

IN THE COURT OF Sh. RAJESH KUMAR GOEL
District Judge (Commercial Court) -02,
Central, Tis Hazari

DLCT010123592024



CS (COMM.) N. 873/2024
CNR No. DLCT010123592024

In the matter of

(As per amended memo of parties)

Deepti Patel
Proprietor of Krishi Kalyan Seeds Corporation
Shop NO.74, Indra Market,
Old Sabzi Mandi,
Delhi 110007

.....Plaintiff

Versus

C.P Patel Farm Seeds Pvt. Ltd,
Through Director Mr. Vishal B. Patel
Tika No.8/1, Block No.21
Survey No.111,
In the Market Latipura Road
Padra-391440
Distt Vadodara
Gujarat, India

.....Defendant

Date of Institution : 12.08.2024
Date of Argument : 04.04.2026
Date of Judgement : 15.04.2026

Judgment:

1. Vide this judgment, I shall dispose of the present suit filed by the plaintiff Deepti Patel who is claiming

to be proprietor of Krishi Kalyan Seeds Corporation, seeking injunctive reliefs, delivery up and also the damages against the defendant C.P Patel Farm Seeds Pvt. Ltd through its Director Vishal B. Patel (*hereinafter referred to as 'defendant company'*)

Factual Matrix

2. The brief facts of the case, as made out in the plaint are that the plaintiff Deepti Patel is the proprietor of Krishi Kalyan Seeds Corporation and is engaged in the business of marketing and selling of seeds for Agricultural, Horticultural, Forestry Products, Natural Plants and flowers (*herein after referred to as 'seeds'*) under its trademark/tradedress/brandname/packaging/logo/label



"Krishi Kalyan Seeds" , "Gold Krishi Kalyan Seeds Redish (AUSH) Bombay Red Khashi




Katta"  "Krishi Kalyan Seeds in Hindi



, "Krishi Kalyan Seeds Pyaaz Beej



Sukh Sagar in Hindi , " Krishi Kalyan Seeds

alongwith Corn Shape” , (*herein after referred to as "plaintiff's trademark"*) in and outside India.

3. According to the plaintiff, the plaintiff had conceived, coined and adopted the plaintiff's trademark in the year 1976 in respect of the seeds and since then using the same; the plaintiff has sought the registration of the plaintiff's trademark vide applications bearing no. 5950935, 5950933, 5950934, 5980570, 6159897 and 6539217 in class 31 & 35 under the Trademark Act, 1999 in respect of the seeds and the said registrations continue to remain valid from time to time and are still in force.

4. It is the further case of the plaintiff that the artistic features of the get up, layout, style of writing and colour combination of the plaintiff's trademark on the seeds has been extensively devised and depicted by the plaintiff and the plaintiff is using the same in respect of its seeds products; the plaintiff has built up an unparalleled reputation and goodwill in respect of the plaintiff's trademark; the plaintiff's trademark is used openly, continuously and extensively in relation to high quality goods in the market across India; by virtue of longstanding usage for more than 6 decades,

staggering sales which runs into several crores of rupees, wide area of coverage, extensive publicity and promotion, the plaintiff has created exclusive proprietary interest in the plaintiff's trademark; the plaintiff enjoy all statutory and common law rights in respect of the plaintiff's trademark; the plaintiff's trademark is exclusively associated with the plaintiff and any use of the said packaging as well as any other mark or packaging deceptively similar to the plaintiff's trademark would cause confusion and deception in the minds of public at large.

5. It is the further case of the plaintiff that Late Manish Patel (husband of the plaintiff) and the defendant were partners in a partnership firm; in the year 2022, the plaintiff came to know that Vishal B. Patel, who is the Director of defendant company, with malafide intention has started the malpractices in the same business and is selling identical seeds for growing vegetables, fruits, fodder and forage for animals under the trade name "**Krishi Kalyan**



Seeds/Krishi Kalyan" (*herein after referred to as " impugned trademark "*) which is phonetically similar/identical to the plaintiff's trademark; the defendant company with malafide

intention has applied for registration of the impugned trademark vide application number 5954916 in class 31 dated 27.05.2023.

6. It is averred that the partnership between the plaintiff and the defendant company has already been dissolved; the adoption of impugned trademark by the defendant company, which is identical and deceptively similar to that of plaintiff's trademark is with the sole intention of trading upon and benefiting from plaintiff's hard earned goodwill and reputation by passing off defendant company's spurious and inferior quality seeds; the act of the defendant company has caused confusion and deception in the minds of the consumers and has caused losses and injury to the plaintiff; by adopting the impugned trademark, the defendant company is violating the plaintiff's statutory copyright also . Hence, the present suit was filed.

7. The record would indicate that on 21.08.2024, an application under Order VI Rule 17 r/w section 151 CPC alongwith amended memo of parties and amended plaint seeking certain amendments, moved on behalf of the plaintiff was allowed and summons of the suit were directed to be issued to the defendant company.

8. On being served the summons of the suit, the defendant company made the appearance and filed the written statement. In the written Statement, the defendant company has taken various objections i.e the defendant company is the bonafide user of the trademark in question; defendant's predecessor firm M/s Chhaganlal P. Patel had coined and adopted the distinctive mark "Krishi Kalyan" since its incorporation in the year 1967 till the transformation of the said firm into the current defendant's incorporated entity; by virtue of the honest and bonafide adoption and extensive use, the trademarks of the defendant company have acquired immense goodwill and reputation among their consumers; in order to expand its business, the defendant company has established a partnership firm known as Krishi Kalyan Seeds Corporation, in the state of Delhi with the sole purpose of promoting and selling the defendants good's and services as an authorised distributor and reseller.

9. It is stated that the defendant company had taken the services of a highly skilled professional artist with an objective of creating an artwork that would not only symbolize the "KRISHI KALYAN" brand but

also be visually captivating and unforgettable and the resulting artwork, affectionately referred to as



; the defendant company has taken the proactive step of initiating the trademark registration process for their trademark and enjoys extensive uses; the impugned trademark “Krishi Kalyan” has become distinctively and exclusively associated with the defendant company's goods and services and the defendant company has built a long standing and robust reputation in the market; the plaintiff is a subsequent and recent adopter of the subject trademark as compared to the defendant company and the claim of the plaintiff of prior user of the trademark is false and is based upon the fabricated documents.

10. It is further stated that the plaintiff is the partner of a partnership firm namely “Krishi Kalyan Seeds Corporation” which has been wrongly and falsely portrayed as proprietorship firm of the plaintiff namely Deepti Patel; the plaintiff is one of the partner of the said firm and she has not been provided with any rights or title to use or to claim exclusive ownership over any subject trademark; the impugned trademark

application filed by the plaintiff in her name is deceptively similar to the defendant company's trademark sought to be registered; even the sale invoices submitted by the plaintiff nowhere indicate that it has been raised by a proprietorship firm as raised by the plaintiff. The said invoices under the name “Krishi Kalyan Seeds Corporation” is of the partnership firm. It is further stated that the partners of “Krishi Kalyan Seeds Corporation” are shareholders in the defendant company also; the “Krishi Kalyan Seeds Corporation” has never manufactured or sold any product under the trademark “Krishi Kalyan”; the plaintiff by misusing her position has commenced operating business without informing or consulting the other partners of the firm.

11. In the Power of Attorney filed alongwith the application by the plaintiff seeking registration of the Trademark, has claimed herself the proprietor of the “Krishi Kalyan Seeds Corporation” but the said application was filed in her personal capacity and the Power of Attorney lacks clear details about granting authority; the plaintiff has approached the Trademark Office with malafide intent by concealing material facts and presenting misleading information; the plaintiff being an active partner of “Krishi Kalyan

Seeds Corporation” which is a partnership firm is in the business of reselling and distributing the defendants products and the “Krishi Kalyan Seeds Corporation” was never allowed to engage in other commercial activities; the plaintiff claimed that she is the first user of the trademark in question is without any basis; even the invoices as relied upon by the plaintiff date back to a period even when the plaintiff had not entered in the family and the few invoices pertain to “Krishi Kalyan Seeds Corporation”. All other allegations and the claim made in the plaint, have been denied and it is requested that the suit of the plaintiff may be dismissed with exemplary cost.

12. The plaintiff filed the replication/reply denying the allegations made in the written statement filed by the defendant company and reiterated the facts as mentioned in the plaint.

13. On the basis of the pleadings of the parties, vide order dated 29.10.2025, following issues were framed by this Court:-

1. **Whether there is no cause of action in favour of the plaintiff and against the defendant? (OPD)**
2. **Whether the present suit is barred by Section 27 (1) of the Trademarks Act,1999? (OPD)**
3. **Whether the plaintiff is entitled for decree of permanent injunction, as prayed for (prayer (a) as**

made in the plaint)? (OPP)

4. Whether the plaintiff is entitled for decree of permanent injunction against the defendant (Prayer (b) as made in the plaint) ? (OPP)
5. Whether the plaintiff is entitled for decree of permanent injunction against the defendant (prayer (c) as made in the plaint)? (OPP)
6. Whether the plaintiff is entitled for decree of delivery up and also for rendition of accounts (Prayer (e) as made in the plaint)? (OPP)
7. Whether the plaintiff is entitled for decree of damages (prayer (g) as made in the plaint) ? (OPP)
8. Relief

14. Also, the Schedule of Second Case Management hearing was fixed and keeping in mind the mandate of Order XV A, particularly Rule 3 & 4 CPC, as applicable to commercial matters, aimed at expeditious disposal of such matters, Ld. District & Sessions Judge (Retd) was appointed as a Court Commissioner to record the evidence of both the parties.

15. The Ld. Court Commissioner has already submitted his report dated 4.02.2026 to this court. As per the said report, the plaintiff has examined herself as PW1 and the defendant company has examined its director /AR Vishal Bipinchandra Patel, as DW1.

16. PW1 Deepti Patel has filed her evidence by way of affidavit **ExPW1/A** and has deposed more or less on

the lines of the averments as made in the plaint. PW1 relied upon the following documents:-

Sl.No	Document	Exhibit Mark
1.	Copy of the photograph of plaintiff's trademark/trade name	ExPW1/1 (colly)
2.	Copy of the photograph of the products sold by the plaintiff under the said trademark/trade name	ExPW1/2 (colly)
3.	Copy of the photograph of the defendant's trademark/trade name	ExPW1/3 (colly)
4.	Copy of the photograph of the defendant's packaging under trademark/tradename	ExPW1/4 (colly)
5.	Photograph of Journal publication and Copyright applied by the plaintiff	ExPW1/5 (colly)
6.	Copy of the invoices of the plaintiff	ExPW1/6 (colly)
7.	Copy of the Pan Card, Seeds License and Export-Import Code of the plaintiff	ExPW1/7 (colly)
8.	Copy of the opposition and evidence filed against the defendant's trademark	ExPW1/8 (colly)
9.	Copy of the legal notice sent to the defendant	ExPW1/9 (colly)
10.	Copy of the sales figure of the plaintiff	ExPW1/10
11.	Copy of the partnership deed signed between plaintiff and defendant	ExPW1/11 (colly)
12.	Copy of the dissolution of the partnership deed by the plaintiff published in the newspaper	ExPW1/12

17. PW1 Deepti Patel was cross examined by the Ld. Counsel for the defendant.

18. As noted herein above, the defendant company has examined its Director and AR Vishal

Bipinchandra Patel who has filed his evidence by way of affidavit **ExDW-1/A** and has deposed on the stand as taken in the written statement. DW1 relied upon the following documents :-

Sl.No	Document	Exhibit Mark
1.	Copy of original PAN Card of Mr. Chhaganlal P Patel	ExDW1/1
2.	Copy of registration of Institution issued in favour of Mr. Chhaganlal P Patel	DW1/2
3.	Copy of the Memorandum of Association and the Articles of Association of the Defendant	ExDW1/3
4.	Copy of the Defendant's GST Registration Certificate	ExDW1/4
5.	Copy of the E-pan Card of the defendant	ExDW1/5
6.	Copies of photographs of the products sold by the defendant company under the trademark "Krishi Kalyan"/Krishi Kalyan Seeds/ alongwith Brochures used by the defendant	ExDW1/6(coll y)
7.	Copies of the sales invoices issued by the defendant and /or its predecessor evidencing the use of the trade mark "Krishi Kalyan"	ExDW1/7 (colly)
8.	Copy of the CA Certified sales certificate of the defendant	ExDW1/8
9.	Copy of the sales tax license certificate in favour of the Chhaganlal P. Patel	ExDW1/9
10.	Copy of the Dealer License issued in favour of the defendant to carry on the business of a dealer in seeds	ExDW1/10
11.	Copies of the packaging and advertising invoices issued to the defendant for the products sold under the trademark "Krishi Kalyan"/ "Krishi Kalyan Seeds"	ExDW1/11 (colly)
12.	Extracts from the WhoIS database of the domain name	ExDW1/12

	krishikalyanseeds.com evidencing the exclusive registration in the name of the defendant	
13.	Screenshots of various third-party websites evidencing the sale of the products of the defendants bearing the trade mark “Krishi Kalyan”	ExDW1/13 (Colly)
14.	Copy of the reply by the defendant to the notice dated 02.05.2025 issued by the plaintiff alongwith tracking report	ExDW1/14
15.	Copy of the Caveat filed by the defendant before the District Court of Vadodara, Gujarat	ExDW1/15
16.	Copy of the Caveat filed by the defendant before the Hon’ble High Court of Delhi	ExDW1/16
17.	Certificate of Electronic Record under Order XI Rule 6 (3) of Code of Civil Procedure, 1908	ExDW1/17
18.	Certificate u/s 63(4) (c) of Bhartiya Sakshya Adhinyam	ExDW1/18

19. DW1 Vishal Bipinchandra Patel was cross examined by the Ld. Counsel for the plaintiff.

20. Ld. Counsel for the parties have filed the written synopsis and in addition to that they have argued the matter verbally also. Their arguments were basically nothing but reiteration of the averments as made in the pleadings and repeated again in the evidence filed by way of affidavits **ExPW1/A** and **ExDW1/A**.

21. Briefly stated the contentions raised on behalf of the Ld. Counsel for the plaintiff are as under:-

- (a) The plaintiff is a proprietorship firm of Deepti Patel; initially the business was being run as a partnership firm but after demise of late Manish Patel, who was the husband of Deepti Patel; Deepti Patel is carrying the business under the name and style of M/s Krishi Kalyan Seeds Corporation which is stated to be a proprietorship firm.
- (b) The office of the said firm is situated at Indira Market, Old Subzi Mandi which falls within the jurisdiction of this court, therefore, this court has the jurisdiction to entertain and try the present case.
- (c) Late Manish Patel, husband of the plaintiff was the original adopter and continuous prior user of the plaintiff trademark and therefore, he became sole lawful and exclusive owner of the same.
- (d) The plaintiff has already filed an application before the Trademark Registry for rectification of the plaintiff trademark and therefore has every right to the trademark and enforce all rights under the Trademark Act as well as the right available under the common law.
- (e) The plaintiff has placed on record sufficient evidence indicating that the plaintiff was a prior user and was having the reputation and goodwill in the area since 1976.
- (f) The defendant company is dishonestly using the infringed trademark which is deceptively similar to that of the plaintiff's trademark.
- (g) The plaintiff came to know that the defendant company with malafide intentions had applied for the infringed trademark in clause 31-35 in respect of the identical goods to which the plaintiff has already filed an application for

rectification/cancellation of the infringed trademark.

- (h) Due to the use of deceptively similar trademark by the defendant company, the consumers and traders are being confused and thereby causing a great prejudice to the plaintiff's statutory and legal rights, therefore, the defendant needs to be restrained from using the infringed trademark or any other trademark similar with the plaintiff's trademark.
- (i) Ld. Counsel for the plaintiff in the written synopsis of final arguments, has referred to some judgments though copies of the same have not been filed i.e (i) **Amritdhara Pharmacy V. Satya Deo Gupta**, AIR 1963 SC 449, (ii) **Corn Products Refining Co. Vs Sangrila Food Products Ltd**, AIR, 1960 SC 142, (iii) **Parle Products (P) Ltd. Vs. J.P & Co., Mysore**, AIR 1972 SC 1359, (iv) **Laxmikant V. Patel Vs. Chetanbhai Shah** (2002) 3 SCC 65, (v) **Cadila Health Care Ltd V Cadila Pharmaceuticals Ltd**, (2001) 5 SCC 73, (vi) **K.R Chinna Krishna Chettiar V. Sri Ambal & Co.**, AIR 1970 SC 146 (vii) **Midas Hygiene Industries Pvt. Ltd V. Sudhir Bhatia**, (2004) 3 SCC 90, and (viii) **Satyam Inforway Ltd V. Sifynet Solutions Pvt. Ltd**, (2004) 6 SCC 145, .

22. Per Contra, Ld. Counsel for the defendant company made the following submissions:-

- (a) The Proprietorship firm M/S Chhaganlal P. Patel in the year 1967 adopted and coined the use of the trademark "Krishi Kalyan".
- (b) In the year 1976 to have a reseller and distributor in Delhi, the partnership firm by the name of "Krishi Kalyan" was formed by the predecessor of the defendant having registered office in Gujarat and one outlet at Delhi and subsequently the husband of the plaintiff late Manish Patel and one of the director of the defendant company namely Vishal B. Patel who are the cousin brothers entered into the said partnership firm.

- (c) In the year 2018, the partnership deed was executed wherein the husband of the plaintiff, the plaintiff and the director of the defendant company were also the partners and in the year 2019, the said firm was converted into a company in the name of C.P Patel Farm Seeds Pvt. Ltd, which is the present defendant company; accordingly, the trademark and copyright of the said firm alongwith entire goodwill and reputation transferred to the defendant company and the plaintiff is well aware of the same.
- (d) After the demise of Manish Patel, in the year 2022, the new partnership deed of Krishi Kalyan Seeds was executed wherein the plaintiff and the director of the C.P Patel Farm Seeds Pvt, Ltd namely Vishal B Patel were also named as a partners to resell and distribute the products of the defendant company in Delhi under the trademark Krishi Kalyan Seeds.
- (e) The plaintiff is not the proprietor of any proprietorship firm, as claimed by the plaintiff and she has no right to file the present suit as there is no cause of action in favour of the plaintiff and against the defendant company.
- (f) The plaintiff has concealed the material facts from this Court just to obtain a favourable order by misrepresenting the facts; the plaintiff is well aware that she is a shareholder in the defendant company and the partnership firm has already been converted into the defendant company, which is evident from the memorandum of association, as filed by the defendant company; even the invoices and other documents as relied upon by the plaintiff are in the name of partnership firm and not in the name of proprietorship firm.
- (g) Ld. Counsel for the defendant company has drawn my attention towards the evidence filed by the plaintiff by way of affidavit **ExPW1/A**, and pointed out that the said affidavit is defective as the signatures of the plaintiff on the said affidavit have been copied from the soft signature of the plaintiff available on some other document. It was stated that the plaintiff never appeared before the notary and the affidavit was just got attested

from the notary without appearing or appending signatures on the affidavit in the presence of the Notary .

- (h) The plaintiff even did not produce the documents as relied upon by the plaintiff, therefore, the same cannot be considered. Further no certificate u/s 65 of the then Indian Evidence Act or 63 BSA, 2023 has been filed so the documents of which the printout were taken out by the plaintiff cannot be considered.
- (i) The plaintiff has miserably failed to prove her case and the same is liable to be dismissed.
- (j) Ld. Counsel for the defendant company has relied upon the following judicial pronouncements:-
 - i. **Brihan Karan Sugar Syndicate Private Limited vs Yashwantrao Mohite Krushna Sahakari Sakhar Karkhana (2024) 2 SCC 577**
 - ii. **Vishal Gupta & Ors Vs Rahul Bansal , (2025) DHC 3685 DB**

23. I have gone through the material available on record and heard the Ld. Counsel of both the parties.

Issue no.1

Whether there is no cause of action in favour of the plaintiff and against the defendant? (OPD)

24. The term “cause of action” as such has not been defined under the Civil Procedure Code but irresistible conclusion from various judgements would be that cause of action is essentially a bundle of facts which led to the genesis of the dispute, and to the plaintiff obtaining a right in law to approach the court for legal redress. In simplest terms, a “cause of action” can be defined as a legal claim that an individual or entity can

bring against another person or entity. It broadly consists of two elements, Firstly, 'cause' i.e. existence of a legal right and violation of a legal right and Secondly, 'action' i.e. a right to file a civil suit for violation of a legal right. There are numerous judgments of the Hon'ble Supreme Court encapsulating this term. It would be apposite to note some of them.

25. In the case of ***Dahiben v. Arvindbhai Kalyanji Bhanusali***, (2020) 7 SCC 366 , it was held that:-

24. "Cause of action" means every fact which would be necessary for the plaintiff to prove, if traversed, in order to support his right to judgment. It consists of a bundle of material facts, which are necessary for the plaintiff to prove in order to entitle him to the reliefs claimed in the suit."

26. In ***Swamy Atmananda v. Sri Ramakrishna Tapovanam***, (2005) 10 SCC 51 Hon'ble Supreme Court held :

"24. A cause of action, thus, means every fact, which, if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the court. In other words, it is a bundle of facts, which taken with the law applicable to them gives the plaintiff a right to relief against the defendant. It must include some act done by the defendant since in the absence of such an act, no cause of action can possibly accrue. It is not limited to the actual infringement of the right sued on but includes all the material facts on which it is founded."

(emphasis supplied)

27. In another case of **Hindustan Petroleum Corpn. Ltd. v. Ajay Bhatia** , (2022) 17 SCC 289 ,it was held:-

“14. The existence of a cause of action and/or, in other words, the existence of circumstances giving cause for initiation of action is imperative for initiation of a suit. A suit can only be entertained when the cause of action has arisen and not otherwise. Any future event does not constitute cause of action. The cause of action is the fact or bundle of facts which would be necessary for the plaintiff to plead and prove, in order to get a judgment of the Court in his favour.”

28. Adverting to the case at hand, it is evident that the plaintiff has pursued the present proceedings on the basis of unproven facts, deriving no benefit therefrom and unnecessarily consuming precious judicial time. In such circumstances, no cause of action exists in favor of the plaintiff, and the present suit deserves dismissal. The reasons are elaborated in the ensuing paragraphs

Technical defects in the present suit.

29. The memo of parties filed alongwith the plaint (prior to amendment) reads as under:-

IN THE MATTER OF:

Krishi Kalyan Seeds Corporationplaintiff
Versus ..
M/s C. P. Patel Farm Seeds Pvt. Ltd. And Ors ..Defendants

MEMO OF PARTIES

KRISHI KALYAN SEEDS CORPORATION
SHOP NO. 74, INDRA MARKET,
OLD SABZI MANDI, DELHI-110007... Plaintiff

VERSUS

C.P.PATEL FARM SEEDS PVT.LTD.
TIKA NO. 8/1, BLOCK NO, 21,
SURVEY NO. 111,
IN THE MARKET LATIPURA ROAD,
PADRA-391440, DIST VADODARA,
GUJRAT, INDIA

... Defendant No. I

Mr. Vishal B. Patel

.. Defendant no.2

Also at:

288/1 ALOPI BAGH,
PO & DISTT. ALLAHABAD,
UTTAR PRADESH

SRI RADHA BEEJ BHANDAR
SABZI MANDI,
PRADAMI MANDIR ROAD,
P.O. SATNA, MADHYA PRADESH.

"

30. The suit was assigned to this court on 12.8.2024; on 12.08.2024; clarification was sought from the plaintiff regarding the status of the plaintiff as the plaintiff was simply referred to as “Krishi Kalyan Seeds Corporation” and the status of the plaintiff was not clarified in the plaint as well; initially it was submitted by the Ld. Counsel for the plaintiff that the plaintiff is a company but subsequently, it was stated that the plaintiff is not a company and it is a proprietorship firm. Similar issue was with regard to the status of the defendants, as it was stated that the defendant no.2 Vishal P. Patel is the director of the defendant no.1 company and the defendant no.3

(although not referred to as defendant no.3 as such) in the memo of parties, namely “Shri Radha Beej Bhandar”; Ld. Counsel for the plaintiff sought time to clarify the status of the defendants stating that the plaintiff would be moving an appropriate application seeking amendment in the plaint.

31. On 21.08.2024, the plaintiff moved an application under order VI Rule 17 r/w section 151 CPC which was allowed as the case was at the initial stage and the summons of the suit were yet to be issued to the defendant company; consequently, amended plaint alongwith amended memo of parties came to be filed and summons of the suit were directed to be issued to the defendant company. Despite being granted sufficient opportunities to set the matter in order, including clarifying the status of the parties, the plaintiff has continued to file a defective plaint. It cannot be expected that the Court will identify every deficiency at every stage of the case. The parties are under an obligation to diligently prosecute their own case, and it is not the duty of the Court to point out defects in pleadings at every stage.

32. From the record it is evident that the original plaint, filed prior to the amendment, and the amended plaint as well are not in order as each of the pages of

the plaint have not been signed by the plaintiff. It was the duty of the plaintiff to ensure that at least the amended plaint being filed on her behalf is in accordance with the rules as applicable to the commercial matters. **Non-signing of each of the pages of the amended plaint has made the plaint *non-est* in the eyes of law.**

33. On completion of the pleadings, as noted earlier, vide order dated 29.10.2025, issues were settled and Ld. Court Commissioner was appointed to record the evidence; the plaintiff led the evidence by way of affidavit **ExPW1/A**; at the time when the said affidavit was being tendered in evidence before the Ld. Court Commissioner, Ld. Counsel for the defendant company, raised an objection to the signatures of the witness (plaintiff) on her affidavit **ExPW1/A**.

34. During the arguments, Ld. Counsel for the defendant company has drawn my attention towards the said affidavit and submitted that the signatures of the plaintiff on the said affidavit have been dragged from the soft copy of the document already having the signatures of the plaintiff and were pasted on the said affidavit at point A and B. While replying the same, Ld. Counsel for the plaintiff submitted that the plaintiff (PW1) had sent a signed affidavit to her;

certain changes were required to be made in the said affidavit, accordingly, changes were made in the affidavit and printout was taken by her (Ld. Counsel for the plaintiff); since, the plaintiff was not available, therefore, soft signatures of the plaintiff were pasted on the affidavit.

35. In view of the admission having being made which is apparent on the face of it also to the effect that the evidence filed by way of affidavit **ExPW1/A** by the plaintiff is having the soft signatures of the plaintiff dragged from some document and posted on the affidavit **ExPW1/A** at point A and B, it is difficult to digest how the said affidavit **ExPW1/A** was attested by the Notary Public. From the submissions made, it appears that the said affidavit was attested by the Notary in the absence of the plaintiff creating a serious doubt on the genuineness and authenticity of the said affidavit which is nothing but the examination in chief of the witness.

36. Further, the affidavit **ExPW1/A** filed by the plaintiff is nothing but reproduction of the plaint in absolute terms. Even the heading given to the averments in the plaint, has been pasted in the said affidavit also; the averments made in the plaint regarding the valuation of the suit for the purpose of

court fees and jurisdiction have been reproduced in the affidavit **ExPW1/A**. Not only that, the prayers made in the main suit have also been reproduced in the affidavit **ExPW1/A**.

37. The evidence filed by way of affidavit i.e examination in chief is nothing but positive assertion of certain facts on the basis of which certain claims have been made. It constitutes the core evidence of a witness. The value of examination-in-chief lies in establishing the foundational facts of a case through a witness's own knowledge, serving as the first, crucial opportunity to build a persuasive narrative for the court. While it must align with the pleadings (plaint or written statement), it serves a distinct purpose and should not be merely a "cut and paste" reproduction of the plaint.

38. Here I may refer to the case of *Brij Praksh Gupta Versus Ashwini Kumar , 2020 SCC OnLine Del 1759*, wherein it was observed:-

“14. In daily practice, it is noticed that the affidavits in evidence are a „cut and paste“ from the plaint, which is not how they are supposed to be. The affidavit should contain facts which are to the personal knowledge of the deponent and the same cannot be a verbatim copy of the plaint. The affidavit in evidence can factually expand on a plea taken in the plaint, it can also support factual assertions made in the plaint but it cannot

contradict or state facts which cannot be derived from the plaint. The practice of filing affidavits in evidence which replicate the plaint is incorrect and ought not to be permitted by Courts...”

39. Thus, in light of the fact that the plaintiff’s signatures on the said affidavit ExPW1/A were not affixed in the presence of a Notary Public, and that only a soft copy of signatures was pasted, **the document ExPW1/A amounts to nothing more than a cut-and-paste version of the plaint, consequently, it loses its evidentiary value and cannot be relied upon or considered.**

The claim of the plaintiff on Merits.

40. Even if the technical flaws as noted herein above, which are there in the case of the plaintiff are ignored, still the claim of the plaintiff would fail. The plaintiff is claiming herself to be the proprietor of “M/s Krishi Kalyan Seeds Corporation”. According to the plaintiff, initially the business was being run by a partnership firm but after the demise of her husband namely Manish Patel, she is carrying the business as a proprietor of the said firm and she is the owner and the authorised representative of the plaintiff but there is nothing on record suggesting that the “Krishi Kalyan Seeds Corporation” is a proprietorship firm and the plaintiff Deepti Patel is its proprietor. Rather the record available speaks in volume contrary to the

aforesaid claim of the plaintiff.

41. In her evidence filed by way of affidavit **ExPW1/A**, the plaintiff has relied upon certain documents which were exhibited as **ExPW1/1** to **ExPW1/12**. At the time of tendering of the said affidavit before the Ld Court Commissioner, Ld. Counsel for the defendant company has raised objections to the mode of proof of the aforesaid documents except **ExPW1/9**. He has also objected that no certificate/affidavit u/s 63 of BSA,2023 or under Order 11 Rule 6 CPC has been filed. Since, as per the mandate of the Schedule of Second Case Management Hearing, the Ld. Court Commissioner was not supposed to decide the objections, therefore, it appears that the said objections were not decided by the Ld. Court Commissioner.

42. The documents **ExPW1/1** to **ExPW1/12**, as relied upon by the plaintiff are either photocopies or the printouts taken from the computer or downloaded from some portal. That being so, the plaintiff was under obligation either to produce the original of the documents or in case of electronic documents to file requisite certificate u/s 63 of the BSA, 2023, which is not there. In the absence of the same, the aforesaid documents cannot be considered and the objection

raised by the Ld. Counsel for the defendant company is sustainable, consequently, these documents have no value in the eyes of law.

43. Even if for the sake of arguments, the aforesaid documents are considered, though not proved in accordance with the law, the same still would not extend any benefit to the plaintiff, rather, would be the reasons to demolish the claim of the plaintiff.

44. In para 9 of the evidence filed by way of affidavit **ExPW1/A**, it was deposed that the plaintiff has secured the registration of the plaintiff's trademark in clause 31 of goods/service. It is further stated that the said registration continue to remain valid from time to time and is still in force; the copy of the photographs of the plaintiff trademark was given exhibit mark as **ExPW1/1(colly)** and the copy of the photographs of the products sold by the plaintiff under the plaintiff's trademark was given exhibit mark as **ExPW1/2 (colly)**.

45. In this regard, I may mention that although the plaintiff is claiming to have secured registration of the plaintiff trademark but even as per the case of the plaintiff, which is evident from the pleadings and the aforesaid affidavit **ExPW1/A**, the registration applied

by the plaintiff is still pending or is under opposition, so on what basis, the plaintiff is claiming to have got registered the plaintiff's trademark and also claiming that the same is still in force, has not been explained ?

46. Further, it is the own case of the plaintiff that the products sold by the plaintiff under plaintiff's trademark are **ExPW1/2 (colly)**. **ExPW1/2 (colly)**, is nothing but the colour printouts/photographs of the packaging of the various products. Surprisingly, one of such documents which is a part of **ExPW1/2(colly)**, has a reference of the defendant company printed on the packaging as under:-

“ Produced, Packed & Marketed By:
C.P PATEL FARM SEEDS PVT. LTD
OLD SUBZI MANDI, LATIPURA ROAD, OPP.
SANTRAM MANDIR,
PADRA-391440 (DIST-VADODARA) GUJ
CUSTOMER CARE NO:9825040508

E-mail:info@krishikalyanseeds.com, www.krishikalyanseeds.com “

47. In case, the plaintiff is the registered owner of the plaintiff's trademark, in that eventuality there was no occasion for the plaintiff to mention or to refer to the particulars of the defendant company with the endorsement "*Produced, Packed and Marketed By C.P Patel Farm Seeds Pvt. Ltd*". This in a way supports the contention of the defendant company to some extent that the plaintiff had been given limited authorisation

to sell the products within the state of Delhi.

48. Further, in para 19 of the evidence filed by way of affidavit **ExPW1/A**, it was deposed by the plaintiff that the plaintiff and the defendant company were in partnership pursuant to the family settlement since 1976 but after the demise of the husband of the plaintiff namely Manish Patel, the defendant Vishal B. Patel, cousin brother of late Sh. Manish Patel started malpractices in the business and is carrying on the business in the name of M/S C.P Patel Farm Seeds Pvt. Ltd. It was further deposed that the plaintiff has relied upon the partnership deed signed between the plaintiff and the defendant **ExPW1/11 (colly)**.

49. A perusal of the said partnership deed **ExPW1/11(colly)**, though not proved as the original was admittedly not produced, would indicate that there are four partners in the said firm including the plaintiff Deepti Patel. This is a document relied upon by the plaintiff herself so the plaintiff cannot be allowed to run away from this document. Even this document makes it clear that “Krishi Kalyan Seeds Corporation” is a partnership firm and as per clause 6 of the deed ‘*duration of the partnership shall be at will and shall be terminable on any partner giving to the other partner’s two month notice in writing*’ and as per clause 13, ‘*partners*

agree not to carry on any business actually similar to compete with that of the firm in any manner other than in the name of the firm'. This document can be treated as a conclusive proof to arrive at a conclusion that "Krishi Kalyan Seeds Corporation" is not a proprietorship firm of the plaintiff as claimed by her and rather it is a partnership firm wherein the plaintiff Deepti Patel is one of the partners.

50. Here it would be relevant to refer to the evidence adduced by both the parties. As noted, the plaintiff has examined herself as PW1 and the defendant company has examined its director and AR Vishal Bipinchandra Patel as DW1. As far as examination in chief of these witnesses is concerned, these witnesses have filed their evidence by way of affidavits **ExPW1/A** and **ExDW1/A**, which is basically reproduction of the averments of their respective pleadings, which has already been noted down, therefore, I would be referring to that part of their cross examination which is relevant to adjudicate the dispute between the parties and not otherwise.

51. Coming to the cross examination of the witnesses examined by both the parties, the way the witnesses have been cross examined, would reveal that both the parties have cross examined the witnesses

just for formality because the major portion of the testimonies of the witnesses from both sides have gone without any objection. Be that as it may, during the cross examination PW1 Deepti Pateli (plaintiff), replied that she replied that she started the proprietorship business in May/June 2023 and she was not using her trademark prior to 2023; she has never done business in any partnership firm by the name of Krishi Kalyan Seeds Corporation and she applied for registration of trademark in question on 24.05.2023. Regarding the dissolution of the partnership firm, she replied that the notice was published in the newspaper. She showed her ignorance about doing business by partnership firm in the name of Chaggan Lal P.Patel .

52. This takes me to the testimony of DW1 Vishal B. Patel. During his cross examination, DW1 replied that he is using the trademark Krishi Kalyan since the year 2002-2003 and prior to that his forefathers were using the same since 1968-69; he knows Krishi Kalyan Seeds Corporation and he is one of the partners in the said firm; there are four partners and the firm is registered in Gujarat; he joined the partnership firm in the year 2002.

53. From the aforesaid testimonies of the witnesses also, it stands established that the Krishi Kalyan Seeds

Corporation is a partnership firm and the business of alleged proprietorship firm of the plaintiff stated in the month of May,2023 and prior to that there was no proprietorship firm and the plaintiff was not using any trademark prior to 2023. Regarding the dissolution of the partnership firm only the copy of the notice stated to be published in the newspaper is there which is not sufficient because in terms of partnership deed **ExPW1/11**, this was not the mode for dissolution of the firm or the partnership. The claim made by the DW1 Vishal B. Patel during his cross examination was not challenged and not even a suggestion was put to DW1 that Krishi Kalyan Seeds Corporation is not a partnership firm or that the defendant company is using the trademark since the year 2002-2003 and prior to that his forefathers were using the same.

54. Coming to the invoice **ExPW1/6 (colly)**, all the invoices pertain to the period from 2000 to 2006. The invoices are accompanied by the annexures which appear to be the report of Chartered Accountant. These documents have been placed on record by the plaintiff. As noted and observed herein above, prior to 2023, the plaintiff admittedly was not using the trademark in question and according to the plaintiff she had applied for the registration of the trademark in the year 2023.

Meaning thereby, the invoices which are of the period much prior to the year 2023, are of the partnership firm and not of the proprietorship firm of the plaintiff. Further, the annexures filed with the invoices, which appears to be a report of Chartered Accountant, clearly mention about the status of the “Krishi Kalyan Seeds Corporation” as a partnership firm.

55. The other document, relied upon by the plaintiff is the copy of the Pan Card, Seeds License and Export-Import Code of the plaintiff referred to as **ExpPW1/7 (colly)**. Export-Import Code issued by the Ministry of Commerce and Industry, which is part of **ExpPW1/7 (colly)** indicates that it was issued to the Krishi Kalyan Seeds Corporation and the status of the said firm has been shown as partnership firm which was last modified in the year 2022. **On all counts, it is established that the Krishi Kalyan Seeds Corporation is a partnership firm and not a proprietorship firm, as claimed by the plaintiff.**

56. Here it is pertinent to mention that during the arguments, Ld. Counsel for the defendant company has drawn my attention towards the memorandum of association of the defendant company **ExDW1/3**, and submitted that the plaintiff is the shareholder in the defendant company and there is reference of

partnership deed also. Ld. Counsel for the plaintiff, submitted that the plaintiff is the shareholder in the defendant company. It was also admitted that the forefathers of the husband of the plaintiff and one of directors of the defendant company namely Vishal B. Patel was running the firm “Chagganlal P.Patel” who were the original user of the trademark ‘Krishi Kalyan’. This fact is also found reference in the legal notice **ExPW1/9**, issued on behalf of the plaintiff to the defendant company. These all facts were not categorically disclosed in the plaint for the reasons best known to the plaintiff. Here the principle of equity would be applicable i.e he who seeks equity must do equity. This principle is based upon the conduct of the party who seeks equitable relief. On this count also, the claim of the plaintiff would fail.

57. In view of my aforesaid discussion, since, the plaintiff has failed to establish that she is the proprietor of Krishi Kalyan Seeds Corporation, which is the main foundation of the present claim filed by the plaintiff, therefore, there is no cause of action in favour of the plaintiff and against the defendant company, hence the suit of the plaintiff is liable to be dismissed. **Thus, issue no.1 is decided in favour of the defendant company and against the plaintiff.**

Issue Nos.

2. Whether the present suit is barred by Section 27 (1) of the Trademarks Act,1999? (OPD)
3. Whether the plaintiff is entitled for decree of permanent injunction, as prayed for (prayer (a) as made in the plaint)? (OPP)
4. Whether the plaintiff is entitled for decree of permanent injunction against the defendant (Prayer (b) as made in the plaint) ? (OPP)
5. Whether the plaintiff is entitled for decree of permanent injunction against the defendant (prayer (c) as made in the plaint)? (OPP)
6. Whether the plaintiff is entitled for decree of delivery up and also for rendition of accounts (Prayer (e) as made in the plaint)? (OPP)
7. Whether the plaintiff is entitled for decree of damages (prayer (g) as made in the plaint) ? (OPP)

58. While deciding Issue No. 1, this Court has concluded that the plaintiff has no cause of action in her favour, as she has utterly failed to establish that she is the proprietor of Krishi Kalyan Seeds Corporation. The entire claim of the plaintiff, as well as the relief sought, is founded solely on this contention. Since the plaintiff lacks any cause of action, she is not entitled to any injunctive relief, including the relief of delivery up, rendition of account and damages. Thus, issues no. 2 to 7 are disposed off accordingly.

Issue no.8 Relief

59. In view of my aforesaid discussion and findings on the issues, the suit filed by the plaintiff is hereby dismissed.
60. There is no order as to costs.
61. Decree sheet be prepared accordingly
62. File be consigned to Record Room, as per rules.

(Rajesh Kumar Goel)
District Judge (Commercial)-02
Central, Tis Hazari Courts
15.04.2026

Announced in the Open Court
today i.e: 15.04.2026