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A. No.1861 of 2025

<i>RESERVED ON</i>	09/23/25
<i>PRONOUNCED ON</i>	11/26/25

CORAM

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

A. No.1861 of 2025

in

O.A. No.489 of 2020

in

C.S. No.427 of 2015

Hindustan Unilever Limited
101,Santhome High Road,
Chennai- 600 028

Applicant(s)

Vs

1. Roopa Industries
Rep by Mr Satish Honnahalli
Gadag Industrial area,
Kanaganahalli Road, Betageri, Gadag,
Karnataka.

2.Satish Honahalli
Proprietor



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New Hindustan Petro Chemicals

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Karnataka 582120

Respondent(s)

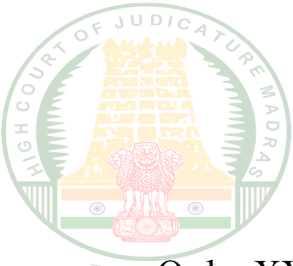
PRAYER: Application filed to initiate appropriate action against the 2nd respondent herein for the disobedience and/or breach of the injunction granted by this Honble Court in O.A.No. 489 of 2020 in C.S.No.427 of 2015 dated 23.12.2020, including detaining the respondent and all the persons in-charge of the respondents in civil prison for such period as this Honble Court may deem fit under Order 39 Rule 2A of CPC.

For Appellant(s): Mr.B.Madhan Babu

For Respondent(s): Mr.L.M.Akki

ORDER

The present application is filed to initiate appropriate action against the second respondent for his disobedience and for breach of the injunction order granted by this court in O.A. No.489 of 2020 in C.S. No.427 of 2015 dated 23.12.2020, including detaining the respondent and all the persons in-charge of the respondents in civil prison for such period as this court may deem fit under



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सत्यमेव Order XXXIX Rule 2A of the Civil Procedure Code.

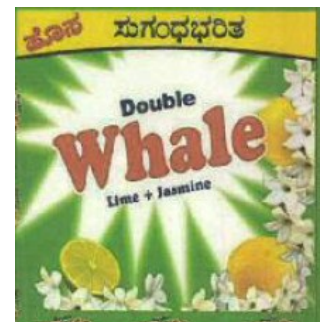
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2. The plaintiff is a multinational company, also dealing with manufacture and marketing washing powder and washing bar under the trademark 'WHEEL' and 'ACTIVE WHEEL'. The applicant/plaintiff submits that perpetual injunction was sought against the respondent/defendant in the suit for infringement of Trademark WHEEL/ACTIVE WHEEL committed by the respondent by using the trademark DOUBLE WHALE, which is a deceptively similar mark. The said trademarks are scanned and pasted hereunder.

Plaintiff:



Defendants:



3. In the above suit filed by the applicant/plaintiff against the



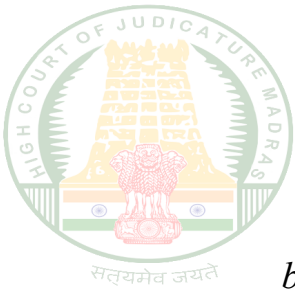
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respondents/defendants, the following prayers were sought:

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a. A perpetual injunction restraining the defendants, their distributors, printer, stockists, servants, agents, retailers, representatives, franchisees or any other person claiming through or under them from in any manner infringing the plaintiff's registered trademarks WHEEL and ACTIVE WHEEL by printing, stocking, manufacturing, selling, offering for sale, stocking, advertising directly or indirectly, any goods, and in particular washing powder or washing bar, employing the trademark DOUBLE WHALE either per se or in combination with other mark, and/or any other mark or device either in English or any other language, which is identical/deceptively similar to the plaintiff's registered trademarks WHEEL or ACTIVE WHEEL or in any other manner whatsoever;

b. A perpetual injunction restraining the defendants, their distributors, stockists, servants, agents, retailers, representatives, franchisees or any other person claiming under them from in any manner manufacturing, selling, offering for sale, stocking, advertising directly or indirectly, any products, and in particular washing powder or washing



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bar, under the label/mark as contained in plaint document No.6 or any label/mark which is identical with or deceptively similar to the plaintiff's label/mark filed as plaint document No.3, so as to pass off the defendants' goods as and for the goods of the plaintiff or in any other manner whatsoever connected with the plaintiff;

c. A perpetual injunction restraining the defendants, their distributors, stockiest, servants, agents, retailers, representatives or any other person claiming under them from in any manner committing acts of copyright infringement by printing, stocking, manufacturing, selling, offering for sale, stocking, advertising directly or indirectly, any goods, and in particular washing powder or washing bar, under the label/artistic work as contained in plaint document No.6 or any other label/artistic work or colour scheme which is identical with or deceptively similar to the plaintiff's artistic work as contained in plaint document No.3 or in any other manner whatsoever.

4. According to the applicant, the above suit was filed against the



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defendants/respondents herein for infringing plaintiff's trademark
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WHEEL/ACTIVE WHEEL by using the trademark WHALE/DOUBLE WHALE. This court, upon finding infringement of plaintiff's trademark, passed an interim injunction in O.A. Nos.555 to 557 of 2015 vide order dated 03.06.2015, whereby the defendants/respondents herein were restrained from using the trademark 'DOUBLE WHALE'.

5. According to the applicant, despite operation of the above order of interim injunction, in 2019/2020, in line with plaintiff's ACTIVE WHEEL modified labels, the 2nd respondent modified his trademark and label and switched to even more deceptively similar trademark 'DOUBLE WHEEL' and infringed the plaintiff's artistic work for the purposes of using the same in defendants' detergent powder and detergent bar.

6. When that being the situation, the defendants having entered



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appearance in the present suit, have filed a suit in Commercial O.S. No.12 of 2024 on the file of Principal District and Sessions Judge at Gadag, Karnataka.

The cause title in the plaint filed by the respondents/defendants is as follows:

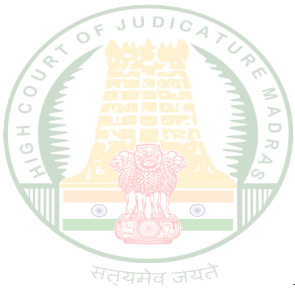
Plaintiff : Shri Satish Honnalli S/o Sadanand Honnalli
Age-33 years, Occ-Proprietor of M/s.Satish
S Honalli R/o Kanginahal Road
Betagiri-Gadag District Gadag, Karnataka

V/s

Defendants : 1) Hindustan Unilever Ltd Company by its
Authorized Signatory, its registered office at
Unilever house BD East Mumbai 400099,
Maharashtra.
2) Hindustan Unilever Ltd Company by its present
Chairman its registered office at Unilever House
BD Sawant Marg, Chakala Anderi East
Mumbai 400099, Maharashtra.
3) Hindustan Unilever Ltd, by its authorized
signatory, Southern Regional Office
101 Santhome High Road, Chennai 600028,
Tamil Nadu.

7. In C.S. No.427 of 2025, this court has passed the following order:

*"Learned counsel for the plaintiffs have filed Memo dated
17.03.2025. Annexed thereto is the plaint in Commercial O.S.*



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No.12 of 2024 filed by the 2nd defendant herein before Principal District and Sessions Judge at Gadag, Karnataka. Learned counsel submits that the subject of the said suit is the copyright, which was exhibited in these proceedings as Ex.D14. He further submits that the plaintiff was shocked upon receipt of summons in the said suit and is taking necessary steps for the stay of the trial of the said suit.

2. Learned counsel for the defendants submits that the subject of the suit filed in Karnataka is distinct from the subject of the present suit. He further submits that he is ready to proceed with oral arguments in the suit on the next hearing date.

3. Both parties have filed written arguments. List on 07.04.2025 for oral arguments."

8. The learned counsel for the applicant submits that despite interim orders in favour of the applicants/plaintiffs, the second respondent/2nd defendant is continuously flouting the orders and therefore, the applicant has



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filed the present application for disobedience and breach of the injunction order granted by this court in O.A.No. 489 of 2020 in C.S.No.427 of 2015 dated 23.12.2020. In support of his contention, the learned counsel appearing for the applicants/plaintiffs has relied upon the judgment of the Hon'ble Supreme Court in **Anil Panjwani** reported in **(2003) 7 SCC 375** which deals with the rule of denying or withholding the right of participation of the contemnor in the court proceedings unless the order under contempt is complied with.

9. Per contra, the learned counsel appearing for the respondents/defendants submitted that initiation of the suit itself is not maintainable, as there is no clear averment with regard to the authorisation of the plaintiff in filing the suit and in the absence of any authorisation, the suit itself is not maintainable. He further submitted that the plaint was not signed and the verification of the pleadings, which is mandatory as contemplated under Order XXIX Rule 1 CPC has not been carried out. He further contended that the



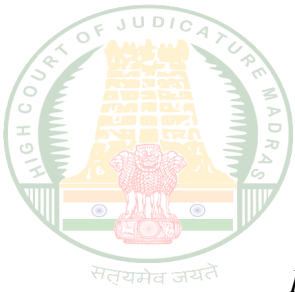
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respondents/defendants had filed their written statement and in paragraphs 4, 5 and 8, they have taken a specific stand with regard to the claim made by the applicants/plaintiffs. The said paragraphs are extracted hereunder:

"4. That the cause title of the plaint of the plaintiff name Hindustan Unilever Limited 101, Santhome High Road, Chennai 600 028, represented by Assistant Legal Counsel disclosed by the plaintiff by referring the para No.1, for this aspect no materials documents and pleadings in the plaint disclosed by the plaintiff in order to meetings and proceedings to give authorisation on behalf of the company represented by its Assistant Legal Counsel and A. No.3494 of 2015 and A. No.3493 of 2015 in C.S. No.427 of 2015 affidavit of Ms.Shalini Kumar will be used in support of the same is not maintainable either in law or not the facts of the case.

5. That the plaintiff stating that the company is incorporated under the Companies Act 1913 for which there are no material pleadings and documents to show that authorisation given to represented by its Assistant Legal Counsel under the meeting and proceedings and other procedure aspects duly acknowledged the copy of minutes of proceedings of meetings of Board of Directors or any officer of the company i.e. includes any Director, Manager or Secretary or Manager includes any person occupying the



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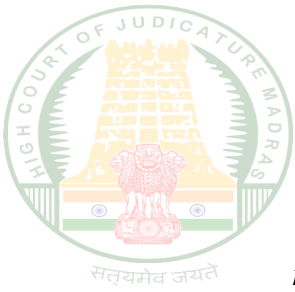


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position of Manager and there is not a document of memorandum of Association and Article of Association the duly registered under the company incorporated under the Companies Act 1913 its valid certificate till today and absence of all these pleadings and required documents to satisfy the court before obtaining any expert ad-interim injunction order against the defendant No.2 it is a basic fatal of the suit of the plaintiff. On this ground the preliminary issue may kindly be framed.

"Whether suit of the plaintiff is maintainable before filing the suit complied the provisions of company incorporated under the Companies Act, 1913?"

8. Order 3 Rule 1 of C.P.C. is not at all applicable to Shalini Kumar daughter of Late M.Kumar because recognised agent and pleaders, they are not having right to claim Assistant Legal Counsel of the applicant in order to file the suit unless the authorisation given by the officer i.e. any Director, Manager or Secretary duly approved legal valid enforceable minutes of proceedings of Meetings of Board of Directors and copy of the same submitted before the Register Printed or typewritten or any other electronic modes in order to show that such minute if purporting to be signed by the Chairman of meeting at which the proceedings were had or by the Chairman of the next succeeding



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meeting, shall be evidence of the proceedings.

No pleadings, no documents the affidavit filed by Shalini Kumar representing filed affidavit and suit along with interlocutory application Nos.555 to 557 of 2015 and Appl. No.3492 to 3494 of 2015.

10. In support of his contention, the learned counsel relied on the judgment of the Hon'ble Supreme Court in ***Janki Vashdeo Bhojwani vs. Indusind Bank Ltd*** reported in ***2004 Lawsuit(SC) 1465***; and the judgment of the Karnataka High Court in ***Bhimappa v. Allisab*** reported in ***2006 LawSuit(Kar) 164***, wherein the Hon'ble Supreme Court has dealt with the right of power of attorney holder to depose and conduct cases on behalf of his Principal.

11. The point that arises for consideration in this application is, *whether the respondents have flouted the injunction orders of this court?*



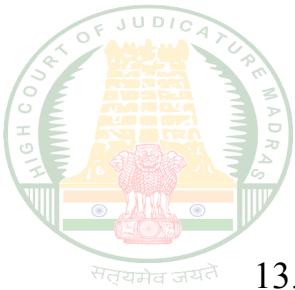
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12. Order XXXIX Rule 2-A of CPC deals with the consequence of disobedience or breach of injunction of an interim order. It reads thus:

"2-A. Consequence of disobedience or breach of injunction. - (1) In the case of disobedience of any injunction granted or other order made under rule 1 or rule 2 or breach of any of the terms on which the injunction was granted or the order made, the court granting the injunction or making the order, or any court to which the suit or proceeding is transferred, may order the property of the person guilty of such disobedience or breach to be attached, and may also order such person to be detained in civil person for a term not exceeding three months, unless in the meantime the court directs his release.

(2) No attachment made under this rule shall remain in force for more than one year, at the end of which time, if the disobedience or breach continues, the property attached may be sold and out of the proceeds, the court may award such compensation as it thinks fit to the injured party and shall pay the balance, if any, to the party entitled thereto."



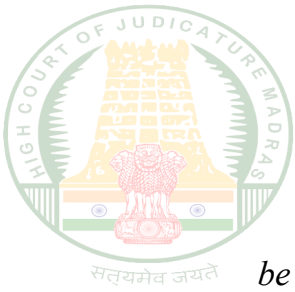
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13. In the case on hand, it is clear that this Court had initially granted an order of injunction on 16.10.2020 and thereafter, the injunction was made absolute by passing a detailed order with regard to continuous usage and registration of the trademark 'DOUBLE WHEEL' in respect of which the injunction was granted. The defendant had applied and obtained registration for the trademark "DOUBLE WHEEL" during the subsistence of the injunction order. The suit initiated by the respondent/second defendant in Commercial O.S. No.12 of 2024 on the file of Principal District and Sessions Judge at Gadag, Karnataka, will not come to the rescue of the respondents, as they are continuously flouting the orders of this court.

14. In this regard, it is useful to rely upon the decision of the Hon'ble Supreme court in *Anil Panjwani's case* reported in **(2003) 7 SCC 375**, wherein, in paragraph 9, the Hon'ble Supreme Court has held thus:

"9. To our mind, the rule as to denying, hearing or withholding right of participation in the proceedings to the contemner may briefly

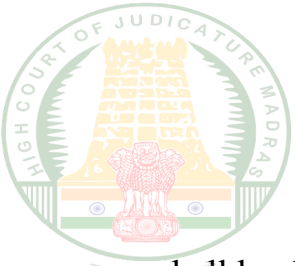


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be summed up and so stated. It lies within the discretion of the court to tell the contemner charged with having committed contempt of court that he will not be heard and would not be allowed participation in the court proceedings unless the contempt is purged. This is a flexible rule of practice and not a rigid rule of law. The discretion shall be guided and governed by the facts and circumstances of a given case. Where the court may form an opinion that the contemner is persisting in his behaviour and initiation of proceedings in contempt has had no deterrent or reformatory effect on him and/or if the disobedience by the contemner is such that so long as it continues it impedes the course of justice and/or renders it impossible for the court to enforce its orders in respect of him, the court would be justified in withholding access to the court or participation in the proceedings from the contemner. "

15. In view of the dictum laid down by the Hon'ble Supreme Court in the decisions cited supra and in the facts and circumstances of the case, this application is allowed in terms of Order XXXIX Rule 2A of CPC. Accordingly, the property in the name of the 1st respondent, namely Roopa Industries, shall be attached to the civil suit in C.S. No.427 of 2015 and the second respondent



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shall be detained in the civil prison for a period of three months. The Registry is directed to issue necessary warrant for attachment of property of the 1st respondent and for arresting the 2nd respondent. No costs.

26-11-2025

Asr

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

To

1.Roopa Industries

Rep by Mr.Satish Honnahalli

Gadag Industrial Area

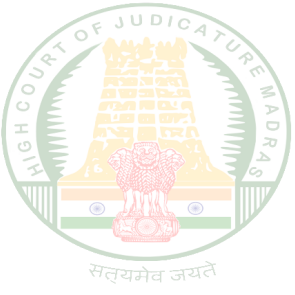
Kanaganahalli Road, Betageri, Gadag

2.Satish Honahalli

Proprietor

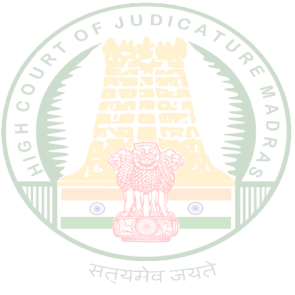
New Hindustan Petrochemicals

Gadag, Karnataka - 582 120



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3.The Public Prosecutor, High Court, Madras



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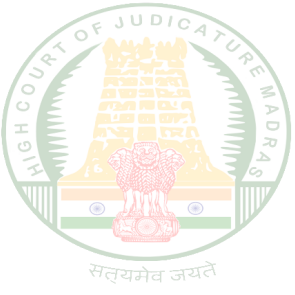


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N.SENTHILKUMAR J.

Asr

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