the family brand 'Natraj'. The *Apsi*



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*Samjhuatnama* delineated specific roles and products for each family member: J K Chopra and the Plaintiff were assigned the responsibility of selling saffron, Shyam Sunder Chopra was tasked with selling silver leaf (vark), and Vinod Kumar Chopra was designated to sell 'Hing', all under the family brand 'Natraj'.

- 5.29. The roles and responsibilities of each family member regarding the use of the family brand 'Natraj' delineated through *Apsi Samjhuatnama* must not be disregarded when adjudicating the present Application for an interim injunction. The *Apsi Samjhuatnama* was a significant step towards resolving internal disputes and establishing clear boundaries for the use of the Subject Mark among family members. Ignoring the *Apsi Samjhuatnama* undermines the agreed upon arrangements that were intended to maintain harmony and orderly conduct regarding the family brand.
- 5.30. The Defendants have adhered to the distinct branding and product differentiation agreed upon in the *Apsi Samjhuatnama*. However, J K Chopra failed to comply with the *Apsi Samjhuatnama*. Therefore, the non-compliance and the refusal to release rights as per the *Apsi Samjhuatnama* indicate a breach of the *Apsi Samjhuatnama* and demonstrate ongoing disputes regarding the Subject Mark's usage, reflecting the need for equitable resolution in line with the family arrangement and the *Apsi Samjhuatnama*.
- 5.31. Reliance was further placed on ***Rajni Dua & Ors. Vs. Bhushan Kumar & Ors.***, (1999) DLT 392 to submit that in the context of trade mark disputes involving family businesses, it is essential to



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recognize that trade marks used within a family are often subject to shared rights among the heirs, rather than exclusive ownership by any single family member and that the Supreme Court in *Rajni Dua* (*supra*) held that the peace and tranquility of family in such cases must be maintained and that the family arrangements regarding business and trade marks should be respected, particularly when such arrangements are documented and formalized.

- 5.32. In the present case, the Subject Mark is intrinsically linked to the family business of M/s Raja Traders, founded and operated by Late Mohan Lal Chopra. The MLC Will states that the business of M/s Raja Traders carried out under Subject Mark was to devolve upon his grandsons, namely Chander Sheel Chopra, Vinod Kumar Chopra, and Shyam Sunder Chopra. This directive reflects a clear intent for shared ownership and management of the business and its associated trade marks among the heirs, rather than granting sole proprietorship to any single individual.
- 5.33. The Defendants' use of the Impugned Marks does not constitute infringement but represents a continuation of the family's shared legacy and business interests, rooted in the goodwill built collectively by all family members over the years. Furthermore, the Plaintiff's attempt to portray the Defendants as recent entrants is a deliberate misrepresentation. The Defendants have been integral to the family business and its operations, and their use of the Impugned Marks is grounded in their legitimate rights as family members and joint proprietors of the business.



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- 5.34. The legacy of the Subject Mark and the business it represents must be seen in light of this familial arrangement. The MLC Will serves as a concrete expression of Late Mohan Lal Chopra's wishes, ensuring that the Subject Mark continues to be a collective asset of his descendants. Any claim for exclusive rights or ownership by one individual, therefore, undermines the established family arrangement and the equitable distribution of rights intended by Late Mohan Lal Chopra. Therefore, in the absence of specific prior arrangements or formal agreements that alter the shared nature of the trade mark rights, the division of goodwill and associated trade marks should adhere to the instructions set forth in the MLC Will.
- 5.35. The present dispute over the Subject Mark must be resolved in accordance with this familial context, respecting the shared ownership and rights among the heirs as initially intended by Late Mohan Lal Chopra. This approach is consistent with the legal principles applied in *Rajni Dua & Ors. (supra)*, where family arrangements and documented wills play a crucial role in determining the rightful ownership and use of family-associated trade marks.
- 5.36. The material placed on record by the Plaintiff demonstrably negates any plea of loss, damage or erosion of goodwill. The turnover figures certified by the Plaintiff's own Chartered Accountant for the period 2010-11 to 2020-21 reveal a consistent and stable annual turnover ranging approximately between ₹4 crores to ₹5.8 crores, without any abnormal dip, decline or



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financial disruption. The sustained consistency in turnover conclusively establishes that there has been no commercial injury, loss of market share, or dilution of goodwill during the relevant period.

- 5.37. The consistency in turnover of the Plaintiff further corroborates the Defendants' case that at least till the year 2021, the business under the 'NATRAJ' brand was being carried on as a family enterprise, with participation of multiple family members, except Chander Sheel Chopra, father of the Plaintiff, who admittedly pursued an independent professional career as a medical practitioner. The financial data thus supports the Defendants' assertion of shared goodwill and collective commercial activity, rather than exclusive proprietorship or monopolistic use by the Plaintiff.
- 5.38. This factual position strikes at the root of the Plaintiff's claim of irreparable loss, which is a *sine qua non* for grant of injunction under Order XXXIX Rules 1 and 2 CPC. A party enjoying uninterrupted and stable turnover over a decade cannot simultaneously claim imminent or irreparable harm. Accordingly, the Plaintiff fails to satisfy the essential requirement of demonstrable loss or irreparable injury, rendering the grant of interim injunction wholly unwarranted.
- 5.39. Regarding allegations of passing off and unfair competition, any goodwill associated with the Subject Mark is the collective result of the family's efforts over the years. J K Chopra's malfeasance in transferring Subject Mark to the Plaintiff, excluding other rightful



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family members, renders any claims of goodwill exclusive to the Plaintiff unfounded and legally untenable.

- 5.40. The Plaintiff's assertion of superior proprietary and statutory rights in the Subject Mark is both legally and factually flawed. The use of the Subject Mark, including variations such as the Impugned Marks, by the Defendants is lawful and grounded in long-standing family practices and shared goodwill. The Subject Mark, as used by the Defendants, is part of a family mark that has been in use across generations and shared among family members, reflecting a collective right rather than a sole proprietary claim. The Plaintiffs' claim overlooks the fact that Subject Mark's use was originally and continuously employed by the family, and no individual can assert exclusive rights over Subject Mark that has historically been a family asset.
- 5.41. The Impugned Marks are distinctly different in terms of color, design, and class of goods, thus negating any potential for confusion or deceptive similarity.
- 5.42. The balance of convenience is also not in favour of the Plaintiff. The Defendants' usage of Subject Mark is a rightful exercise of their inherited and ancestral rights over the Subject Mark that has been used by various family members for generations. As such, the balance of convenience rests with the Defendants, who are merely continuing a legitimate family business under the Subject Mark.
- 5.43. The allegations of infringement and misrepresentation are unfounded and misleading. The Plaintiff's claims regarding



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confusion among consumers and the public are also speculative and not supported by concrete proof. The alleged misrepresentations and fraud are unsupported by factual evidence, and the Defendants' activities do not amount to trade mark or copyright infringement, misrepresentation, passing off, or unfair trade practices.

5.44. Accordingly, the Plaintiff has not made out a *prima facie* case and as such there is no justification for any injunction or restraint against the Defendants' lawful use of the Subject Mark. Therefore, the present Application is invalid, false, frivolous, defective, vexatious, misconceived and deserves to be dismissed.

#### **ANALYSIS AND FINDINGS:**

6. The principles governing grant of interim injunction are well established. An application for an interim injunction arises at a stage when the plaintiff's asserted legal right, as well as its alleged violation, are both disputed and remain unresolved until trial and presentation of evidence. The purpose of granting an interim injunction is to safeguard the plaintiff from harm caused by the infringement of rights, where monetary damages may not provide sufficient compensation should the uncertainty be resolved in their favor at trial. This necessity must be balanced against the defendant's right to protection from harm resulting from being restrained from exercising their own legal rights, for which adequate compensation may also not be feasible. The conditions for grant of interim injunction under Order XXXIX Rules 1 and 2 of CPC are *prima facie* case, balance of convenience and irreparable injury. To assess whether the Defendants are liable to be



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injunction pending the Suit for the alleged action of infringement and passing of, the Plaintiff has to fulfil these three conditions.

7. It is well settled that the correct test for trade mark infringement is whether, when considered in its entirety, the defendant's mark is deceptively similar to the plaintiff's registered mark. The onus to prove 'deception' is on the plaintiff who alleges infringement. In applying these tests, the question of 'deceptive similarity' between Subject Mark and Impugned Marks assumes significance, keeping in view (i) the class of persons who are likely to be confused or deceived, and (ii) the manner in which similarities are to be evaluated in law.


8. The Supreme Court in *Pernod Ricard India (P) Ltd. v. Karanveer Singh Chhabra*, 2025 SCC OnLine SC 1701 observed that whether a trade mark is likely to deceive or cause confusion is a question of fact, that in disputes involving composite marks, the mere presence of a shared or generic word in both marks does not, by itself, justify a finding of deceptive similarity, that courts must undertake a holistic comparison examining visual, phonetic, structural, and conceptual elements, to assess whether the overall impression created by the rival marks is likely to mislead an average consumer of ordinary intelligence and imperfect memory and that if the marks, viewed in totality, convey distinct identities, the use of a common element particularly if it is descriptive or laudatory will not by itself amount to infringement.


9. It is also a settled law that the question whether there is any deceptive similarity between the two marks is to be determined by examining the conflicting marks as a whole applying 'anti-dissection rule'. In the present




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case, the Impugned Marks ‘SV RAJ’ / ‘’, ‘RAJNUT’, when compared with Subject Mark as a whole, are *prima facie* dissimilar. Visually,

the Impugned Marks ‘SV RAJ’ / ‘’, ‘RAJNUT’ differ in their essential features, lettering, and overall presentation from Subject Mark. Phonetically, the expressions ‘RAJ’ and ‘RAJNUT’ are also materially distinct from the Subject Mark, and do not evoke a similar sound or recall. Structurally, the arrangement and composition of the Impugned

Marks ‘SV RAJ’ / ‘’, ‘RAJNUT’ are also dissimilar so as to convey a different commercial impression. The Impugned Marks ‘SV RAJ’ /


‘’, ‘RAJNUT’ and the Subject Mark, therefore, when viewed holistically, do not create such an overall resemblance as is likely to cause confusion or deception in the mind of an average consumer exercising imperfect recollection. Accordingly, insofar as the Impugned Marks ‘SV



RAJ’ / ‘’ / ‘RAJNUT’, are concerned, no *prima facie* case of infringement is made out.



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10. As regards the Impugned Marks ‘SV NATRAJ’ /  , and the Impugned Mark ‘SRI NATRAJ JI’ incorporating the word ‘Natraj’ and / or the device of Lord Natraj is concerned, a tabular representation shall aid in a holistic appreciation of the features of the competing marks:


Subject Mark	Impugned Marks
	<p>‘SV NATRAJ’ /</p>  <p>‘SRI NATRAJ JI’</p>

11. A holistic view of the Subject Mark and the Impugned Marks ‘SV



NATRAJ’ /  , / ‘SRI NATRAJ JI’ shows that the Subject Mark features a Natraj device above the words ‘SAFFRON & SILVER LEAVES’ written prominently and in large and discernible font and is also situated between the phrases ‘GUARANTEED PURE’ and ‘NATRAJ BRAND’. In contrast, the Impugned Mark ‘SV NATRAJ’ /



 , within a distinct geometric frame includes the prefix ‘SV’, while the Impugned Mark ‘SHRI NATRAJ JI’ uses the prefix ‘SHRI’.



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12. It is pertinent to note that the Plaintiff is not claiming trade mark rights over the word 'NATRAJ', which is admittedly the name of a deity, and also has no registration for the word mark 'NATRAJ'. As regards, the use of the Natraj device and the descriptive term 'Natraj', the Plaintiff has not placed any material on record to show that the Subject Mark comprising the Natraj device and the religious and descriptive term 'Natraj' has acquired a secondary meaning identifying the Plaintiff's products on mere display of the Natraj device or invocation of the term 'Natraj' losing its original meaning.

13. This Court in *Bhole Baba Milk Food Industries Ltd v Parul Food Specialities (P) Ltd.* Neutral Citation: 2011:DHC:304 while dealing with a case wherein the plaintiff therein had obtained registration of the label mark KRISHNA which depicted the picture of Lord Krishna standing on a lotus flower and the defendant therein using the mark 'Parul's Lord Krishna', permitting the defendant therein to use the mark with prefix 'Parul' and 'Lord' with font size and prominence similar to the word 'KRISHNA' observed that the plaintiff therein had adopted a common name which is unconnected to the plaintiff and that gross sales turnover jumping by leaps and bounds, cannot be used at the interim stage to come to the conclusion that the mark has attained a reputation which brings to mind the product of the plaintiff's therein on a mere invocation of the word 'KRISHNA' and observed that the sales alone does not necessarily transcend in the mark attaining a secondary distinctiveness of a degree which ought to give the owner of a common name such as a deity's name, a right to monopolise its use to the exclusion of all others.



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14. The observations of the Division Bench of this Court in ***Vardhman Buildtech Pvt. Ltd. v. Vardhman Properties Ltd.***, 2016 SCC OnLine Del 4738 are relevant. In ***Vardhman Buildtech*** (*supra*) an appeal was filed against the decision restraining the appellants therein from using the label mark containing the word ‘VARDHAMAN’ in large font with the words ‘own your space’ written below it in a relatively smaller font, holding that the same is infringing the respondents’ mark therein of label ‘VARDHAMAN PLAZAS’. The Division Bench in ***Vardhman*** (*supra*) while allowing the appeal observed that:

*“10. The learned counsel for the respondent, as pointed out above, sought to take the benefit of Section 29(9) of the said Act. That provision stipulates that where ‘distinctive elements’ of a registered trade mark consist of or include words, the trade mark may be infringed by the spoken use of those words as well as by their visual representation and the reference in Section 29 to the use of a mark is to be construed accordingly. First of all, the stress in the said provision is on the words ‘distinctive elements’. Neither is ‘VARDHMAN’ nor the word ‘PLAZAS’ a distinctive element of the trade mark. The word ‘VARDHMAN’ has not been registered as a trade mark nor could it be because it is commonly used and, as pointed out above, is the name of Lord Mahavir. Secondly, the word ‘PLAZAS’ is also commonly used and cannot be appropriated by the respondent. Therefore, the distinctive elements are neither the word ‘VARDHMAN’ nor the word ‘PLAZAS’. But, the two words taken together - ‘VARDHMAN PLAZAS’ - is a distinctive element of the label/mark. Thus, if the appellants were to use words ‘VARDHMAN’ and ‘PLAZAS’ in conjunction, then the respondent may have had a right to restrain them from using the same. We are, therefore, of the view that Section 29(9) of the said Act also does not come in aid of the respondent.”*

[Emphasis Supplied]

15. The packaging of the products bearing the Subject Mark prominently features distinguishing elements including the name ‘M/s Raja Traders’, Registration No. 344176 of the Subject Mark, ISO certifications i.e., ISO



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9001:2008 and ISO 22000:2005, a consistent yellow-dominant colour scheme with red accents, detailed Hindi labelling ‘नटराज ब्रांड’ ‘चांदी के वर्क’, manufacturing details, all reinforcing clear source identification. On the other hand, the Infringing Products employ a distinct red-yellow trade dress with the Impugned Marks prominently displayed, with words ‘NEW PACK’, ‘No. 1 SILVER LEAVES’, ‘चांदी का वर्क’, ‘100% PURE EDIBLE VEGETARIAN’, ‘MACHINE MADE’ ensuring distinguishing features. These differences in visual presentation, structural layout, and informational content are, *prima facie*, sufficient to distinguish the Plaintiff’s Products and Infringing Products in the course of trade.

16. As regards the claim of passing off, it is pertinent to note that the Subject Mark, used in relation to saffron and silver foil for decorative purposes in confectionery (Class 30) includes several other elements along with the word ‘Natraj’ and the Natraj device. In *Schweppes Ltd. v. Gibbens* [(1905) 22 RPC 601], it was held that while dealing with a passing off action the ‘*whole question in the case is whether the thing-taken in its entirety looking at the whole thing - is such that in the ordinary course of things, a person with reasonable apprehension and proper insight would be deceived.*’ Even if the word ‘Natraj’ or the Natraj device is considered as the prominent part of the Subject Mark, the material placed on record does not indicate that the Subject Mark has acquired secondary meaning such that the use of the word ‘Natraj’ or the Natraj device by any other brings to mind the Plaintiff’s Products.

17. As regards misrepresentation or likelihood of confusion, for the purposes of considering the plea of passing off, the Court must take into consideration factors such as nature of the market, class of customers, extent



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of reputation of the plaintiff, trade connection, in conjunction. It is an admitted position that the Plaintiff's Products and the Infringing Products are largely circulated in a business-to-business environment, where purchase decisions are governed by factors such as pricing, quantity, and prior dealings. A perusal of the invoices placed on record also indicates a considerable price difference between the Plaintiff's Products and the Infringing Products, with prices ranging from Rs. 600/- per packet to Rs. 1200/- per packet respectively, coupled with material differences in the quantity offered. On an overall consideration of these factors, it cannot be said that a case of passing off is made out considering distinct overall impressions created by the Subject Mark and the Impugned Marks, and the presence of sufficient distinguishing identifiers between the Plaintiff's Products and the Infringing Products for the nature of the market and class of customers concerned.

18. The Plaintiff has relied upon *Empire Spices (supra)* where the competing marks were 'RAM BANDHU' and 'SHRI RAM BANDHU'. The Bombay High Court in *Empire Spices (supra)* while granting interim injunction observed that the mark 'RAM BANDHU' is nothing else but the words, that the suffix of word 'BANDHU' made all the difference and that combination of the two words 'RAM' and 'BANDHU' being a coined word and arbitrary adaption being totally unconnected with the goods marketed under the trade mark which gives rise to claim for exclusivity. Accordingly, it was observed in *Empire Spices (supra)* that the adoption of the mark 'SHRI RAM BANDHU' by the defendants therein cannot be accepted to be honest adoption of label as the entirety of the plaintiff's mark was subsumed in the defendant's mark.



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19. In the present case, the word 'NATRAJ', which is a standalone word denoting a deity, is used in conjunction with another word 'BRAND' in the Subject Mark an expression which is not copied in any of the Impugned Marks. In any case, the Plaintiff is also not asserting any exclusive rights over the word 'NATRAJ' and the mere use of the common element i.e., the word 'NATRAJ' in the Impugned Marks cannot amount to copying of the Subject Mark. The Subject Mark is a composite label comprising multiple distinctive features, including the Natraj device, accompanying expressions, and the overall layout. The ratio in *Empire Spices (supra)*, which proceeds on complete subsumption of a distinctive word mark comprising a conjunction of words forming a coined and arbitrary expression, has no application to the facts of the present case.

20. The next case relied upon by the Plaintiff is *Daiwa Pharmaceuticals (supra)* wherein the competing marks were the device mark and corporate name 'Daiwa Pharmaceutical Co. Ltd.' of the Japanese plaintiff and the defendant's adoption of 'Daiwa Pharmaceuticals Pvt. Ltd.' along with an impugned device mark and domain name incorporating 'DAIWA'. The Bombay High Court in *Daiwa Pharmaceuticals (supra)*, while granting interim injunction, observed that domain name of defendant No. 1 therein was deceptively similar to the plaintiff's domain name therein with false reference to Japan which were removed after the concerned suit was instituted, that there was adoption, representation and use by the defendants therein of a visually, structurally, phonetically and literally indistinguishable impugned device mark as that of the plaintiffs' device mark therein observing that the look, get up and packaging of the infringing products were also similar to that of the plaintiff's products therein. The present case,



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clearly stands on a different footing, making the ratio in *Daiwa Pharmaceuticals (supra)* inapplicable to the facts of the present case.

21. Reliance on *Hari Chand Shri Gopal (supra)* and *Suneja Copy Products (supra)* by the Plaintiff is of no help due to the uncontested nature of the suit in *Hari Chand Shri Gopal (supra)* and *Suneja Copy Products (supra)*, and uncontroverted *ex-parte* evidence presented by the plaintiffs therein.

22. The ratio in *ITC Limited (supra)* which turns on overall similarity of trade dress and subsumption of the plaintiff's essential get-up in the defendants' packaging for an identical FMCG product aimed at the general consuming public, has no application to the present case where the controversy is not over imitation of a distinctive trade dress by an unrelated trader, and where the Plaintiff in the present case is not asserting exclusivity over any particular background colour scheme or layout akin to the issues in *ITC Limited (supra)*, but over a composite mark whose ownership is disputed and yet to be adjudicated at trial.

23. The Plaintiff's claim in the present case is also founded primarily on the Affidavits and the Assignment Deed. The submissions made on behalf of the Plaintiff that the Defendants *via* Affidavits have acquiesced to running of sole proprietorship M/s Raja Traders by J K Chopra and are bound by the doctrine of estoppel from claiming any right in Subject Mark requires consideration after the evidence is led and these facts are yet to be proved since the present case involves dispute between the family members.

24. In the present matter, the Plaintiff has relied upon documents including the Affidavits, Assignment Deed, and JKC Will. At this interim stage, however, such documents cannot be fully relied upon without



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affording the Defendants an opportunity to examine their authenticity, voluntariness, and substantive effect through oral evidence. Correspondingly, documents such as the MLC Will, *Apsi Samjhautanama* and Forms TM-12 and TM-48, which are relied upon by the Defendants, also remain untested and unverified pending cross-examination of the relevant witnesses. Given that the issue of ownership of the Subject Mark forms the crux of the dispute and carries significant implications for all branches of the family, it is not appropriate at this preliminary stage to render definitive findings without a complete analysis of the documentary evidence during trial. Interim relief, therefore, cannot be granted solely on the basis of documents that remain untested, and only after each Party has been afforded a full opportunity for cross-examination should such determinations be made.

25. It is also pertinent to note that, although it is claimed that J K Chopra was the owner of the Subject Mark prior to its assignment to the Plaintiff, a screenshot of search results filed by the Plaintiff from the Trade Marks Registry's website continues to reflect the name of the proprietor as follows:

Proprietor name	(1) MOHAN LAL CHOPRA Trading As : RAJA TRADERS. Partnership Firm Details : JAGDAMAN KUMAR CHOPRA
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Therefore, *prima facie*, the alleged assignment in favour of the Plaintiff by J K Chopra *vide* the Assignment Deed or the alleged ownership of J K Chopra of Subject Mark does not appear to be duly recorded, casting doubt on the Plaintiff's claim of exclusive proprietorship in Subject Mark at this stage. Therefore, the documentary evidence on the record does not demonstrate undisputed exclusive ownership of the Plaintiff in Subject Mark to the



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exclusion of other family members. On this ground also, the Plaintiff cannot be said to have made out a *prima facie* case.

26. The present case is not one where a stranger or an undisputed infringer is misusing Subject Mark. The present dispute is a dispute between members of the same family, each claiming a right in the Subject Mark and goodwill associated therewith. The core issue, therefore, is also one of ownership, which remains to be finally adjudicated. The balance of convenience, thus, does not favour grant of disruptive relief such as an interim injunction. The Defendants, as co-family members of the Plaintiff with *prima facie* rights in the goodwill and reputation of the Subject Mark adopted by their grandfather and great-grandfather, are entitled to benefit of the shared goodwill and reputation of Subject Mark alongside all heirs. Granting an injunction at this stage would unduly disrupt the Defendants' legitimate family business activities and risk erosion of their share in the goodwill and reputation of Subject Mark.

27. In such circumstances, the Defendants' use of the Impugned Marks cannot, at this stage, be enjoined. Any loss arising from the Defendants' use of the Impugned Marks whether in terms of diversion of sales or dilution of business can be assessed and compensated in monetary terms, if the Plaintiff ultimately succeeds in the Suit. The requirement of irreparable injury is, therefore, not satisfied.

28. In view of the above, no case for grant of interim injunction is made out. The present Application is, accordingly, dismissed.

**TEJAS KARIA, J**

**MARCH 28, 2026**

*HK*