



2026:DHC:3003



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

% *Judgment delivered on: 10/04/2026*

+ **C.O. (COMM.IPD-TM) 169/2025, I.A. 17967/2025, I.A. 17968/2025 & I.A. 17969/2025**

**NIPPON PAINT (INDIA) PRIVATE LIMITED** .....Petitioner

versus

**GLOSSY PAINTS INDIA PVT. LTD. & ANR.** .....Respondents

+ **CS(COMM) 302/2025, I.A. 18402/2025, I.A. 20234/2025 & I.A. 25643/2025**

**GLOSSY PAINTS INDIA PVT. LTD. & ANR.** .....Plaintiffs

versus

**NIPPON PAINT (INDIA) PRIVATE LIMITED  
& ORS.** .....Defendants

**Advocates who appeared in these cases**

Mr. Manish Kumar Mishra and Ms. Akansha Singh, Advocates for Petitioner in C.O. (COMM.IPD-TM) 169/2025 and D1 in CS(COMM) 302/2025.

Mr. Sagar Chandra, Mr. Nikhil Sonker and Mr. Lakshay Gunawat, Advocates for R1 in C.O. (COMM.IPD-TM) 169/2025 and Plaintiffs in CS(COMM) 302/2025.

Ms. Nidhi Raman, CGSC with Mr. Om Ram, Advocate for R2 / UoI in C.O. (COMM.IPD-TM) 169/2025.



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

**JUDGMENT**

**TEJAS KARIA, J**

**I.A. 8784/2025 in CS(COMM) 302/2025 and C.O. (COMM.IPD-TM) 169/2025**

1. The present Suit being CS(COMM) 302/2025 (“**Suit**”) has been filed seeking a decree of permanent injunction against the Defendants restraining



them from using the Mark ‘**INFINITY**’ (“**Impugned Mark**”), along with I.A. 8784/2025 under Order XXXIX Rules 1 and 2 read with Section 151 of Code of Civil Procedure, 1908 (“**CPC**”) seeking interim injunction restraining the Defendants from using the Impugned Mark.

2. During the pendency of the Suit, Defendant No. 1 filed the present Rectification Petition being C.O. (COMM.IPD-TM) 169/2025 (“**Rectification Petition**”) under Sections 47 and 57 read with Section 18(4) of the Trade Marks Act, 1999 (“**Act**”) seeking removal / rectification of the Trade Mark ‘**INFINITY**’ (“**Subject Mark**”) bearing registration no. 1106467 in Class 2, from the Register of Trade Marks.

**FACTUAL BACKGROUND:**

3. The Plaintiffs are engaged in the business of manufacturing and sale of a variety of decorative and industrial paints including interior and exterior wall paints, varnishes, polishes, epoxies, flooring paints, automotive paints,



primers, lacquers, waterproofing products, protective coating, paints for coating, reducers, acrylic paints, paints for wood, preservatives against rust and deterioration of wood, furniture coatings, dyestuffs, mordants, resins, metals in foil and powder form for painters and decorators, and related / cognate and allied goods under various brands such as 1001, GLOSSY, ELITE, SHEHNAI, HOME CARE, LOTUS, RAKSHAK, TUFFWOOD, AUTOKING, WEATHERITE, WEATHERGOLD, SHEHNAI, among others.

4. The Plaintiffs claim that the Subject Mark was adopted by the Plaintiffs in the year 2001 with respect to goods being paints, varnishes, lacquers, preservatives against rust and deterioration of wood, coloring, matters, dyestuffs, mordants, resins, metals in foil and powder form for painters and decorators, protective primers, PU coating/paints, etc., and the said Mark has been in continuous and extensive use by the Plaintiffs after its adoption. Plaintiff No. 1 secured registration of the Subject Mark under the Act, bearing registration no. 1106467 in Class 2, claiming user since 01.07.2001.

5. Defendant No. 1 is the manufacturer and marketer of goods bearing the Impugned Mark. Defendant No. 2 is the parent company of Defendant No. 1. Defendant No. 3 is one of the directors of Defendant No. 1 company and is involved in the marketing of the goods sold under the Impugned Mark.

6. The Plaintiffs claim that they first came to know about the goods bearing the Impugned Mark in the third week of August 2024, when the Plaintiffs' representative came across the Defendants' goods under the Impugned Mark being promoted, offered for sale and sold on the e-



2026:DHC:3003



commerce platform '<https://indiamart.com>'. The Plaintiffs also came across the application dated 06.08.2022, bearing no. 5561114 in Class 2 seeking registration of the Impugned Mark on a proposed-to-be-used basis.

7. Aggrieved by the same, the Plaintiffs filed the present Suit seeking a decree of permanent injunction against the Defendants restraining them from using the Impugned Mark. *Vide* order dated 04.04.2025 passed in the Suit it was recorded that the Defendants are willing to give up the Impugned Mark, and accordingly, the Parties were referred to mediation before the Delhi High Court Mediation and Conciliation Centre. Further, the Defendants were granted a week's time to file an affidavit *qua* the present stocks along with a copy of the books of accounts exhibiting the volume of manufactured products under the Impugned Mark or any other Mark that is identical or deceptively similar to the Subject Mark.

8. *Vide* order dated 13.05.2025 passed in the Suit, it was observed that the mediation between the Parties to the Suit could not fructify and, accordingly, notice was issued in the present application. Further, during the pendency of the present Suit, Defendant No. 1 filed the Rectification Petition on 25.07.2025, seeking removal / rectification of the Subject Mark from the Register of Trade Marks. *Vide* order dated 29.07.2025, the Rectification Petition was directed to be listed along with the Suit. Thereafter, the Parties were heard and judgment was reserved *vide* order dated 22.12.2025 in the Rectification Petition and I.A. 8784/2025 in the Suit.



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

9. The learned Counsel for the Plaintiffs made the following submissions:

- 9.1. Plaintiff No. 1 adopted the Subject Mark *qua* goods being paints in the year 2001, and has been using the same ever since its adoption. Plaintiff No. 1 is the registered proprietor of the Subject Mark bearing no. 1106467 in Class 2 for goods being ‘paints, varnishes, lacquers, preservatives against rust and against deterioration of wood, coloring matters, dyestuffs, mordants, resins, metals in foil and powder form for painters and decorators’.
- 9.2. Defendant No. 1 had prior business dealings with the Plaintiffs in the year 2010-2011, and therefore, it was aware of the Plaintiffs’ Subject Mark and its business.
- 9.3. Defendant No. 1 filed the Trade Mark application for the registration of the Impugned Mark bearing application no. 5561114 in Class 2 for identical goods being ‘paints, including material for wood finishing requirement, lacquers, colorants, aluminium paints, ceramic paints, enamels for painting/enamel paints, thinners or lacquers, pigments, primers, coatings (paints), enamels for painting enamel paint’, filed on 06.08.2022, on a proposed-to-be used basis.
- 9.4. The Defendants’ adoption and use of the Impugned Mark is subsequent to that of the Plaintiffs’ adoption and registration of the Subject Mark. In case of dishonest adoption, no amount of use can justify the same.



2026:DHC:3003



- 9.5. Plaintiff No. 1 is the registered proprietor of the Subject Mark in Class 2. The Impugned Mark contains the word 'INFINTY' and symbol of infinity as its dominant part. The Plaintiffs' Subject Mark bearing registration no. 1106467 was cited as an objection in the Examination Report dated 11.01.2023 issued in Defendant No. 1's aforesaid Trade Mark application.
- 9.6. Due to competing Marks, competing goods and the trade channels of the competing goods being identical, there is a clear presumption of confusion and, therefore, the Defendants' use of the Impugned Mark is liable to be enjoined under Section 29(2)(c) of the Act.
- 9.7. Moreover, use of the symbol '∞' is also liable to be enjoined as the word 'INFINITY' and the symbol '∞' convey the same meaning and idea. The symbol '∞' will be spoken and read as 'INFINITY' and therefore, the said symbol's spoken use is phonetically identical to the Subject Mark. Further, when the said symbol will be used on goods, its use will likely be taken as 'use as a Trade Mark'.
- 9.8. The Plaintiffs have established goodwill and reputation due to prior, long, continuous and uninterrupted use. The Defendants' adoption is dishonest, and amounts to misrepresentation and causes confusion.
- 9.9. Defendant No. 1 has applied for the registration of an identical Mark for identical goods by way of the aforesaid application no. 5561114 in Class 2 and is, therefore, estopped from claiming that the Subject Mark is descriptive in nature. In any event, the Subject



2026:DHC:3003



Mark is inherently distinctive and arbitrary in relation to paints and allied goods, and does not make any reference to the nature, kind, quality, quantity, intended purpose, values or other characteristics of paints.

9.10. In view of the foregoing submissions, it is prayed that the Rectification Petition be dismissed and I.A. 8784/2025 filed by the Plaintiffs in the Suit be allowed.

**SUBMISSIONS ON BEHALF OF THE DEFENDANTS:**

10. The learned Counsel for the Defendants made the following submissions:

10.1. Defendant No. 1 is a company incorporated in 2006 and is a subsidiary of Defendant No. 2, which is a Japan-based company founded in the year 1881 and has over 140 years of experience in the paint industry. Defendant No. 1 is engaged in the manufacture of high-quality paints and coatings for the automotive, industrial and decorative sectors, and is a leading paint and coatings company in India with substantial goodwill and reputation. Defendant No. 1 also has a strong international presence as it is operating over 118 manufacturing facilities across 28 countries, employing over 31,196 staff in 28 countries.

10.2. Defendant No. 1 has received various certifications and awards for its quality products and social welfare initiatives. Defendant No. 1 has also invested extensively in marketing because of which, it has been able to achieve a turnover of approximately Rs. 2,400 crores in 2024 and has, therefore, become a household brand in India.



2026:DHC:3003



- 10.3. Defendant No. 1 adopted the Impugned Mark on 06.08.2022 in a *bona fide* manner and has been using the same continuously and extensively since then, which is evident from the total sales of Rs. 20.2 crores as of December 2024.
- 10.4. Defendant No. 1 has also filed application no. 5561114 dated 06.08.2022 for the registration of the Impugned Mark in Class 2 for goods being “*Paints, including material for wood finishing requirement, lacquers; colorants; aluminium paints, ceramic paints, enamels for painting / enamel paints, thinners for lacquers, pigments, primers, coatings [paints], enamels for painting / enamel paint*”, which is under opposition by Plaintiff No. 2 *vide* opposition no. 1359937 dated 08.11.2024.
- 10.5. Plaintiff No. 2 issued a cease-and-desist notice dated 22.08.2024 to Defendant No. 1, pursuant to which the parties tried to negotiate a settlement. However, the same did not materialize and the present Suit was filed by the Plaintiffs.
- 10.6. The registration of the Subject Mark by Plaintiff No. 1 is invalid as it has been filed on the basis of false user claim since 01.07.2001. The Plaintiffs despite claiming such use of the Subject Mark have not produced any evidence of use before the learned Registrar or before this Court in the present proceedings. The explanation of the Plaintiffs that the records of the Plaintiffs were burnt in a fire in 2024 is *ex-facie* misleading. Notwithstanding the same, admittedly the Plaintiffs have been selling their goods through their distributors and surely could have produced the invoices of sale from them.



10.7. As per the Plaintiffs' website in 2010 and 2014 and the Plaintiffs' Facebook posts, there was no reference of paints and allied products under the Subject Mark, despite the entire range of Plaintiffs' Glossy Paints being displayed. The said fact establishes that Plaintiff No. 1's Trade Mark application dated 23.05.2002 was obtained based on false user claim made by Plaintiff No. 1 and, therefore, is liable to be cancelled on that ground alone. In support of the said argument, the Defendants place their reliance on the following decisions:

- ***Suresh Kumar Jain v. Union of India***, 2012 SCC OnLine Del 12
- ***Times Publishing House Ltd. v. Financial Times Limited***, 2012 SCC OnLine IPAB 62
- ***Mahomad Oomar v. S. M. Nusurrudin*** AIR 1956 Bom 76.

10.8. The registration of a Trade Mark does not confer absolute right, which is evident from the language of Section 28 of the Act which incorporates the phrase "if valid" as a pre-condition for the exclusive right to use of the Trade Mark in question. Moreover, even though there is a presumption of *prima facie* validity in favour of registration under Section 31 of the Act, such presumption is not conclusive and is rebuttable. Hence, the grant of registration is also not conclusive evidence of its validity.

10.9. Once the said statutory presumption is rebutted to show that the registration is not *prima facie* valid, the onus shifts on the registered proprietor to establish its validity. Till such validity is



2026:DHC:3003



established, the registered proprietor is not entitled to any relief based on such registration.

10.10. The registration obtained by Plaintiff No. 1 for the Subject Mark is *prima facie* invalid as the registration has been granted by the learned Registrar despite objection to the registrability of the Subject Mark under Section 9 of the Act, in the Examination Report dated 05.04.2003.

10.11. The Plaintiffs have placed on record a reply to the said Examination Report dated 19.04.2003, which purportedly appears to be ingenuine and fabricated as no such reply, as claimed by Plaintiffs, is available on the online records of the Trade Mark Registry. Further, it was not filed along with the Rejoinder to the present application on 25.07.2025 and was only filed at a later stage on 11.09.2025 along with the documents filed with Replication. Moreover, the Plaintiffs have claimed that on account of fire at their premises in August 2024, all the old records and data have been destroyed except since 2017. The Plaintiffs have also failed to disclose in the Replication as to how they discovered the reply when all records and data got destroyed.

10.12. Even otherwise, no evidence of use was produced and therefore, objection under Section 9 of the Act was not met and the registration granted is invalid.

10.13. In any event, the Trade Mark application of Plaintiff No. 1 was not accepted by the learned Registrar, which is evident from the order of the Registrar dated 03.12.2003.



10.14. Therefore, the registration of the Subject Mark bearing no. 1106467 is invalid and the Plaintiffs ought to prove the validity of the registration of the Subject Mark in the trial.

10.15. The Plaintiffs have claimed to be using the Subject Mark since 01.07.2001. However, the Plaintiffs have failed to produce evidence showing goodwill and reputation in the Subject Mark on the date of adoption of the Impugned Mark by Defendant No. 1 in the year 2022. On the other hand, Defendant No. 1 has established enormous sales of its products under the Impugned Mark since its adoption in the year 2022. The following comparative figures are sufficient to negate the claim of the Plaintiffs that the Defendants have misappropriated the goodwill and reputation of the Plaintiffs:


<b>YEAR</b>	<b>Defendant No. 1 (INR)</b>	<b>Plaintiffs (INR)</b>
<b>2022-23</b>	80,88,011	39,97,373
<b>2023-24</b>	12,74,62,873	49,51,930
<b>2024-25</b>	20,65,69,300	37,98,905
<b>Total</b>	34,21,20,184	1,27,48,208

10.16. The above figures also establish that no irreparable injury has been caused to the Plaintiffs on account of use of the Impugned Mark by Defendant No. 1.

10.17. The competing Marks are different in appearance, name, design and the overall presentation. Defendant No. 1's Impugned Mark is unique, suffixed with the words 'TIMELESS' and 'APPEAL', having no reference to the goods sold thereunder making it



sufficiently distinguishable, which is evident from the table produced below:

Plaintiffs' Mark	Impugned Mark
<p style="text-align: center;"><b>INFINITY</b></p>	

The competing Marks are used along with their different brand name, i.e., 'GLOSSY' and '1001' of the Plaintiffs and 'NIPPON PAINT' of Defendant No. 1, as is evident from the table produced below:

Plaintiffs' Product	Defendant No. 1's Product
	



10.18. The term 'INFINITY' is descriptive per se in relation to paints/coatings, which is also evident from the fact that even the learned Registrar of Trade Marks had raised objection in the Examination Report dated 05.04.2003. Additionally, the Subject Mark is common to the trade as well.

10.19. In view of the foregoing submissions, it is prayed that the Rectification Petition be allowed and I.A. 8784/2025 filed by the Plaintiffs in the Suit be dismissed.

**ANALYSIS AND FINDINGS:**

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

12. Defendant No. 1 has submitted that the registration of the Subject Mark bearing registration no. 1106467 in Class 2 was secured by the Plaintiffs claiming false user date. It is also contended by Defendant No. 1 that the Subject Mark was registered by the Registrar of Trade Marks, despite objection under Section 9 of the Act.

13. It is further contended by Defendant No. 1 that the presumption of validity of the Subject Mark is rebuttable in nature and is not absolute. Furthermore, Defendant No. 1 claims that the Subject Mark is descriptive, and hence, it is liable to be struck off the Register of Trade Marks.

14. The Trade Mark application for the registration of the Subject Mark bearing no. 1106467 in Class 2 was filed on 23.05.2002 by Plaintiff No. 1. The Examination Report was issued in the said application by the Trade Marks Registry on 05.04.2003 observing that the Subject Mark is open to objections under Section 9 of the Act.



15. Plaintiff No. 1 filed its reply to the Examination Report on 19.04.2003, stating that Subject Mark had become distinctive with respect to Plaintiff No. 1 and is non-descriptive in nature, having no direct reference to the character of the goods sold thereunder.

16. Upon consideration of the said reply to the Examination Report, and in accordance with the applicable provisions of the Act, it is apparent that the Trade Marks Registry processed the aforesaid application filed for the registration of the Subject Mark, and granted registration to Plaintiff No. 1 in Class 2, which is valid up to 23.05.2032. Therefore, due procedure was followed for granting registration of the Subject Mark to Plaintiff No. 1.

17. Defendant No. 1 also contended that the presumption of validity of the registration of the Subject Mark is rebuttable and is not absolute in nature. With regard to the presumption of validity of registration under Section 31 of the Act, the same is rebuttable, however, the onus rests with the person that challenges the Trade Mark's validity to establish that it is plausibly invalid. In *Patel Field Marshal Agencies v. P.M. Diesels Ltd.*, (2018) 2 SCC 112, it has been held that the Court must be *prima facie* satisfied that there exists a case of invalidity in order to eliminate false, frivolous and untenable claims of invalidity, so as to further the cause of justice.

18. In the present case, Defendant No. 1 has contended that the registration has been obtained by way of false user claim by Plaintiff No. 1. However, Defendant No. 1 has not been able to make out even a *prima facie* case supporting the said claim. Mere bald averments made by Defendant No. 1 regarding the false user claim of the Subject Mark, are not sufficient to render *prima facie* satisfaction to this Court that the presumption of validity



is rebutted in the present case with respect to the registration of the Subject Mark.

19. Defendant No. 1 has also contended that the Subject Mark is descriptive in nature, when used for the Plaintiffs' products, i.e., paints, coatings, etc. *Per contra*, the Plaintiffs submitted that the Subject Mark is inherently distinctive and arbitrary in relation to paints and allied products, and does not make any reference to the nature, kind, quality, quantity, intended purpose, values or other characteristics of the said products.

20. The Plaintiffs further contend that Defendant No. 1, having applied for the registration of the Impugned Mark, which is identical to the Subject Mark for identical goods, is estopped from claiming that the Subject Mark is descriptive in nature. In support of this contention, the Plaintiffs placed reliance on this Court's decision in *Automatic Electric Ltd. v. R.K. Dhawan*, 1999 SCC OnLine Del 27, wherein it was held as under:

*"16. The defendants got their trade mark "DIMMER DOT" registered in Australia. The fact that the defendant itself has sought to claim trade proprietary right and monopoly in "DIMMER DOT", it does not lie in their mouth to say that the word "DIMMER" is a generic expression....."*

21. In the present case, Defendant No. 1 has applied for the registration of the Impugned Mark bearing application no. 5561114 in Class 2. The Subject Mark, i.e., the word 'INFINITY', is completely subsumed within the Impugned Mark as its dominant feature, which is displayed prominently therein, along with the symbol of 'INFINITY', i.e., '∞'.

22. Having applied for the registration of the Impugned Mark, there is force in the Plaintiffs' contention that Defendant No. 1 is estopped from



claiming that the Subject Mark is descriptive / non-distinctive in nature, when used for paints and allied goods.

23. Further, the Rectification Petition / plea of invalidity of the Subject Mark is an afterthought. In the Examination Report dated 11.01.2023 for the Impugned Mark, the Subject Mark was cited as an objection to Defendant No. 1's application bearing no. 5561114 in Class 2. Thereafter, the Plaintiffs also formally opposed the said application filed by Defendant No. 1 for the registration of the Impugned Mark, *vide* opposition no. 1359937 dated 08.11.2024, to which the Counter-Statement dated 10.01.2025 was filed by Defendant No. 1.

24. In view of the above, there is no cavil that Defendant No. 1 was certainly aware of the existence of the Subject Mark on the Register of Trade Marks, however, the Rectification Petition was filed / plea of invalidity was raised by Defendant No. 1 only after the Mediation between the Parties failed, wherein they were referred to by this Court in the Suit *vide* order dated 04.04.2025 upon considering the statement made by Defendant No. 1 that it was willing to give up the Impugned Mark. Therefore, the plea of invalidity of the Subject Mark / Rectification Petition filed by Defendant No. 1 is an afterthought and, accordingly, deserves to be rejected in view of the above analysis.

25. Plaintiff No. 1 claims that it adopted the Subject Mark with respect to goods being Paints in the year 2001 and has been using the same ever since its adoption. Further, it is a matter of fact that Plaintiff No. 1 is the registered proprietor of the Subject Mark bearing registration no. 1106467 in Class 2 for goods being 'paints, varnishes, lacquers, preservatives against rust and against deterioration of wood, coloring matters, dyestuffs, mordants, resins,



metals in foil and powder form for painters and decorators.’ Whereas, Defendant No. 1 claims that it adopted the Impugned Mark in the year 2022 in respect of goods being paints and other allied products and has also filed application no. 5561114 dated 06.08.2022 for the registration of the Impugned Mark in Class 2.

26. The learned Counsel for Defendant No. 1 contended that the competing Marks in question are different in appearance and the overall presentation as the Impugned Mark is a label, which is suffixed with the words ‘TIMELESS’ and ‘APPEAL’, while having no reference to the goods sold under the said Mark, thereby, making it sufficiently distinguishable from the Subject Mark.

27. A comparison of the competing Marks makes it clear that the Impugned Mark has completely subsumed the Subject Mark, i.e., the word ‘INFINITY’ in the label, along with the symbol of ‘INFINITY’, i.e., ‘∞’, in addition to the suffix - ‘TIMELESS APPEAL’. The word ‘INFINITY’ and the symbol ‘∞’ are prominently highlighted in the Impugned Mark and constitute dominant features of the Impugned Mark.

28. It is also imperative to note that the said symbol’s spoken use is phonetically identical to the Subject Mark, i.e., ‘INFINITY’. Further, mere addition of the suffix ‘TIMELESS APPEAL’ to the Word ‘INFINITY’ and its symbol ‘∞’, does not render the Impugned Mark distinct from the Subject Mark considering that the Subject Mark along with its symbol, is retained as the dominant feature of the Impugned Mark. Therefore, in view of the above analysis, it clear that the Impugned Mark is *prima facie* deceptively similar to the Subject Mark of the Plaintiffs.



29. The competing Marks of the Plaintiffs and Defendant No. 1 are used for paints and allied products. The Subject Mark has been registered in Class 2 bearing registration no. 1106467 for paints and other allied products as mentioned above, whereas the Impugned Mark is also sought to be registered by way of application no. 5561114 in Class 2 by Defendant No. 1, and has been used in respect of paint products since the year 2022.

30. Considering that the competing Marks are being used for identical products, having identical trade channel and consumer base, in addition to the fact that the Impugned Mark is *prima facie* deceptively similar to the Subject Mark as held hereinabove, there exists a strong likelihood of confusion amongst the members of the trade and public, who may confuse the products of Defendant No. 1 bearing the Impugned Mark with the products of the Plaintiffs, believing that the products of Defendant No. 1 bearing the Impugned Mark originate from the Plaintiffs.

31. It is settled law that in order to constitute the tort of passing off, three ingredients must be satisfied - *firstly*, plaintiff should have acquired significant goodwill; *secondly*, defendant must indulge in misrepresentation to deceive the public, leading them to believe that the defendant's goods originate from the plaintiff; and *thirdly*, there should be actual or likelihood of damage because of defendant's misrepresentation.

32. Given that the Subject Mark was first adopted by the Plaintiffs in the year 2001 and has been in use since then and that the Plaintiff has the registration of Subject Mark, the Plaintiffs has gained goodwill and reputation over time. The Plaintiffs have contended that Defendant No. 1's adoption and use of the Impugned Mark in 2022 was dishonest and amounted to misrepresentation. Upon comparison of the sales figures of the



2026:DHC:3003




Plaintiffs' products sold under the Subject Mark and the Defendants' products sold under the Impugned Mark after the adoption of the Impugned Mark, the sales figures of the Defendants' products are significantly higher than that of the Plaintiffs since the year 2022 when the Impugned Mark was adopted and put to use by the Defendants. The said difference in the sales figures widened in the years 2023 and 2024 in favour of the Defendants, which clearly shows that the Plaintiff has suffered actual loss due to use of the Impugned Mark by the Defendants. Therefore, *prima facie* case of passing off is made out against the Defendants.

**CONCLUSION:**

33. 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 Plaintiffs for the grant of an interim injunction restraining the Defendants from infringing and passing off the Plaintiffs' Subject Mark.

34. 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 paints or any other allied or cognate goods



under the Impugned Mark '  ' and / or any other Mark identical with and / or deceptively similar to that of the Plaintiff's Subject Mark 'INFINITY', so as to cause infringement and / or passing off of the



2026:DHC:3003



Plaintiffs' Subject Mark. Accordingly, I.A. 8784/2025 in CS(COMM) 302/2025 stands disposed of in the aforesaid terms.

35. Further, in view of the foregoing analysis, no case is made out for the rectification / removal of the Subject Mark from the Register of Trade Marks. Therefore, the Rectification Petition being C.O. (COMM.IPD-TM) 169/2025, stands dismissed. Pending Application(s) in the Rectification Petition, if any, stand disposed of.

**TEJAS KARIA, J**

**APRIL 10, 2026**

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