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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 556/2020, I.As. 12220/2020 & 12221/2020

GUJARAT COOPERATIVE MILK MARKETING FEDERATION
LTD & ANR. Plaintiffs

Through: Mr. Chetan Sharma, ASG with
Mr. Abhishek Singh and
Mr. Amit Gupta, Advs.

versus

CHETAN PADILYA & ORS. Defendants

Through: Mr. Parag Tripathi, Sr. Adv. with
Mr. Tejas Karia, Mr. Varun Pathak,
Mr. Gauhar Mirza, Ms. Nayantara
Narayan, Ms. Malikha Mehra and
Mr. Thejesh R., Advs. for D-3

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% **17.12.2020**

This matter is being heard through video-conferencing.

I.A. 12221/2020 (for exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

CS(COMM) 556/2020

1. Summons be issued in the suit to the defendants. Mr. Tejas Karia, Advocate accepts summons on behalf of the defendant No.3. Let summons be issued to the other defendants, returnable on April 06, 2021 before Joint Registrar.
2. Summons shall state that the written statement shall be filed by the defendants within 30 days from the date of receipt of summons. The defendants shall file their affidavit of admission and denial of documents

filed by the plaintiffs. Replication shall be filed within 30 days of the receipt of the, written statement / documents. The replication shall be accompanied by the affidavit of admission denial of documents filed on behalf of the defendants.

3. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the time lines.

I.A. 12220/2020 (by plaintiffs under Order XXXIX Rules 1 and 2 CPC)

4. Issue notice. Mr. Tejas Karia, Advocate accepts notice on behalf of the defendant No.3. Let notice be issued to the other defendants, returnable on March 09, 2021.

5. The accompanying suit has been filed by the plaintiffs with the following prayers:

“It is therefore most respectfully prayed that this Hon’ble Court may kindly be pleased to grant:

i. Pass a decree of permanent and mandatory injunction directing the Defendant No.1 to permanently remove the article WHITE LIE OF AMUL AND BLACK TRUTH OF ANIMAL MILK” (available at <https://ditchdairy.in/movement/white-lies-of-amul>) and from Facebook account “<https://www.facebook.com/boycottmilk>” and / or any other social media platform or website where the Articles have been uploaded.

ii. Pass a decree of permanent and mandatory injunction restraining the Defendant No.1 from uploading articles identical or similar to the article titled as WHITE LIE OF AMUL AND BLACK TRUTH OF ANIMAL MILK” (available at

<https://ditchdairy.in/movement/white-lies-of-amul>”), in the future, in any social media platform, websites or anywhere in the internet or anywhere in print or electronic media.

iii. Pass a decree of permanent and mandatory injunction restraining the Defendant No.1 from spreading false narrative regarding dairy products, using the other articles on his website and products of the Plaintiffs or any products which are identical or deceptively similar to the advertisement and products of the Plaintiffs, in any workshop, event or any other public platform or anywhere in the internet or anywhere in print or electronic media.

iv. Pass a decree of permanent injunction restraining Defendant No.1 and anyone acting for and on their behalf from in any manner dealing with the Plaintiffs’ “AMUL” trademarks or their logos or any word deceptively similar to the Plaintiff’s “AMUL” trademark.

v. Pass a decree of permanent injunction directing the Defendant No.2 and their employees, servants, agents, representatives, assignees, to permanently suspend / block / delete and not to offer for sale, domain names / websites owned by Defendant No.1.

vi. Pass a decree of permanent and mandatory injunction against Defendant No.3 restraining them from uploading on its platform i.e. Facebook, any Page identical or similar to the Facebook Page titled as SKIP MILK, ADD MERCY”.

vii. Pass a decree directing the Defendant No.1 to tender an

unconditional apology to the Plaintiffs on its website as well as other platforms like Facebook, Instagram etc.

viii. Pass a decree awarding damages to the tune of Rs.2,01,00,000/- in favour of the Plaintiffs against the Defendant No.1; and

ix. Any other relief that this Court may deem fit and proper while looking into the facts and circumstances of the case.”

6. In substance, the challenge in this suit is directed against the defendant No.1. Mr.Chetan Sharma, learned ASG briefed by Mr.Abhishek Singh, Advocate, appearing for the plaintiffs states that the defendant no.1 has uploaded the libellous and disparaging article titled as “The Whit Lie of Amul And Black Truth Of Animal Milk” on his website and his Facebook page, wherein the said defendant has specifically targeted the plaintiffs’ milk and milk products under the well-known brand and trademark “AMUL”.

7. The plaintiff No.1 is a cooperative society registered under the Gujarat Cooperative Societies Act, 1961. The plaintiff No.2 is the District Cooperative Milk Producers’ Union under plaintiff No.1. According to Mr.Sharma, the plaintiff No.2 is the sole, lawful and registered proprietor of the well-known trademark “Amul” and its variant marks containing the trademark “Amul” as their prominent part, with the oldest registration of trademark is in Class 29 since the year 1958. The plaintiff No.2 has applied for and obtained registration of the trademark Amul and its variants in several classes including Classes 5, 30, 31, 32 and 35 in India.

8. According to Mr.Sharma, the plaintiff No.1 was established with an object to carry out activities for the welfare and economic development of the dairy farmers by efficiently organising and marketing milk and milk

products and other similar products, veterinary medicines, vaccines and other allied products all over the country and abroad with the main object of marketing milk and milk products of its Members, which includes plaintiff No.2. The plaintiff No.1 which is India's largest Cooperative society engaged in marketing of milk and milk products.

9. It is the exclusive marketer of "Amul" branded milk and milk products and other food and beverages under the said trademark. Its products comprise of milk, milk powder, health beverages, ghee, butter, cheese, pizza cheese, ice-cream, paneer, chocolates, traditional Indian sweets, etc. And it supply its products across the country, for which it has its sales offices / branches / zonal offices and depots located in different parts of the country.

10. He states that the plaintiffs' brand has gained immense popularity and recognition worldwide and is also referred to as the "Pride of India". It is the 9th largest processor of milk in the world. The famous tagline / slogan of the plaintiffs' brand i.e. 'The Taste of India' has been associated with "Amul" since the year 1994.

11. According to Mr. Sharma, the plaintiff No.1 has invested considerable amounts in marketing and publicity of its products bearing the trademark Amul. It is also successfully running advertising campaigns across all mediums and platforms including print media, audio-visual media, television, radio, social medial etc. and the plaintiff Nos.1 has incurred expenses to the tune of Rs.862.96 Crores in the year 2019-20. That apart, the total global turnover of the plaintiffs with the trademark "Amul" in the year 2019-20 is Rs.38,542 Crores.

12. Mr.Sharma states that the defendant No.1 is the publisher / author of

the website and webpage www.ditchdairy.in. The said website is titled as ‘SKIP MILK, ADD MERCY: Black Truth of White Milk’ which is an attempt on behalf of the defendant No.1 to create a bias, fear psychosis and prejudice in the minds of the public at large against milk and dairy products. He states that the defendant No.1 through its website, promotes a false narrative that the derivation of milk and milk products by the plaintiffs and their members is done by inflicting cruelty on animals and falsely claiming that dairy products are the cause for several fatal diseases like cancer etc.

13. This according to Mr.Sharma, the defendant No.1’s website is, very evidently, a propaganda against the Dairy Industry and promotes its campaign through Facebook, and other social media platforms. He states that the address and details of the defendant No.1 are unknown to the plaintiffs, due to which the instant suit has been served upon the defendant No.1 through the email-ID provided by the defendant No.1 on its website. It was around November 20, 2020, the plaintiffs herein came across the website DITCHDAIRY.IN run by the defendant No.1, the contents thereof with its vernacular version was recently brought to the attention of the plaintiffs’ where it is observed that defendant No.1 is promoting and selling plant-based products of different brand like Kizo Nutrition, Good Dot, Fitjar etc. and to promote the same defendant No.1 has chosen to publish highly biased and defamatory articles against the Dairy Industry and the plaintiffs’ brand name “Amul” with the intention to create a bias, fear psychosis and prejudice in the minds of the public at large which is an attempt on the part of the defendant No.1 to falsely portray plant based products and lowering the esteem of the plaintiffs by way of a false narrative that the derivation of

Milk and Milk products by the plaintiffs and its members farmers is done by inflicting cruelty on animals.

14. Mr.Sharma also states that since the plaintiffs covered around 80% of market with respect to milk and milk products, any reference to the Indian dairy industry as has been done in defendant No.1's website would undoubtedly refer to none other than the plaintiffs' "Amul" brand. In fact, the conduct of the defendant No.1 is mala fide intent and oblique motive. According to Mr.Sharma, the defendant No.1 has also been making libellous and denigrating comments against the Managing Director of Plaintiff No.1' Mr. R.S. Sodhi. This libellous and degrading and mocking is causing grave injury to the highly earned goodwill and reputation of the plaintiffs and their officer. In fact, the defendant No.1 has tweaked the plaintiffs' brand as "The Waste of India".

15. He also states that the narrative of the defendant No.1 comparing milk with plant based beverages is incorrect and it is found that the milk was naturally more nutrient-rich in comparison with plant based beverages such as soy extract, almond extract etc. That apart, his submission is that with respect to food safety, it was found that numerous regulations exist to safeguard the quality of milk, however, with regard to plant base beverages, regulations exist to stipulate safety levels of known contaminants in the ingredients used in these beverages.

16. Mr.Sharma has drawn my attention to various documents in support of his submissions. He states that in the above background, the plaintiffs have to approach this Court. The issue raised is of great public importance of an entity which has been in existence for the last so many years. He presses for an interim relief to the extent that the defendant No.1 should be

directed to remove the article “WHITE LIE OF AMUL AND BLACK TRUTH OF ANIMAL MILK” available at <https://ditchdairy.in/movement/white-lies-of-amul> and from Facebook account <https://www.facebook.com/boycottmilk>. And further the defendant No.1 should be restrained from uploading article identical or similar to the article titled as “WHITE LIE OF AMUL AND BLACK TRUTH OF ANIMAL MILK” available at <https://ditchdairy.in/movement/white-lies-of-amul>.

17. Mr.Parag Tripathi, learned Senior Counsel briefed by Mr.Tejas Karia, appearing for the defendant No.3 would submit that the defendant No.3 being an intermediary, can only block / remove the articles if a direction in that regard is given by the Court and also the relevant URLs on which the impugned articles have been posted, are given / informed.

18. Having heard Mr.Sharma and Mr.Tripathi, this Court is of the view that the plaintiffs have made out a *prima facie* case for grant of *interim ex-parte* order. The defendant No.1 is directed to remove the articles “WHITE LIE OF AMUL AND BLACK TRUTH OF ANIMAL MILK” available at <https://ditchdairy.in/movement/white-lies-of-amul> and from Facebook account <https://www.facebook.com/boycottmilk> and is also restrained from uploading articles identical or similar to the said articles on the above website / facebook account till the next date of hearing.

19. Let the provisions of Order XXXIX Rule 3 CPC be complied within one week from today.

V. KAMESWAR RAO, J

DECEMBER 17, 2020/aky