



2026:DHC:143



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

% Judgment delivered on: 09.01.2026

+ **CS(COMM) 412/2025**

**MAYANK JAIN, PROPRIETOR OF MAHAVEER  
UDYOG**

.....Plaintiff

versus

**M/S ATULYA DISCS PVT. LTD. & ORS**

.....Defendants

**Advocates who appeared in this case**

For the Plaintiff : Mr. R.P. Yadav and Mr. Riju Mani Talukdar,  
Advocates.

For the Defendants : Dr. Amit George, Mr. Manish Gandhi, Mr.  
Vaibhav Gandhi, Ms. Muskan Gandhi, Mr.  
Dushyant Kishan Kaul and Ms. Rupam Jha,  
Advocates for D-1 to D-3  
Ms. Rohini Sharma and Ms. Chanchal  
Sharma, Advocates for D-5.

**CORAM:**

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

**JUDGMENT**

**TEJAS KARIA, J**

**I.A. No. 11309/2025 (U/O XXXIX R-1& 2 of the CPC)**

1. This is an Application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 ("CPC") seeking an interim injunction restraining



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infringement of the Mark, ‘ / TIGER GOLD BRAND (“**Plaintiff’s Mark**”), infringement of Copyright, passing off, misrepresentation, dilution, unfair competition by directly / indirectly selling, advertising, mentioning, and / or using the Mark ‘TIGER PREMIUM



BRAND/ ’ (“**Impugned Mark**”).

2. *Vide* Order dated 06.05.2025, the Parties were referred to Delhi High Court Medication and Conciliation Centre, Delhi High Court to amicably resolve the disputes between them, however, the Parties were unable to settle the dispute and thereafter, Notice was issued in the present Application *vide* Order dated 28.08.2025.

3. *Vide* Order dated 12.11.2025, after conclusion of arguments by the Parties, the judgment was reserved.

#### **SUBMISSIONS ON BEHALF OF THE PLAINTIFF:**

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

4.1. The Plaintiff is the registered proprietor of the Plaintiff’s Mark. The Plaintiff is a proprietorship firm established on 01.09.1997 and is engaged in the business of manufacturing and trading of agriculture goods such as Harrows, Disc Harrows, Tractor-towed harrows, etc. The Plaintiff’s Mark was



adopted by the Plaintiff in May, 2010 for agricultural implements other than hand operated Harrows, Disc Harrows, etc. and has been using the Plaintiff's Mark continuously and uninterruptedly since then.

4.2. Over the years, the Plaintiff has built a large and loyal customer base and goodwill among the customer, reputation in the industry, trusted network of distributors and retailers, manufacturing base using advanced technology and quality control etc. The Plaintiff is generating revenue around ₹40 crores per year for last three financial years. On 01.06.2022, the Plaintiff filed an application for registration of the Plaintiff's Mark with the Trade Marks Registry. The registration and exclusive right to use the Plaintiff's Mark was granted to the Plaintiff by the Trade Marks Registry on 02.02.2023.

4.3. Over time, the Plaintiff's Mark has developed significant reputation and goodwill within the market, particularly among customers and farmers who utilise Harrows, Disc Harrows, and Tractor-towed Harrows, owing to the high quality of its goods. The Mark has become distinctive in relation to the Plaintiff's products. The Plaintiff has invested substantial resources, including money, time, and effort, in promoting and advertising the trademark through various channels such as magazines, journals, periodicals, and an interactive website. Members of the trade consistently associate the Plaintiff's Mark exclusively with the Plaintiff's goods.

4.4. Because of the immense reputation and goodwill, the sales of the products under the Plaintiff's Mark have increased over the period and the brand is generating around ₹2 crores of revenue per year from last two financial years and have become the primary choice of purchase by the customers.



4.5. The Defendant has adopted the Impugned Mark, which is identical or deceptively similar to the Plaintiff's Mark, for goods identical to those of the Plaintiff, specifically agricultural implements other than Hand-operated types, such as Harrows, Disc Harrows, and Tractor-towed Harrows. In October 2024, the Plaintiff became aware that the Defendants were marketing products similar to those of the Plaintiff under the Impugned Mark. It was further noted that these products are available on the interactive websites operated by Defendant Nos. 4 and 5, which promote and offer the goods for sale throughout India. Upon learning of the unauthorized adoption of the Impugned Mark, the Plaintiff promptly initiated action. There has been no delay or negligence on the part of the Plaintiff in addressing the alleged infringement.

4.6. Even otherwise, the Supreme Court in ***Midas Hygiene Industries P. Ltd. and Anr v. Sudhir Bhatia and Ors.*** (2004) 3 SCC 90 has held that mere delay in bringing action is not sufficient to defeat grant of injunction in such cases. The grant of injunction also becomes necessary if, it *prima facie* appears that the adoption of the Mark was itself dishonest.

4.7. On 09.03.2022, the Defendant filed Trade Mark Application No. 5362441 for registration of the Impugned Mark on a proposed-to-be-used basis, which is currently pending and has been objected by the Trade Marks Registry.

4.8. Defendant Nos. 1 to 3 have deliberately and intentionally adopted the Impugned Mark, which is similar and / or identical to the Plaintiff's Mark and are using it for similar and / or identical goods with dishonest intention to take undue advantage of the reputation and goodwill of the brand built by the Plaintiff over the period. Defendant Nos. 1 to 3 have copied the Plaintiff's



Mark as a whole in all respects, i.e., the words TIGER and BRAND and device of Tiger, which are the prominent parts of the Plaintiff's Mark. Defendant Nos. 1 to 3 have cleverly and dishonestly replaced the word 'GOLD' with the word 'PREMIUM'.

4.9. The Defendant is utilizing the reputation and goodwill associated with the Plaintiff's Mark by implementing cosmetic modifications. Specifically, the Defendant has deceptively altered the Plaintiff's Mark by substituting the word 'GOLD' with 'PREMIUM'. In the Plaintiff's Mark, the wording 'TIGER GOLD BRAND' and the image of a TIGER are situated within a circle; whereas, in the Defendant's version, the words 'TIGER PREMIUM BRAND' and a TIGER image appear inside a hexagonal frame. The TIGER motif is a distinctive and significant feature of the Plaintiff's Mark, serving as an indicator of quality and differentiating the Plaintiff's products from those of others. The Impugned Mark is phonetically, structurally, and visually similar to the Plaintiff's Mark. A comparative table of the Plaintiff's Mark and the Impugned Mark is reproduced hereunder:

| Plaintiff's Mark                                                                    | Impugned Mark                                                                        |
|-------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------|
|  |  |

4.10. The Plaintiff has been continuously and uninterruptedly using the Plaintiff's Mark since May 2010. Whereas the Defendant Nos. 1 to 3 were incorporated in October 2020 even though actual business operation started in October 2021 that too related to different goods. The Supreme Court in



**S. Syed Mohideen v. P. Sulochana Bai** (2016) 2 SCC 683 held that the first in the market test has always enjoyed pre-eminence and the rights of a prior user will normally override those of the subsequent user even though it had been accorded registration of its Trade Mark. In **Laxmikant V. Patel v. Chetanbhai Shah & Anr.**, (2002) 3 SCC 65 it has held that honesty and fair play are, and ought to be the basic policies in the world of business and when a person adopts or intends to adopt a name in connection with his business or services which already belongs to someone else it results in confusion and has propensity of diverting the customers and clients of someone else to himself and thereby resulting in injury.

4.11. Defendant Nos. 1 to 3 assert that their use of the Impugned Mark commenced in March, 2021. However, this assertion is not substantiated by any documentary evidence. The Defendants have not provided documentation supporting this claimed date of first use. In fact, records indicate that use of the Impugned Mark began in October, 2024.

4.12. Defendants Nos. 1 to 3 seek to justify their alleged infringement of the Plaintiff's mark by referencing the use of marks containing 'TIGER' by unrelated third parties. However, such third-party usage does not constitute a valid defense against allegations of infringement or passing off by Defendants Nos. 1 to 3 regarding the Plaintiff's mark. Additionally, the Defendants are employing the Impugned Mark, which appears to be an extension of the Plaintiff's Mark. It is also relevant to note that there are only three to four marks registered in the Trade Marks Register for goods similar to those of the Plaintiff. Therefore, the Defendants' assertion that there are hundreds of such marks is inaccurate.



4.13. The Impugned Mark subsumes the Plaintiff's Mark. The deceptive similarity includes phonetic, visual and conceptual similarity and use of image / device of TIGER. The Impugned Mark has been adopted by the Defendants for identical goods. The dominant portion of the Plaintiff's Mark is 'TIGER' and 'BRAND' which is also dominant portion in the Impugned Mark. Hence, there is a strong likelihood of confusion and deception. The Supreme Court in **Kaviraj Pandit Durga Dutt Sharma v. Navaratna Pharmaceutical Laboratories** AIR 1965 SC 980 has laid down the test of deceptive similarity where it was held that once the essential features of a registered mark are copied, differences in get-up, packaging, or additional writing are immaterial.

4.14. The Plaintiff's Mark cannot be characterised as generic or as common to the trade. The term 'TIGER' does not describe the nature of the Plaintiff's business or its goods, nor does it bear a direct relationship to the Plaintiff's Mark. The Plaintiff coined this mark and has established its reputation over fourteen years. Within the context of harrows and disc harrows, 'TIGER' and 'BRAND' are neither generic nor descriptive; instead, they constitute the essential and distinctive elements of the Plaintiff's Mark. Accordingly, the Defendants' assertion that TIGER is generic and common within the industry is unfounded. Furthermore, the Defendant's use of 'TIGER' in combination with another descriptive term, 'PREMIUM', creates an overall similarity that may cause confusion among average consumers who may not recall the details perfectly.

4.15. The customer segment, i.e., gullible public / customer in which the Plaintiff is selling its goods needs to be considered for the purpose of interim injunction as the Defendants are selling identical goods under the Impugned Mark to a customer segment which is likely to be confused due to average



intelligence and imperfect recollection and due to lack of advance brand awareness and due to lack of attention to minute details of the rival Marks. An unwary purchaser of average intelligence and imperfect recollection would not split the rival Marks into its component parts and instead he would go more by the overall structural and phonetic similarity and the nature of the goods he has previously purchased. The judgment of the Supreme Court in ***Cadila Healthcare Ltd. v. Cadila Pharmaceuticals Ltd.*** AIR 2001 SC 1952 requires an assessment of overall similarity from the perspective of an average consumer with imperfect recollection i.e. in the present case Farmers / villagers.

4.16. The Balance of convenience lies in favour of the Plaintiff and against the Defendants in view of long, continuous and uninterrupted use of the Plaintiff's Mark and the dishonest adoption of the Impugned Mark with *malafide* intentions.

**SUBMISSIONS ON BEHALF OF THE DEFENDANT NOS. 1 TO 3:**

5. The learned Counsel for Defendant Nos. 1 to 3 made the following submissions:

5.1. Defendant Nos. 1 to 3 have honestly adopted the Impugned Mark and the use of the Impugned Mark by Defendant Nos. 1 to 3 amounts to honest use as exempted under Section 30(1)(a) of the Trade Marks Act, 1999 ("Act").

5.2. The words 'TIGER' and 'BRAND' on a stand-alone basis have no Trade Mark value and are not capable of distinguishing the goods and services of the Plaintiff. There are several Trade Marks bearing the word 'TIGER' which are dealing with similar goods. Many such Marks are being used for agricultural products in several states of India. The Mark 'TIGER' is non-distinctive in nature as described under Section 9(1)(a) of the Act. The



Plaintiff has not been able to secure any registration for the Mark 'TIGER'. The Impugned Mark has to be considered as a whole and the Plaintiff has no right over the word 'TIGER' as no one can be permitted to monopolize the same. The word 'TIGER' is common to trade and has become publici juris.

5.3. As per Section 17 of the Act, the registration of a Device Mark does not confer upon the Plaintiff the exclusive right to use the words in the Device Mark as individual word Marks. The Plaintiff's Mark and the Impugned Mark compared as a whole are phonetically are not identical and / or deceptively similar.

5.4. The Supreme Court in Pernod Ricard India (P) Ltd. v. Union of India, 2025 SCC OnLine SC 1701, held that the rival marks must be compared as a whole, and not by dissecting them into individual components, as consumers perceive trade marks based on their overall impression, including appearance, structure, and commercial impression. Section 17 of the Act restricted exclusive rights to the trade mark as a whole and did not confer protection over individual, non-distinctive components, however, courts might still identify dominant or essential features within a composite mark to assess the likelihood of confusion. However, treating such features in isolation is not permissible and the decision must be evaluated in the context of the overall impression of the mark.

#### **SUBMISSIONS ON BEHALF OF THE DEFENDANT NO. 5**

6. The learned Counsel for Defendant No. 5 made the following submissions:

6.1. Defendant No. 5 is an online portal owned, controHed and managed by Weblink .In Pvt. Ltd. which provides online Platform to the general public and/or business houses helping them in information dissemination to give



wide exposure without any physical barrier of place because it is well understood that an online platform always helps people in exploring opportunities without any limitations of place and time and therefore the portal falls under the category of Intermediaries as defined under the relevant Provisions of the law including the Information Technology Act, 2000 (“**IT Act**”).

6.2. Defendant No. 5 is an Intermediary Platform and in order to access or meet prospective buyers, suppliers get themselves listed / registered on the Website / portals owned, control and managed by Defendant No. 5 and then display their various products and services on such platforms. Further, the user(s) are advised to use their discretion while using and or relying upon Website Information, hence the claim basically stands against the Defendant Nos. 1, 2 and 3 as mentioned in the Complaint.

6.3. Defendant No. 5 is a law-abiding company therefore the moment any illegal / unlawful / disputed listings on its Platform are brought to its notice by any authorized third party or competent authority then Defendant No. 5, without any further delay, remove such listings / links from the Portal after taking into consideration the principle of due diligence and proper enquiry by / through its concerned department/ team.

6.4. The Complaint does not, in any manner, satisfy the ingredients required to constitute infringement against Defendant No. 5. In any event, Defendant No. 5, being an intermediary, has not infringed any of the intellectual property rights of the Plaintiff. Defendant No. 5 is an intermediary, having complied with the requirements of Section 79 of the IT Act, the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 and other applicable provisions. Therefore, Defendant No. 5 is in no manner liable



for the infringement as alleged by the Plaintiff. Further, Defendant No. 5 is only a platform which enables suppliers to advertise their product and allows buyers for contact for negotiating, buying, and other business services. It is also submitted that the Defendant No. 5 does not take part in the actual transaction.

### **ANALYSIS AND FINDINGS:**

#### **‘Tiger’ and ‘Brand’ are Generic:**

7. Defendant Nos. 1 to 3 have contended that ‘TIGER’ cannot be monopolized by the Plaintiff as ‘TIGER’ is common to the trade and generic word. It is contended by Defendant Nos. 1 to 3 that the Mark ‘TIGER’ is commonly used for goods falling under Class 7 and the online record of the Trade Marks Office reflects that the word ‘TIGER’ in standalone has no Trade Mark value and is not capable of distinguishing the goods and services. The Plaintiff has not been able to establish ownership over the Mark ‘TIGER’ in absence of the registration of Word Mark ‘TIGER’ or any ‘TIGER’ formative Marks, which is relevant for examining the deceptive similarity of the Impugned Mark.

8. The Marks ‘TIGER’ and ‘BRAND’ are generic in nature and incapable of being registered as a Trade Mark. The Plaintiff does not have exclusive right to use the Word Marks, ‘TIGER’ and ‘BRAND’. There is a widespread use of the Mark ‘TIGER’ for various goods and services across India. Hence, ‘TIGER’ is *publici juris* and common to trade and is not uniquely identifiable with a particular goods or services of the Plaintiff. The Plaintiff has also not produced any material to show that the Mark ‘TIGER’ has acquired secondary meaning. The Mark ‘TIGER’ does not have an exclusive character and, therefore, the Plaintiff is not entitled to claim exclusive right over the same.



### **Deceptive Similarity of the Plaintiff's Mark and the Impugned Mark**

9. The Plaintiff's Mark and the Impugned Mark are not deceptively similar as the Impugned Mark has to be considered as a whole. The Impugned Mark considered as a whole is wholly dissimilar to the Plaintiff's Mark, the Impugned Mark is visually different to the Plaintiff's Mark, even the 'TIGER' device in the rival Marks are different. The colour scheme of the Impugned Mark is also different from the colour scheme of the Plaintiff's Mark and the Impugned Mark is not deceptively similar to the Plaintiff's Mark. Accordingly, considering the Impugned Mark as a whole there is no deceptive similarity between the Plaintiff's Mark and the Impugned Mark.

10. As 'TIGER' and 'BRAND' are found to be generic and common to the trade, the Plaintiff cannot claim exclusive ownership over the part of the Impugned Mark containing the Marks 'TIGER' and 'BRAND' as a part of them. As per Section 17 of the Act when a Trade Mark consists of several matters, its registration shall confer on the proprietor exclusive right to use of the Trade Mark taken as a whole. Considering that the Appellant has no exclusive right over the Marks 'TIGER' and 'BRAND', there is no deceptive similarity between the Plaintiff's Mark and the Impugned Mark. It is well settled that the registration of Device Marks does not automatically grant the exclusive right in respect of the word mentioned in the Device Marks. Further, the Supreme Court in ***Pernod Ricard India*** (*supra*) held that the rival marks must be compared as a whole, and not by dissecting them into individual components, as consumers perceive trade marks based on their overall impression, including appearance, structure, and commercial impression.

11. The registration of the Device Mark is to be considered as a whole and while determining the deceptive similarity with another Trade Mark, both the



Marks have to be examined as a whole by applying ‘anti-dissection rule’ rather than breaking the Marks into their component parts for comparison. To determine whether there is any deceptive similarity between the two Marks, it is imperative to decide if the similarity is likely to cause any confusion or deceive. The test of deceptive similarity as laid down in **Kaviraj Pandit** (*supra*) has not been satisfied in the present case. Even from eyes of the consumers of the goods of the Plaintiff and Defendant Nos. 1 to 3, i.e., the farmers, the Marks are visually different and would not cause confusion in the minds of the consumers and therefore the decision in **Cadila Healthcare Ltd.** (*supra*) will not help the case of the Plaintiff.

12. In the present case, the Plaintiff’s Mark and the Impugned Mark if considered as a whole cannot be held to be deceptively similar and are able to be distinguished by the use of word ‘PREMIUM’. In addition, the descriptive nature of the Marks ‘TIGER’ and ‘BRAND’ commonly used in the hospitality industry shows that there is no deceptive similarity between the Plaintiff’s Mark and the Impugned Mark. As the Plaintiff’s Mark and the Impugned Mark are not deceptively similar the judgments in **S. Syed Mohideen** (*supra*) and **Laxmikant V. Patel** (*supra*) will not help the case of the Plaintiff.

13. The rival Marks are not identical / deceptively similar, the Plaintiff’s Mark and the Impugned Mark comprises of generic words, which cannot be monopolised by any party. Further, the Plaintiff has not been able to make a case of misrepresentation by the Defendant nor has it been able to prove damages incurred by the Plaintiff due to the adoption of the Impugned Mark by the Defendant.

14. Further, the Plaintiff has not been able to establish goodwill and reputation and, therefore, *prima facie*, a case of passing off has not been made



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out by the Plaintiff. There is no likelihood of confusion amongst the class of consumers, which is likely to harm the reputation of the Plaintiff and dilute the Plaintiff's Mark.

### **CONCLUSION**

15. Having considered the averments in the pleadings and the submissions made by the Parties, the Plaintiff has no exclusive right over the Marks 'TIGER' and 'BRAND' as the same are generic in nature and common to the trade.



16. Hence, the use of the Impugned Mark, '  ' does not amount to infringement of Copyright in or passing off of the Plaintiff's Mark,



'  ' as there is no deceptive similarity between the Plaintiff's Mark and the Impugned Mark. Accordingly, no case is made out for grant of interim injunction as prayed for in this Application.

17. Accordingly, the present Application is dismissed.

**TEJAS KARIA, J**

**JANUARY 9, 2026**

*'AK'*