



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**INTERIM APPLICATION (L) NO.26085 OF 2024
IN
COMMERCIAL APPEAL (ST) NO.26060 OF 2024**

Patanjali Ayurved limited & Anr. .. Applicants/Appellants
Vs.
Mangalam Organics Ltd. & Ors. .. Respondents

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Mr. Zal Andhyarujina, Senior Advocate with Adv. Sarena Jethmalani, Mr. Archit Virmani, Ms. Radhika Kabra, Mr. Atul Gupta, Advocates for the Applicants/Appellants.

Mr. Hiren Kamod with Adv. Anees Patel, Adv. Avisha Mehta i/by Ms. Suvarna Joshi, Advocates, for the respondent no.1.

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**CORAM : A.S. CHANDURKAR &
RAJESH S. PATIL, JJ**

DATE : 16th DECEMBER, 2024.

P.C. :

1. In Commercial Appeal (ST) No.26060 of 2024, the order dated 29th July 2024 passed by the learned Single Judge in Interim Application (L) No.4586 of 2024 is under challenge. The said Interim Application was filed under provisions of Order XXXIX Rule 2A of the Code of Civil Procedure Code, 1908 (for short, "the Code") read with Section 151 of the Code on the premise that the appellants-original defendant had wilfully disobeyed the ex-parte ad interim order dated 30th August 2023.

By the impugned order, a finding was recorded that the defendant had wilfully disobeyed the ad interim order dated 30th August 2023. By invoking inherent powers conferred under Section 151 of the Code read with Order XXXIX Rule 2A of the Code, the defendant was directed to purge to contempt by making payment of a sum of Rs.50 lakhs being the value of supplies undertaken by the defendant in breach of the ad interim order dated 30th August 2023. In addition, the defendant was directed to jointly and/or severally pay an amount of Rs. 4 crore to the plaintiff within a period of two weeks by way of penalty. Failure on the part of the defendant to comply with the said order was to result in detention of the representative of the defendant in civil prison for a period of two weeks.

2. We have heard the learned Senior Advocate for the appellants as well as the learned counsel for the respondent. Besides raising various contentions, the learned counsel have sought to buttress their respective submissions by relying upon various decisions in support. Having given due consideration to the rival submissions, we are of the view that the appellants have made out a strong prima facie case for this Court to pass an interim order staying the direction issued by the learned Single Judge to pay an amount of Rs.4 crores to the respondent no.1 by

way of penalty within a period of two weeks.

3. Prima facie, the consequence of disobedience of an order of injunction is provided under Order XXXIX Rule 2A of the Code which reads as under:-

“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 the civil prison 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.”*

Thus, disobedience or breach of injunction can result in attachment of property of the person guilty of such disobedience and also an order of detention in civil prison. The said provision, prima facie, does not empower the Court while exercising jurisdiction under Order XXXIX Rule 2A of the Code to impose a penalty on the party that has disobeyed an order of injunction in addition to the consequences enumerated in the said provision.

The impugned order besides directing the defendant to make payment of a sum of Rs.50 lakhs so as to purge the contempt in addition proceeds to penalise the defendant and directs it to jointly and/or severally pay the plaintiff an amount of Rs. 4 crores. Prima facie, the imposition of penalty in exercise of jurisdiction under Order XXXIX Rule 2A of the Code does not find support from the statutory provisions.

Notwithstanding the aforesaid, prima facie, the manner in which the amount of penalty of Rs.4 crores has been determined cannot be gathered from the impugned order. This is another reason why a case for grant of interim relief has been made out.

4. In the suit as filed, the plaintiff has claimed damages of Rs. 10 lakhs on account of the defendant's acts of passing off and copyright infringement. The impugned order directs payment of a sum of Rs.50 lakhs to the plaintiff for purging the contempt. This amount of Rs.50 lakhs has been deposited by the appellants with the Prothonotary and Senior Master. Thus the interest of the plaintiff stands protected.

5. Accordingly, the Interim Application is allowed in terms of prayer clause (a) which reads as under:-

“a. Pending the admission, hearing and final

order in the present Appeal, this Hon'ble Court may be pleased to stay the effect and operation of the Impugned Order dated 29th July 2024;"

The amount of Rs.50 Lakhs deposited by the defendant shall remain invested in fixed deposit and shall abide by the final adjudication of the appeal. The Interim Application is allowed and disposed of. It is clarified that pendency of the Commercial Appeal would not operate as a stay of the proceedings before the learned Single Judge and the pending proceedings can proceed on merits.

[RAJESH S. PATIL, J.]

[A.S. CHANDURKAR, J.]