

NEWSLETTER | LEGAL

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LEGAL HIGHLIGHTS

Delhi High Court grants injunction in favour of the well-known tradename and trademark "MAERSK"

[A.P. Møller Mærsk A/S & Anr. V. Maersk Pharma Private Limited (CS(COMM) 555/2024)]

Recently, the Hon'ble Delhi High Court observed that the trademark and tradename "MAERSK" is a well-known trademark and its usage by the Defendant amounts to infringement and passing off of the Plaintiff's trademark and tradename "MAERSK".

Here, the Defendant had incorporated the Plaintiffs' registered trade mark 'MAERSK' as a prominent and dominant part of its company name i.e. Maersk Pharma Private Limited. Further, the Hon'ble Court held that there is a strong likelihood that both members of the trade as well as members of the general public associate and identify the said trade name and the trademark 'MAERSK' with only the Plaintiffs.

Ultimately, the Court held that though the use of the impugned trade name and the impugned mark 'MAERSK' by the Defendant is for different products falling in a different class, considering the rich long past, prior adoption and prior registrations in the trade name and the trade mark 'MAERSK' by the Plaintiffs coupled with the worldwide usage

Adidas v. Adidas: Delhi High Court granted Permanent injunction in favour of Adidas AG

[Adidas AG v. Keshav H. Tulsiani (2024: DHC:5361)]

Recently, the Delhi High Court granted permanent injunction in favour of the Adidas AG protecting its registered trademark 'Adidas'

against use of an identical mark 'ADIDAS' by the Defendant. The Defendant was also using the phonetically and structurally similar trademark Adidas for textiles. Interestingly, the Defendant pleaded that his adoption of the trademark 'Adidas' was bona fide. It was pleaded that since childhood, the Defendant had deep admiration for his elder sister whom he addressed as 'Adi' and that his admiration was so profound that he was often referred to as her 'Das'. Consequentially, the term 'Adidas' was conceived by the Defendants to reflect this familial devotion.

The Hon'ble Court rejected this flimsy argument and granted injunction in favour of Adidas AG.

thereof, the Plaintiffs are well and truly entitled for an ad interim ex parte injunction in terms of the reliefs sought by the plaintiffs in the present application.

Delhi High Court grants quia timet injuction against the Zydus

[F-Hoffmann-La Roche AG & Anr. v. Zydus Lifesciences Ltd. (CS (Comm) 159/2024)]

Delhi High Court recently granted a *quia timet* injunction in favour of the F Hoffmann La Roche AG and against the Zydus LifeSciences Ltd. restraining the latter from marketing / selling its product "Sigrima", which is a biological similar (composition) of Plaintiffs' "Perjeta ®"/ "Pertuzumab."

Quia timet is a latin phrase which means "because it is feared or apprehended". A *quia timet* injunction, therefore, is such an injunction which is granted in anticipation of such a wrongful act which may have the impact of threatening the rights of the aggrieved party.

Emami sued by Saregama for copyright violation by using the song "Udi Jab Jab Zulfein" in its advertisement without obtaining license: Delhi High Court

[Saregama India Limited v. Emami Limited (CS (COMM) 535/2024)]

Saregama India Limited has filed for an injunction against Emami Limited on the grounds that its exclusive musical, literary and sound recording rights were violated by the Defendant using the song "Udi Jab Jab Zulfein" in an advertisement promoting its hair product without obtaining any license for it.

While the matter is in its initial stage and the parties are yet to conclude their pleadings, the crux of the matter arises from the Plaintiff asserting its copyright in the song conferred to it by an agreement with the producer of the film featuring the song. On the other hand, the Defendant has claimed that the Plaintiff's rights have lapsed with the completion of sixty years since the agreement as well as the Plaintiff's inadequacy to prove assignment of the musical work in the Plaintiff's name.

In the meantime, the Delhi High Court has directed Emami to deposit Rs 10 lakhs as an interim arrangement, subject to variation basis the upcoming hearings.

Claiming plagiarism and copyright violation, ANI sues the Press Trust of India (PTI) seeking injunction against PTI to cease publishing ANI's original works: Delhi High Court

Supreme Court reiterates that there cannot be partition of property by metes and bounds in Chandigarh

[ANI Media Pvt. Ltd. v. Press Trust of India Ltd. & Anr. (CS(COMM) 543/2024)]

The news agency, ANI, has approached the Delhi High Court against PTI for unauthorisedly publishing its original work, being copyrighted videos, on PTI's platform.

Apart from demanding PTI to take down the concerned work from its platform and acknowledge the same as the 'original works' of ANI, PTI has also been hit with damages of Rs 2 Crores.

While PTI agreed to take down the dispute work from its platform, it also stated that it cannot be held liable for any infringement action since it had attributed the concerned videos to a third-party.

[Rajinder Kaur v. Gurbhajan Kaur (SLP no. 12198/2018)]

Recently, the Hon'ble Supreme Court, in a partition suit, upheld the order of the trial court which had directed the sale of property by way of an auction in a partition suit.

Further, the Hon'ble Court reiterated that due to the prohibition on partition by metes and bounds, as imposed by the Chandigarh (Sale of sites and Buildings) Rules, 1960, there cannot be any partition by metes and bounds (boundary lines of land) in Chandigarh.
Partition by metes and bounds refers to the actual act of physically dividing the property.

Read Here

Delhi High Court reiterates that Notice under section 21 of the Arbitration and Conciliation Act, 1996 is mandatory in nature.

[M/s Kotak Mahindra Prime Limited v. Manav Sethi & Anr. (Arb. P. 946/2024)]

Recently, while deciding an application for the appointment of an arbitrator in terms of Section 11(6) of the Arbitration and Conciliation Act, 1996, the Hon'ble Delhi High Court reiterated that the Notice under section 21 of the Act is mandatory in nature.

The Court further held that a petition under Section 11(6) of the Act is not maintainable unless it is preceded in the first instance by a Section 21 notice, followed by failure on the part of the opposite party to agree to the appointment of the suggested arbitrator.

A consumer court in Karnataka has directed Zomato to pay Rupees 60,000 for failing to deliver momos worth Rupees 133 to the customer

[Smt. Sheetal W/o Vinayak Mahendrakar v. Zomato Ltd. & Anr. (Complaint No. 483/2023)]

Considering the 'mental agony', inconvenience and litigation cost incurred by the Complainant due to Zomato's inadequate service and lack of prompt resolution of the complaint raised by the Complainant, the Karnataka Consumer Court awarded compensation of Rs 60,000 in favour of the Complainant for the matter concerning Rs. 133.25.

The issue raised in the complaint was the false order delivery notice received by the Complainant despite non-receipt of the order she had placed with Zomato. Stating that the delivery agent had picked up the order and then

failed to deliver it, the Complainant had contacted Zomato who, in response, requested 72 hours to resolve her query. However, the food delivery company had been silent on the issue for at least 10 days and when faced with a legal notice issued by the Complainant, they refuted the allegations as false and fabricated. The Complainant only received refund of Rs 133.25 after nearly one year since first raising the complaint with the Company's Customer Care.

The Consumer Court accounted for Zomato's disregard for the Complainant's concern and lack of commitment while computing the compensation.

Himachal Pradesh High Court recently recognized the right to be forgotten post-acquittal

[State of Himachal Pradesh v. XXX (Neut. Cit. No. 2024: HHC:5102)]

The Hon'ble High Court of Himachal Pradesh, recently while deciding an application for grant of leave to appeal against the acquittal in a POSCO case, observed that since the prosecutrix is happily married to the appellant, the state has no business to file such an application for grant of leave to appeal. The Hon'ble court further observed that the state cannot be oblivious of the ground realities and cannot ignore the fact that the parties are happily married and even have a child.

The Hon'ble Court not only refused to grant the leave to appeal but also ordered that the name of the prosecutrix as well as of the appellant accused shall be removed from all the records. The Court further held that Right to oblivion: right to be forgotten are the principles evolved by democratic nations, as one of the facets of right to information Privacy.

Supreme Court recalls its earlier order on existence of valid Pollution Under Control (PUC) Certificate for Third Party Insurance

[MC Mehta v. Union of India and Ors. (WP (C) No. 13029/1985]

Recently, the Hon'ble Supreme Court recalled its earlier order passed in 2017 which mandated a PUC Certificate for Third Party Insurance. It was submitted by the Solicitor General of India Sh. Tushar Mehta that the 2017 directions of the Hon'ble Supreme Court were causing great practical difficulties. It was pointed out that without third party insurance, the accident victims would need to seek compensation directly from vehicle owners who often lack the financial capacity to compensate adequately.

The Hon'ble Court agreed with the arguments raised before it and ultimately deleted the said mandatory requirement of PUC from its 2017 order.

Read Here

With the three new criminal laws coming into effect, the Delhi High Court refers to the Bharatiya Nagarik Suraksha Sanhita (BNSS) in an ongoing trademark infringement dispute

[M/s K.G. Marketing India v. Ms. Rashi Santosh Soni & Anr. (CS(COMM) 18/2023)]

While hearing an infringement suit filed by the Plaintiff to prevent the Defendants from using the trademark 'SURYA', the High Court found that the Plaintiff had provided forged and fabricated evidence for reliance. Admittedly, the Plaintiff undertook an unconditional apology for the same. The High Court also noted that given the fabrication of the concerned evidence having been filed for the very purpose of the suit, it cannot be overlooked and ought to be called to action.

Taking into account how in intellectual property disputes, public documents like newspapers have a high degree of influence as evidence, Justice Pratibha Singh stated that the present matter having been pending till enforcement of the three new criminal laws, the offence of fabrication will be dealt under the Bharatiya Nagarik Suraksha Sanhita (BNSS) rather than under Section 340 Code of Criminal Procedure, 1973.

To ensure safety of Kumbh Mela pilgrims, the National Green Tribunal (NGT) directs the Prayagraj Authorities to ensure no sewage waste discharge in the rivers, Yamuna and Ganga

[Kamlesh Singh v. State of U.P. (Original Application 227/2024)]

The NGT while hearing the present case observed that deprivation of clean and safe water has become a threat to human life and environment, the same being caused due to unregulated discharge of untreated effluent and inadequate cleanliness measures, ultimately leading to deterioration of the riverine ecosystem.

The Complainant had raised the issue of lack of proper drainage and sewer system at the Kumbh Mela Smart City Project in Prayagraj which exposed the public to polluted water and serious health concerns. Consequently, the NGT has impleaded the Uttar Pradesh Government and the State Authorities responsible for ensuring maintenance of the rivers due to the prima facie non compliance with enactments mentioned in Schedule I of the National Green Tribunal Act, 2010.

If conjugal rights not restored for a year despite order, divorce under the Hindu Marriage Act, 1955 allowed: Supreme Court

[X v.Y (Civil Appeal No. 7210 of 2024)]

The Supreme Court in the present case, confirmed divorce under Section 13(1) (ib) of the Hindu Marriage Act, 1955 ("Act") by stating that the present case is an example of 'complete

While deciding on a woman's right to maintenance, the Jammu & Kashmir High Court states that merely pronouncing 'Talaq' thrice does not absolve the husband's duty of maintaining the wife

[Fayaz Ahmad Wani v. Mst. Hameeda (CRMC no. 491/2018)]

breakdown of marriage' wherein the High Court erred in not granting divorce to the parties.

The Apex Court also went on to literally interpret Section 13(1A) (ii) of the Act and stated that the provision clearly lays down that a divorce petition under the said provision can be presented on the ground of no restitution of conjugal rights if the same continues for a period of one year or more. With the divorce petition having been filed before completion of one year from the decree of restitution of conjugal rights, the Apex Court took recourse under Section 13(1)(ib) of the Act.

Maintaining the invalidity of instant triple talak, the J&K High Court has laid down that in the present case, the husband has attempted to escape the obligation of maintaining his wife by merely pronouncing "Talaq" thrice. Elaborating further, the High Court observed that for Triple Talak to be valid, the parties have to prove good the fact that –

- tangible efforts of reconciliation were made with failure to settle disputes not being attributable to the husband,
- there existed a genuine cause for divorce,
- such pronouncement has to be made in presence of two witnesses 'endued with justice', and
- such pronouncement to be made during the period of two menstrual cycles (Tuhr)

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