



2026:DHC:2600



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

% *Judgment delivered on: 28.03.2026*

+ **CS(COMM) 574/2023, I.A. 15667/2023 & I.A. 19731/2023**

SAGA LIFESCIENCES LIMITEDPlaintiff

versus

M/S ANAADI GLOBAL CO. & ANR.Defendants

Advocates who appeared in this case

For the Plaintiff : Mr. Vikas Khera, Ms. Sneha Sethia and Mr. Yash Sharma, Advocates.

For the Defendants : Mr. Anshuman Upadhyay, Mr. Naseen and Mr. Rahul Singh, Advocates for D-1.

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

JUDGMENT

TEJAS KARIA, J

I.A. 15667/2025

1. This is an application filed on behalf of the Plaintiff under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908 (“CPC”) seeking interim injunction restraining the Defendants from



using the Mark ‘HALESAGA / HALE’SAGA’, (“Impugned Mark”) in



relation to pharmaceutical and medicinal preparations, and nutraceutical products.

SUBMISSIONS ON BEHALF OF THE PLAINTIFF:

2. The learned Counsel for the Plaintiff has advanced the following submissions before this Court:

2.1. The Plaintiff is an Indian pharmaceutical company, which was established in 1981. On 01.05.1981, the Plaintiff, through its predecessor, adopted the Mark 'SAGA' ('**Subject Mark**') as part of their trade name and has been continuously using the said Mark in respect of pharmaceutical and medicinal preparations, nutraceutical products, dietetic substances adapted for medical use and cosmetics products.

2.2. The details of the Trade Mark registration / application for the Subject Mark are as under:

S. NO.	TRADEMARK	DATE OF APP.	APPLICATION NO.	CLASS	STATUS
1	SAGA	14.02.2017	3482073	05	Registered
2	SAGA	23.08.2022	5578564	35	Registered
3	SAGA	18.10.2022	5652305	39	Registered
4	SAGA	19.10.2022	5653579	40	Registered
5	SAGA	08.10.2022	5640376	03	Pending



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2.3. The details of the Trade Mark registration / application for the variants of the Subject Mark are as under:

S. NO.	TRADE MARK	APPLICATION NO. (WITH USER)	CLASS	STATUS
1.	SAGAFIXIM	3686726 (18.09.2011)	05	Registered
2.	SAGACOXIB	3686727 (21.12.2011)	05	Registered
3.	SAGACEF	3686728 (20.04.2007)	05	Opposed
4.	SAGAMOL	5020109 (Proposed to be used)	05	Rectification filed
5.	SAGAPDIN	5022557 (Proposed to be used)	05	Registered


2.4. Furthermore, the Plaintiff also adopted and continues to use other variants of the Subject Mark, including but not limited to 'SAGAPANTO', 'SAGAFO SA', 'SAGAFORM' and 'SAGASARTAN'.



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- 2.5. Although the products of the Plaintiff are exported outside India, the same amounts to ‘use’ in accordance with Section 56 of the Trade Marks Act, 1999 (“Act”).
- 2.6. The sales turnover of the Plaintiff’s goods / services under the Subject Mark is Rs. 109,22,42,602 for the year 2021-2022, which shows the reputation and goodwill of the Plaintiff in the market.
- 2.7. The Defendants’ adoption and usage of the Impugned Mark is an attempt to ride on the reputation and goodwill of the Plaintiff. The details of Defendant No. 1’s Trade Mark Applications are as under:

MARK / CLASS	APPLICATION NO.	DATE OF APPLICATION	USER CLAIM	STATUS
 03 & 05	5059298	26.07.2021	Proposed to be used	Opposed by Plaintiff on 15.12.2021 <i>vide</i> Opposition nos. 1137928 & 1137905. Notices served on 18.01.2022, no counter statements filed.



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	5171554	13.10.2021	01.08.2021	Opposed on 15.03.2022 <i>vide</i> no. 1153846. Counter statement filed on 03.05.2022. Plaintiff filed evidence under Rule 45 on 16.01.2023. Evidence under Rule 46 not filed till date.
	5171547	13.10.2021	01.08.2021	Rectification filed on 25.07.2023 <i>vide</i> no. 279857.

2.8. By virtue of the Impugned Mark, Defendant No. 1 is trying to come close to the Plaintiff's Subject Mark. Defendant No.1 has put an apostrophe between the words 'HALE' and 'SAGA' in the Impugned Mark and has used different colour for the word 'SAGA' in the Impugned Mark. The word 'SAGA' has been



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given a dominant position in the Impugned Mark. Therefore, it is clear that Defendant No. 1 has done everything to show association with the Plaintiff.

2.9. Defendant No. 1 has copied the Plaintiff's Subject Mark in totality and has merely added the expression 'HALE', which is descriptive as per Defendant No. 1's own submission. The Impugned Mark is used in respect of goods which are similar to the Plaintiff's goods and the said goods are sold through common trading channels. Therefore, considering the similarity of the rival Marks, goods and the trading channels, confusion amongst the members of the trade and public is inevitable.

2.10. Defendant No. 1 has pleaded that the defendants are only using the Impugned Mark in respect of nutraceuticals, which falls in Class 05, in respect of which the Defendant has no registration. Hence, the registration in Class 03 in the name of Defendant No.1 has no relevance to the present Suit. Without prejudice, the Plaintiff is not seeking any relief in respect of cosmetic goods at this stage.

2.11. The Plaintiff had filed application for the registration of the Subject Mark on 14.02.2017, with user since 01.05.1981, wherein Examination Report dated 23.03.2017 was issued due

to similarity with the Trade Marks 'SAGA'

and 'SAGAX'.

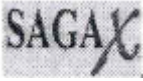

The erstwhile attorney of the Plaintiff filed the Reply to the Examination Report on 08.09.2017 without discussing the contents of the reply with the Plaintiff. The



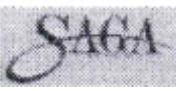
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Plaintiff was not aware of the statement made in the said Reply to the Examination Report and had not conceded to the statement made therein as the Plaintiff filed opposition against

the Mark '' bearing no. 3316302 in Class 05, cited in the said Examination Report, owing to similarity between the Subject Mark and the Mark ''.

2.12. Even otherwise, the Plaintiff has not received any advantage due to the aforesaid statement as the Plaintiff filed the affidavit of use and also attended hearing on 20.06.2019, wherein after

being satisfied about non-renewal of the Mark '' and prior use of Plaintiff, the learned Examiner advertised the Subject Mark, which was eventually registered.

2.13. In any event, the Impugned Mark was not cited in the Examination Report and the Plaintiff has never stated that the Impugned Mark is different from the Subject Mark. Therefore, the inadvertent error on the part of the erstwhile attorney while replying to the Examination Report, ought not be allowed to preclude the Plaintiff from protecting the Subject Mark.

2.14. In the Reply filed to the present application, Defendant No. 1 mentioned its user since 12.10.2021. However, the applications filed for the registration of the Impugned Mark bearing nos. 5171554 and 5171547 in classes 05 and 03 respectively, claim use since 01.08.2021.



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- 2.15. Further, in the said Reply, Defendant No. 1 pleaded that it deals only in nutraceutical and health supplement products. However, the aforesaid applications have been filed in respect of Ayurvedic, Herbal, Pharmaceutical and Medicinal Preparations, and Nutraceutical Supplements in class 05 and for Bleaching Preparations and other substances for Laundry Use, Cleaning, Polishing, Scouring and Abrasive Preparation, Soaps, Perfumery, Essential Oils, Cosmetics, Hair Lotions, and Dentifrices in class 03, with user since 01.08.2021.
- 2.16. Moreover, in the said Reply, Defendant No. 1 pleaded that the Impugned Mark is a composite Mark, which contains the words 'HALE', which is connected to health and 'SAGA', which is used for denoting a long story. By combining the said words, Defendant No. 1 created the Impugned Mark to convey to its consumers the idea that - obtaining and maintaining a good health is a long-term process, where 'HALE' means healthy and hearty, and 'SAGA' means a long story. However, in the counter statement dated 30.04.2022 in application no. 5171554 in class 05, Defendant No. 1 stated that it has bonafidely adopted the Impugned Mark as it is an inherently distinctive Trade Mark and does not have any dictionary meaning.
3. In view of the foregoing submissions, it is prayed that the present application be allowed and interim injunction as prayed for be granted against the Defendants.



SUBMISSIONS ON BEHALF OF THE DEFENDANTS:

4. The learned Counsel for Defendant No. 1 has advanced the following submissions before this Court:

4.1. The creation, conceptualization and adoption of the Impugned Mark by Defendant No. 1 is honest in nature. The said Trade Mark has been in use by Defendant No. 1 since 12.10.2021. Defendant No. 1 combined the words 'HALE' and 'SAGA' to convey to its consumers the idea that - 'obtaining and maintaining a good health is a long-term process, where 'HALE' means healthy / hearty and 'SAGA' means a long story. The syntactical juxtaposition of the words - 'HALE' and 'SAGA' with an apostrophe appearing before the letter 'S', along with the device above, creates a combination unique and distinct from the constituent words - 'HALE' and 'SAGA'. Therefore, it is incorrect to assert that the prominent part of the Impugned Mark is 'SAGA'.

4.2. Plaintiff uses 'SAGA' in the form of / as part of a device -





and there is no use of the word 'SAGA' in its standalone form. Even as part of the said device, the Mark 'SAGA' is used by the Plaintiff as a House Mark and not as a Trade Mark. The said position of Defendant No. 1 is detailed in the table below:



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PARTICULAR	PLAINTIFF'S SUBJECT MARK	DEFENDANT NO. 1'S IMPUGNED MARK
Rival Marks	 / SAGADPIN / SAGAMOL / SAGACOXIB / SAGAFIXIM	

4.3. The Plaintiff's goods, target consumer group and the trade channels are distinct from that of Defendant No. 1, which is depicted in the table below:

	PLAINTIFF	DEFENDANT NO. 1
Distinction in Products	The Plaintiff deals in pharmaceutical products.	Defendant No. 1 deals in nutraceutical products, like Protein powder, pre workout supplements, health supplements, etc.
Purchasing Public	The Plaintiff is solely an exporter. Its products are not available in the domestic Indian market.	Defendant No. 1's products are available on e-commerce platforms.



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Trade Channel	The Plaintiff's 'SAGA' products are exported from India to various countries through their own chain of sellers / resellers. Not even one product of the Plaintiff under the Subject Mark is available to the Indian public.	Defendant is the sole stockist & retailer of the products. The Defendant directly sells the product to consumers via e-commerce platforms.
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4.4. Defendant No. 1, in the period from 15.08.2022 to 20.08.2023 sold 33,639 units of its products on the online retail platform - Flipkart, i.e., www.flipkart.com, and had over 5.41 lakh clicks on its product listings. The gross sales on the said online retail platform alone, during the aforesaid time duration, was to the tune of Rs. 1.49 crores whereas on www.amazon.in, Defendant No. 1 sold 10,218 units worth Rs. 55,63,343.50 in the time period from 07.10.2021 to 31.08.2023. The total sales generated by Defendant No. 1 in the said period is to the tune of Rs. 1,16,34,341/- with advertisement expenses amounting to Rs.14,55,175/-.

4.5. Defendant No. 1 is also the registered proprietor of the Impugned Mark bearing registration number 5171547 in Class 03.



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- 4.6. The Plaintiff's products bearing its 'SAGA' formative Marks are not sold or marketed in India. The invoices produced by the Plaintiff with regard to products bearing 'SAGA' formative Marks are of export to countries like Vietnam, Togo, Kazakhstan, Cambodia, Nepal, Turkmenistan, Uzbekistan, Zambia, France and Yemen, and not of sales in India. Further, all the licenses granted to the Plaintiff for products bearing 'SAGA' formative marks are for export purposes.
- 4.7. 'Likelihood of confusion' is an essential ingredient for passing off as well as for infringement under Section 29(2) of the Act. However, the rival marks are not identical and the goods sold under the respective marks too are not identical. Therefore, the test prescribed under Section 29(2) of the Act does not stand satisfied in the facts of the present case.
- 4.8. Plaintiff is relying upon the registration of the Mark 'SAGA' under Application No. 3482073 in Class 5 which is in the name of Mr. Vinit Arvindbhai Shah, Mr. Arvindbhai Hiralal Shah and Mr. Viranchi Arvindbhai Shah, trading as SAGA LABORATORIES, and not the Plaintiff.
- 4.9. The Plaintiff itself has averred phonetic, structural and visual difference in the rival Trade Marks to waive off the objections which were raised by the learned Registrar on its Application for registration of the Subject Mark, which is evident from its Reply to Examination Report filed by the Plaintiff in Application No. 3482073 in Class 05 dated 08.09.2017.



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- 4.10. The Plaintiff has submitted in the Rejoinder filed herein that the Reply to the aforesaid Examination Report was filed without the Plaintiff's approval and that the Plaintiff did not approve of the submissions made in the said Reply. In such circumstances, the Plaintiff cannot be permitted to rely upon the registration that was obtained based on the said Reply.
- 4.11. The word 'SAGA' is not a coined term but a lexical word which means 'a very long story; a long series of events'. Various third parties use the word 'SAGA' as a part of their Trade Marks / Trade Names. Therefore, it cannot be inferred that the use of the Impugned Mark by Defendant No. 1 is with dishonest intentions of riding upon the Plaintiff's reputation or to deceive the consumers into believing that Defendant No. 1 is associated with the Plaintiff. Target consumers, trade channel being distinct and the absence of the Plaintiff's products in India negate chances of confusion or association.
- 4.12. The Plaintiff also cannot claim 'acquired distinctiveness' or 'well-known' status on a customary, common English word - 'SAGA' against the entire spectrum of all goods and services as there are many parties in the relevant industry using 'SAGA' formative Marks.
- 4.13. Since Defendant No. 1 is a registered proprietor of the Impugned Mark, a suit for infringement is not maintainable against Defendant No. 1 in light of Section 28 (1) and (3) of the Act as the Plaintiff is entitled to exclusive use of its registered Trade Mark only in relation to the goods or services in respect



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of which the Subject Mark is registered. Notably, the Plaintiff has secured registration for goods' specification reading as "Pharmaceutical and medicinal preparations included in Class 05" and is therefore, restricted in enforcing its proprietary rights in relation to those goods only.

- 4.14. Pertinently, Class 05, as per NICE Classification, is a broad class including within its fold goods ranging from medicines to fertilizers. Therefore, the registration of a Mark in Class 05 cannot be deemed to be concerning all goods falling in the said entire Class. Moreover, the Plaintiff's registration is for a specific category of goods, and therefore, it is only those goods in relation to which the Plaintiff is entitled to claim a monopoly in the use of the Subject Mark.
- 4.15. The Plaintiff has submitted, only in written submissions but not in the Plaint, that it uses the Subject Mark for nutraceutical and health supplement products also, however, the said averment is without any basis.
- 4.16. The Plaintiff has failed to establish its goodwill, and misrepresentation by Defendant No. 1 leading to likelihood of confusion, as none of the Plaintiff's products are sold in India. Out of 232 products listed on the Plaintiff's website, only 7 products use the Subject Mark. Therefore, the Plaintiff has not been able to *prima facie* establish its goodwill in India.
- 4.17. The Plaintiff has produced a CA's certificate that records the Plaintiff's sales figures for the entirety of the Plaintiff's business encompassing sales of its products under all 232 of its



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brands / products. The sales figures and the advertisement expenses for the products sold under the Subject Mark have been suppressed by the Plaintiff.

- 4.18. The Plaintiff was aware of the use of the Impugned Mark by Defendant No. 1 since at least April 2022 when Defendant No. 1 filed its Counterstatement against the Opposition filed by the Plaintiff in Application No. 5171554. Despite such knowledge, the Plaintiff failed to institute any suit with prayers for interim injunction until August 2023 which clearly signifies absence of any kind of urgency arising out of imminent or likely irreparable loss, if any, to the Plaintiff. The Plaintiff has thus, disentitled itself to any equitable relief such as urgent, ad-interim injunctive orders.
- 4.19. The Plaintiff's registration in respect of 'SAGA' formative Marks is in Ahmedabad whereas Defendant No. 1 carries on business in Surat. The Plaintiff has preferred all opposition and rectifications proceedings against Defendant No. 1 before the Ahmedabad Trade Marks Office. The availability of Defendant No. 1's products on e-commerce platforms in Delhi is in no manner greater or different from their availability in Gujarat, and thus, the Plaintiff cannot sue in Delhi instead of Gujarat. Further, the pleadings of the Plaintiff in no manner show that the Defendant has specifically targeted the consumers of Delhi, and therefore, the cause of action substantially arises in Gujarat.
- 4.20. The Plaintiff has failed to show any presence and use of the Subject Mark in India whereas Defendant No. 1 has been using



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the Impugned Mark in India since 2021 and its products are available on all the major e-commerce platforms.

4.21. As the Plaintiff's products are not available to the Indian public, there is no likelihood of confusion and hence, there will be no harm to the public as well as the Plaintiff if Defendant No. 1 continues to use the Impugned Mark. Thus, the balance of convenience is in Defendant No. 1's favour and irreparable loss will be caused to Defendant No. 1 if an injunction is imposed at the *ad-interim* stage. Further, no loss and harm will be caused to the Plaintiff during pendency of the present Suit as it does not use the Subject Mark in India.

5. In view of the foregoing submissions, it is prayed that the present application be dismissed.

ANALYSIS AND FINDINGS:

6. Heard the learned Counsel for the Parties and perused the material placed on record.

Territorial Jurisdiction

7. It is Defendant No.1's case that the Plaintiff's registration in respect of 'SAGA' formative Marks is in Ahmedabad whereas Defendant No. 1 carries on business in Surat. It is also contended that the Plaintiff has preferred all opposition and rectification proceedings against Defendant No. 1 before the Ahmedabad Trade Marks Office and that the availability of Defendant No. 1's products on e-commerce platforms in Delhi is in no manner different from their availability in Gujarat, and thus, the Plaintiff cannot institute the present Suit in Delhi instead of Gujarat. Defendant No. 1 has also averred that the pleadings of the Plaintiff in no manner show that



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the Defendant has specifically targeted the consumers of Delhi, and therefore, the cause of action has substantially arisen in Gujarat.

8. It is well-settled that in Trade Mark infringement and passing off suits, Section 20 of the CPC governs territorial jurisdiction, which arises where the cause of action, in whole or in part, arises within the jurisdiction of the Court.

9. From the above-noted submission made by Defendant No. 1, it is undisputed that the products bearing the Impugned Mark are available to consumers within the territory of Delhi via e-commerce platforms. The principle of dynamic effect and mere looming presence on the internet will also confer jurisdiction on this Court.

10. The Defendants have admittedly made the products bearing the Impugned Mark accessible to consumers in Delhi through e-commerce platforms and, therefore, this Court *prima facie* has the jurisdiction to try the present Suit.

11. In view of the above, the plea of lack of territorial jurisdiction is rejected at this stage.

Deceptive Similarity of the Impugned Mark to the Subject Mark

12. During the course of arguments, the learned Counsel for the Plaintiff submitted that the Plaintiff seeks to press for interim injunction against usage of the Impugned Mark only in respect of products covered in Class 05. Therefore, the registration of the Impugned Mark in Class 03 is not relevant to the present controversy.

13. The Plaintiff claims that it is engaged in the business of manufacturing and marketing pharmaceutical and medicinal preparations, nutraceutical products and dietetic substances, and that it adopted the



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Subject Mark on 01.05.1981. The Plaintiff is the registered proprietor of the Subject Mark in Class 05 bearing registration no. 3482073 for medicinal and pharmaceutical preparations.

14. Defendant No. 1 claims that it deals only in nutraceutical and health supplement products under the Impugned Mark, however, the application for the registration of the Impugned Mark bearing no. 5171554 has been filed in respect of Ayurvedic, Herbal, Pharmaceutical and Medicinal Preparations, and Nutraceutical Supplements in Class 05 claiming user since 01.08.2021. Hence, the contention of Defendant No. 1 regarding use of the Impugned Mark only for nutraceutical and health supplement products cannot be accepted.

15. The Plaintiff has submitted that Defendant No. 1 has copied the Plaintiff's Subject Mark in totality and has merely added the expression 'HALE' to the same, in addition to placing an apostrophe between the words 'HALE' and 'SAGA' in the Impugned Mark, and has used different colour for the word 'SAGA' in the Impugned Mark, giving it a dominant position in the Impugned Mark.

16. *Per contra*, Defendant No. 1 contends that word 'SAGA' is not a coined term and it means 'a very long story'; and therefore, it cannot be inferred that the adoption and usage of the Impugned Mark by Defendant No. 1 is dishonest and amounts to riding upon the Plaintiff's reputation or to deceive the consumers into believing that Defendant No. 1 is associated with the Plaintiff.

17. While it is correct that the word 'SAGA' is not a coined term and is well-recognized in the English language, *prima facie* it cannot be said that it



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is descriptive of the Plaintiff's products in any manner, and is therefore, arbitrary in nature when used as the Subject Mark by the Plaintiff.

18. In the present case, a comparison of the Impugned Mark and the Plaintiff's Subject Mark reveals that the entire Subject Mark of the Plaintiff is subsumed in the Impugned Mark. Defendant No. 1 has applied for the registration of the Impugned Mark in Class 05 bearing application no. 5171554 in respect of Pharmaceutical and Medicinal Preparations, and Nutraceutical Supplements, claiming user since year 2021.

19. Mere addition of the prefix 'HALE' and a logo in the Impugned Mark is not sufficient to distinguish the goods of Defendant No. 1 bearing the Impugned Mark with those of Plaintiff bearing the Subject Mark. The words 'HALE' and 'SAGA' are separated by an apostrophe in Impugned Mark, which further prominently highlights Subject Mark as part of Impugned Mark.

20. Hence, the Impugned Mark is *prima facie* deceptively similar to the Plaintiff's Subject Mark in respect of Pharmaceutical and Medicinal preparations under Class 05.

Likelihood of Confusion:

21. Defendant No. 1 has contended that the Plaintiff has failed to establish likelihood of confusion as none of the Plaintiff's products are sold in India and out of 232 products listed on the Plaintiff's website, only 7 products use the Subject Mark. It is also contended that the invoices relied upon by the Plaintiff are of export and not of sale in India. Defendant No. 1 has contended that there is no 'likelihood of confusion' as the goods sold under the respective marks too are not identical.



22. The Plaintiff has relied upon Section 56 of the Act to contend that export of goods amounts to use in India to satisfy the claim of infringement and passing off. Section 56 (1) of the Act provides that:

“The application in India of trade mark to goods to be exported from India or in relation to services for use outside India and any other act done in India in relation to goods to be so exported or services so rendered outside India which, if done in relation to goods to be sold or services provided or otherwise traded in within India would constitute use of a trade mark therein, shall be deemed to constitute use of the trade mark in relation to those goods or services for any purpose for which such use is material under this Act or any other law.”

23. Accordingly, the application of the Subject Mark in India even to the goods to be exported from India would constitute use within India of the Subject Mark for the purpose of establishing infringement and passing off as held in *Cadila Pharmaceuticals Limited v. Sami Khatib of Mumbai* 2011 SCC OnLine Bom 484.

24. Given that the Subject Mark and Impugned Mark are deceptively similar, it is likely to cause confusion.

Passing Off

25. The Plaintiff has earned significant revenue of ₹109,22,42,602 for the FY 2021-2022 by use of Subject Mark. The Plaintiff has been continuously and extensively using Subject Mark since its adoption in the year 1981, which is evident from the invoices placed on record by the Plaintiff.

26. It is implausible to suggest that the Defendants were not aware of the Plaintiff and the Plaintiff’s Subject Mark considering the significant goodwill garnered by the Plaintiff. Accordingly, the use of the Impugned Mark appears to be an attempt to ride upon the goodwill and reputation of the Plaintiff’s Subject Mark.



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27. Accordingly, the Plaintiff has *prima facie* established substantial goodwill and reputation due to revenue earned by the Plaintiff by using Subject Mark and the use of the Impugned Mark is likely to result in loss of revenue and reputation for the Plaintiff. Accordingly, the Plaintiff has *prima facie* established that the Defendants are passing off the products using the Impugned Mark as those of the Plaintiff.

Reply to Examination Report

28. It is Defendant No. 1's case that the Plaintiff itself has averred phonetic, structural and visual difference in rival Trade Marks to waive off the objections which were raised by the learned Registrar on its Application for the registration of the Subject Mark, which is evident from the Plaintiff's Reply dated 08.09.2017 to the Examination Report in Application No. 3482073 in Class 05.

29. It is settled law that a party making an assertion that its Mark is dissimilar to a cited Mark and thereby, obtaining registration on the basis of such assertion, shall not be entitled to obtain an interim injunction against the proprietor of the cited Mark on the ground that it is deceptively similar to its Mark, as the same would be prohibited following the doctrine of approbate and reprobate.

30. However, in the present case, the said principle is not applicable as the Impugned Mark was admittedly never cited in the Examination Report to which the said Reply dated 08.09.2017 was filed by the Plaintiff. Therefore, there is no force in the contention advanced by Defendant No. 1 that the Plaintiff has averred in the said Reply that the competing marks are distinct from each other.



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CONCLUSION:

31. Having considered the submissions advanced by the learned Counsel for the Parties, the pleadings and documents placed on record, a *prima facie* case has been made out on behalf of the Plaintiff for the grant of an interim injunction.

32. It is noted that this is a case of triple identity where the Impugned Mark is deceptively similar to the Plaintiff's Subject Mark, the product category is identical and the trade channel as also the consumer base is identical.

33. Accordingly, during the pendency of the present Suit, the Defendants, their individual proprietors, partners, agents, representatives, distributors, assigns, heirs, successors and all others acting for and on their behalf are restrained from manufacturing, selling, offering for sale, advertising, directly and indirectly dealing in pharmaceutical and medicinal preparations



under Class 05 under the Impugned Mark 'HALESAGA / HALE'SAGA , and / or any other Mark identical with and / or deceptively similar to that of the Plaintiff's Subject Mark 'SAGA', so as to cause infringement and / or passing off of the Plaintiffs' Subject Mark.

34. The present Application stands disposed of with the aforesaid direction.

TEJAS KARIA, J

MARCH 28, 2026

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