

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**ORDINARY ORIGINAL CIVIL JURISDICTION**  
**IN ITS COMMERCIAL DIVISION**  
**INTERIM APPLICATION (L) NO. 16993 OF 2026**  
**IN**  
**COMMERCIAL IP SUIT (L) NO. 16992 OF 2026**

Asian Paints Limited ... Plaintiff

*Versus*

Namgial enterprise and ors. ... Defendants

\_\_\_\_\_

Mr. Hiren Kamod, Advocate a/w. Mr. Vinod Bhagat, Ms. Prachi Shah, Ms. Apeksha Mehta, Ms. Aishwarya Lad, Ms. Twisha Singh, and Mr. Prem Khullar, Advocates for the Plaintiff.

\_\_\_\_\_

**CORAM : ARIF DOCTOR, J.**

**DATE : 8<sup>th</sup> MAY 2026**

**P.C.**

1. Mr. Kamod, Learned Counsel appearing on behalf of the Plaintiff at the outset, submitted that the Plaintiff is moving for ad-interim relief without notice for the reasons set out in paragraph 48 of the Plaint. Having heard Mr. Kamod and having perused the averments made in paragraph 48 of the Plaint, I find sufficient cause to move without notice has been made out by the Applicant. The Interim Application is thus taken up for hearing on *ex parte* ad-interim relief.

2. This is an action for injunction against the acts of disparagement, denigration and slander. Mr. Kamod has then invited my attention to the video clip/advertisement in which the Plaintiff's product, namely, APCOLITE SHYNE ALL PROTEK emulsion, is being disparaged by Defendant Nos. 1 to 4 through the circulation, broadcast, and communication to the public including to paint dealers on the WhatsApp and Instagram social media platforms. Mr. Kamod submitted that the said clip also contains various statements which are slanderous and collectively result in complete denigration of the Plaintiff's product.
  
3. Mr. Kamod has then submitted that the Plaintiff is one of India's oldest paint companies, manufacturing and marketing emulsions, wall primer, distemper, paints and other goods used in the paint industry for more than seven decades. He submitted that in the paint industry, the mark ASIAN PAINTS is synonymous with the Plaintiff and that out of the various products marketed under the Plaintiff's well-established umbrella brand 'APCOLITE', one prominent product is 'APCOLITE SHYNE ALL PROTEK' ("**Plaintiff's product**"), which was introduced in or around the

year 2020 as an advanced stain-resistant interior paint solution. He submitted that since its launch, the Plaintiff's product has witnessed significant market acceptance and has rapidly gained popularity.

4. Mr. Kamod then submitted that on 5<sup>th</sup> May 2026, the Plaintiff's Senior Manager (Legal) in Mumbai was informed over telecom by several of the Plaintiff's representatives about an audio-visual ("AV") commercial advertisement/ recording titled "*Drishyam Series – Episode No. 1*" ("**impugned advertisement**") being widely circulated on WhatsApp all over India, including Mumbai. One of the Plaintiff's representatives informed the Plaintiff's senior manager that he was in receipt of the said impugned advertisement from one internal WhatsApp group comprising of various dealers of paint and members of the trade. Mr. Kamod has invited my attention to the screenshots of the said impugned advertisement, appended at Exhibit 'D' to the Plaint and to Exhibit E to the Plaint **which** is a screenshot taken from WhatsApp which depicts that the impugned advertisement was forwarded to the Plaintiff's senior manager on 6<sup>th</sup> May 2026. From the said screenshots it also becomes evident that the impugned

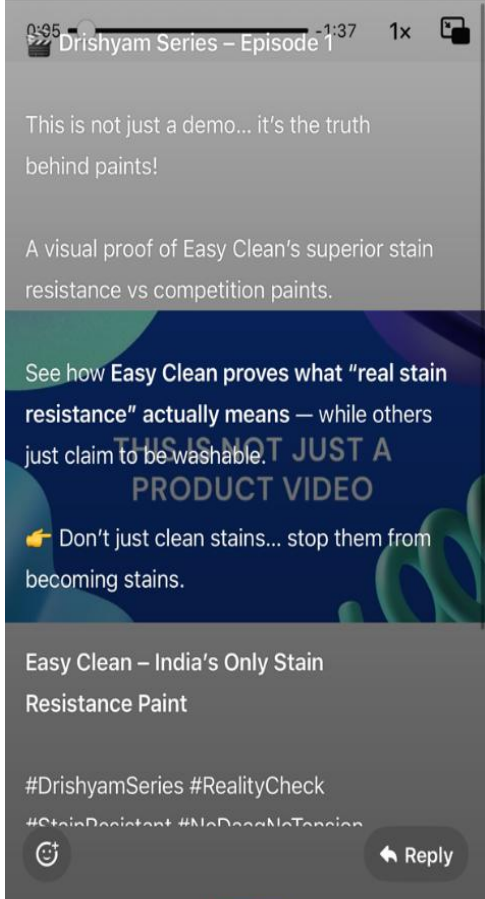
advertisement has also been forwarded many times. Thereafter, upon conducting an investigation, the Plaintiff has also come across Defendant Nos. 1 and 2's Instagram account wherein the impugned advertisement was uploaded.

5. Mr. Kamod submitted that the impugned advertisement is only being circulated or uploaded on WhatsApp and Instagram and not in mainstream media channels. The impugned advertisement is of a total duration of 102 seconds and is in the form of a demonstration/comparison between the Plaintiff's product i.e. APCOLITE SHYNE ALL PROTEK emulsion, and BERGER EASY CLEAN, which is the product of Defendant No. 3. After playing out the AV clip, he submitted that the manner of the said impugned advertisement evidently communicates to the viewer that the Plaintiff's product is inferior in quality and in performance when compared with the product of Defendant No. 3 and that the storyline conveys a direct and explicit message discouraging use of the Plaintiff's product, thereby disparaging and denigrating the Plaintiff's products.

6. A recording of the impugned advertisement on a pen drive is at Exhibit 'H' to the Plaint. In paras 19(a) to (h), the Plaintiff has given a detailed story line of the impugned advertisement titled "Drishyam Series Episode 1". Parts of the same are reproduced hereunder:

**"Story-line :**

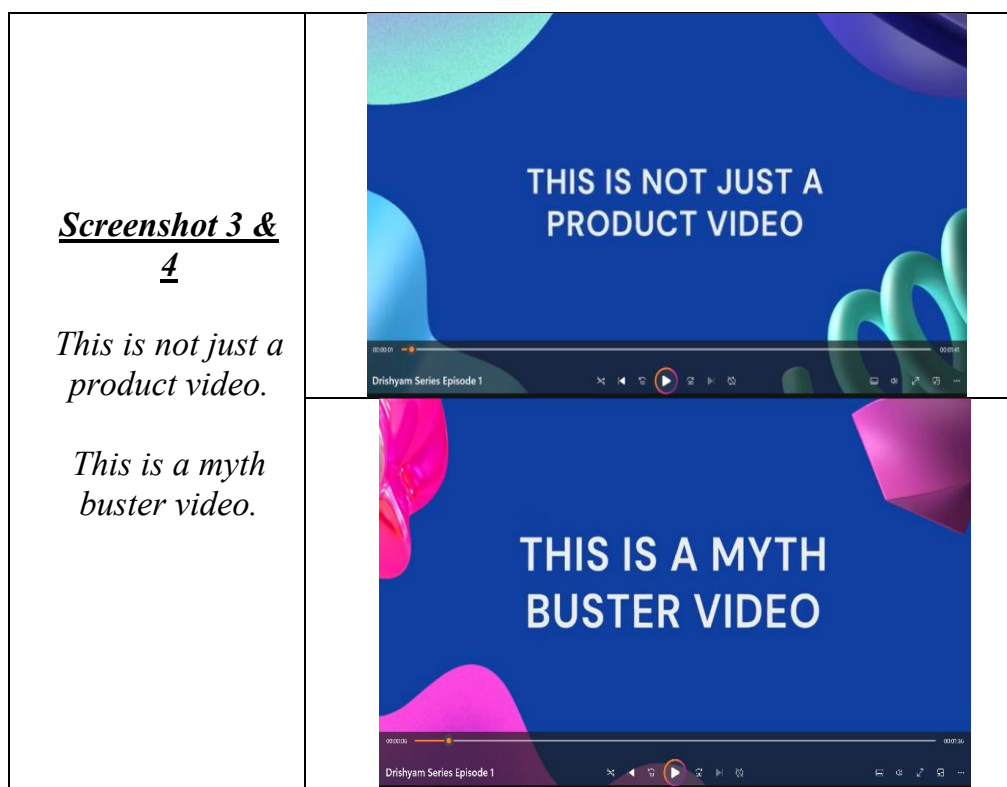
**(a)** *The impugned AV commercial advertisement titled "Drishyam Series Episode 1" is accompanied by a message on WhatsApp which reads as follows:*

<p><i><u>Drishyam Series – Episode 1</u></i></p> <p><i>This is not just a demo... it's the truth behind paints!</i></p> <p><i>A visual proof of Easy Clean's superior stain resistance vs competition paints.</i></p> <p><i>See how Easy Clean proves what "real stain resistance" actually means — while others just claim to be washable.</i></p> <p><i>Don't just clean stains... stop them from becoming stains.</i></p> <p><i>Easy Clean – India's Only Stain Resistance Paint</i></p> <p><i>#DrishyamSeries #RealityCheck #StainResistant #NoDaagNoTension #EasyClean #BetterThanWashable #India'sOnlyStainResistancePaint</i></p>	
--	--

**Suggestions/Inferences Consumers are likely to draw** – *The video is titled "Drishyam Series" implying "visibility" or "clarity" as if such*

visibility and clarity did not previously exist. When claiming that "this not just a demo" it implied that the video depicts the **correct and credible method** of testing "real stain resistance". It is further implied that competition paint brands when compared with Berger Easy Clean do not in reality achieve stain resistance the way Berger Easy Clean does. This implication is further bolstered by the claim that Berger Easy Clean is "India's Only Stain Resistance Paint" Another suggested inference intended to be drawn is that using Berger Easy Clean leads to "NoDaagNoTension" while using competition brands leads to tension. The manner, overall message and storyline of the impugned advertisement conveys the intent of the Defendant Nos. 1 to 4 is clearly to grab attention, create a feeling of sensationalism and reveal amongst consumers through false, misleading, denigrating and disparaging claims by use of language such as "**This is not just a demo... it's the truth behind paints!**"

(b) the video then starts with a catchy dramatic background music creating a sense of anticipation to hook the viewers. It commences with the below four messages:



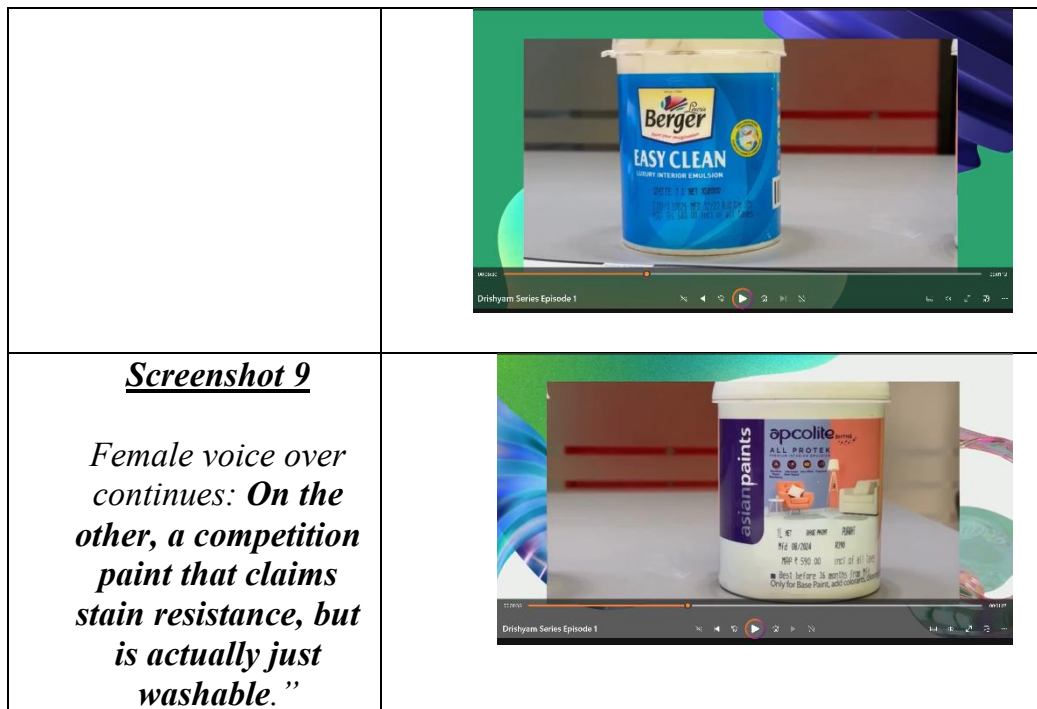
**Suggestion/ Inference** – From the inception of the video the Defendant Nos. 1 to 4 themselves state that "**This is not just a product video. This is a myth buster video**" which evinces that the aim of the video is not to showcase the Defendant No. 3's product but instead to shatter a so-called "MYTH"

<p style="text-align: center;"><b><u>Screenshot 5</u></b></p> <p style="text-align: center;"><i>Everyone believes “Washable Paint Means Stain Cleanability”</i></p>	
<p style="text-align: center;"><b><u>Screenshot 6</u></b></p> <p style="text-align: center;"><i>But the truth is - <b>WASHABLE</b> ≠ <b>STAIN RESISTANCE</b></i></p>	

*Further by stating that “Everyone believes washable paint means stain cleanability. But the truth is washable ≠ stain resistance”, the Defendant Nos. 1 to 4 from the very outset of the impugned AV recording are denigrating and demeaning an entire class of products viz. paint products and are instilling a negative perception of “myth busting” in the minds of the viewers/consumers with the same.*

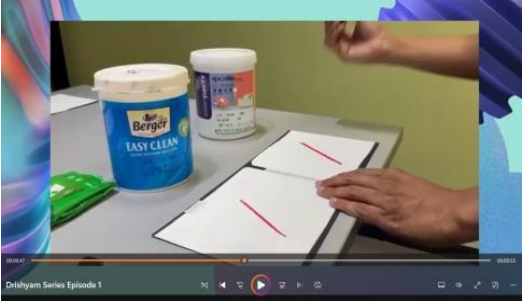

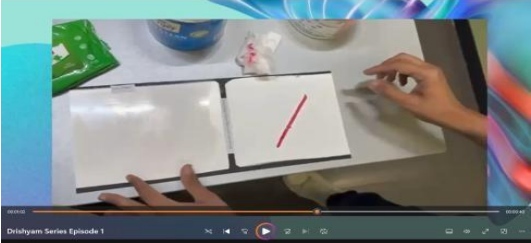


*(c) Thereafter, the next slide of the impugned AV commercial advertisement displays two paint products placed side by side viz. the Plaintiff’s APCOLITE SHYNE ALL PROTEK product paint and the Defendant No. 3’s BERGER EASY CLEAN product and an unidentified voice-over narrator goes on to say :*

<p style="text-align: center;"><b><u>Screenshots 7 &amp; 8</u></b></p> <p style="text-align: center;"><i>Female voice over states “So let’s test it - On one side BERGER EASY CLEAN, a true stain resistant paint.</i></p>	
--	--



Even though the narrator does not name the Plaintiff and refers to the Plaintiff's paint as 'competition paint', a direct reference is made through visual representations of the Plaintiff's APCOLITE SHYNE ALL PROTEK product, which is placed right next to BERGER EASY CLEAN product. Moreover, while referring to the Plaintiff as 'competition paint', the video zooms in towards the Plaintiff's container of APCOLITE SHYNE ALL PROTEK emulsion paint making the identity of the 'competition paint' more so evident to be that of the Plaintiff. Further, by stating **"On the other, a competition paint that claims stain resistance, but is actually just washable"**, the Defendant Nos. 1 to 4 at the very threshold seeks to convey to the viewers that the Plaintiff's APCOLITE SHYNE ALL PROTEK is a falsely advertised product, devoid of true stain-resistance and is merely washable in nature.

**(d)** Thereafter, the narrator undertakes a "test" to demonstrate the alleged superiority of the Defendant No. 3's BERGER EASY CLEAN product over the Plaintiff's APCOLITE SHYNE ALL PROTEK product. A lipstick stain is applied to a surface coated with the Defendant No. 3's BERGER EASY CLEAN product and also to a surface coated with the Plaintiff's APCOLITE SHYNE ALL PROTEK product. After a brief lapse of time, the lipstick stains are wiped off both surfaces with a wet tissue. The narrator then directs the viewers to look carefully and says :

<p><b><u>Screenshot 10</u></b>  <i>Female voice over continues “So now we apply a lipstick stain on both surfaces – First on Easy Clean and then on Competition Paint”</i></p>	
<p><b><u>Screenshots 11 &amp; 12</u></b>  <i>Female voice over continues “Now after sometime we wipe it with a wet tissue. Look carefully - On Easy Clean, the stain disappears completely. No marks, no shadow, nothing.”</i></p>	 
<p><b><u>Screenshots 13 &amp; 14</u></b>  <i>Female voice over continues “But on the competition paint – the truth is visible. The colour marks stays. The stain stays.”</i></p>	 

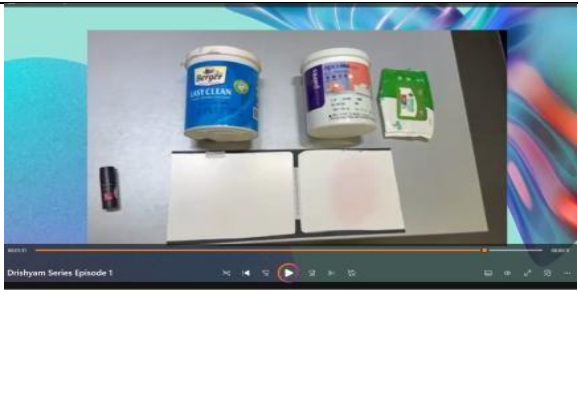
*By making the remark “But on the competition paint – the truth is visible. The colour marks stays. The stain stays.” the narrator directly portrays the Plaintiff’s APCOLITE SHYNE ALL PROTEK emulsion as a substandard product being ineffective and inferior in comparison with the Defendant No. 3’s BERGER EASY CLEAN being devoid of true stain-resistance and being merely washable in nature.*

(e) In the immediate next frame, a meme has been inserted as follows :

<p><b><u>Screenshots 15 &amp; 16</u></b></p> <p><b><i>"Arre Saala, alag hi fraud chal raha hai"</i></b></p> <p><i>To which another man replies in shock</i> <b><i>"FRAUD!"</i></b></p>	
--	--

The aforementioned meme depicts three male persons wherein one is shown uttering in Hindi, "**Arre Saala, alag hi fraud chal raha hai**", to which the other responds in astonishment by exclaiming "**Fraud!**". The deliberate use of the word "fraud" showing a feeling of panic is a calculated attempt to ridicule, mock, malign and bring disrepute to the Plaintiff's APCOLITE SHYNE ALL PROTEK emulsion. It creates an impression in the minds of the consumers and the members of the trade, that the Plaintiff's product is deceitful and fraudulent, thereby causing harm to Plaintiff's goodwill and reputation.

(f) Thereafter, the impugned AV commercial advertisement shows the narrator returning to the rival products placed side by side and rhetorically posing to the viewer :

<p><b><u>Screenshots 17 &amp; 18</u></b></p> <p><i>Female voice over says: "So now you decide, is competition paint really stain resistant or just washable?"</i></p>	
---	--



*By such remark “So now you decide, is competition paint really stain resistant or just washable?”, the narrator is once again insinuating that the Plaintiff’s APCOLITE SHYNE ALL PROTEK emulsion is not stain resistant and is simply washable thus being unfit in comparison with the Defendant No. 3’s BERGER EASY CLEAN product. Further, the words “Because washable doesn’t mean stain resistant.” is an erroneous and inaccurate claim aimed at the Plaintiff’s APCOLITE SHYNE ALL PROTEK.”*

7. Mr. Kamod then submitted several of the Plaintiff’s representatives have been told by various paint dealers and people from the industry, especially from Mumbai, that the impugned advertisement is being widely circulated on WhatsApp. However, since the Plaintiff has no direct access yet to the groups/chats on the said social media platform where the impugned advertisement is being circulated, the Plaintiff is not in a position to ascertain the names of the parties who are directly engaged in the activity of circulating and sharing the impugned advertisement. He submitted that despite exercising due diligence and conducting enquiries in the matter, the Plaintiff has thus far not been

able to identify details of other Defendant/s or any persons claiming under them or acting in concert with them who are also engaged in the circulation/broadcast of the impugned advertisement on WhatsApp or any other platform. Thus, at this stage the Plaintiff does not know the constitution of such Defendants and they have been collectively impleaded as 'Ashok Kumar', being the Defendant No. 4 in the present proceedings.

8. Mr. Kamod submitted that though Defendant No. 3 does not appear to be circulating the impugned advertisement on its official social media accounts, there is a strong apprehension that Defendants Nos. 1, 2 and 4 are circulating the same at the behest of Defendant No. 3 since Defendant No. 3 is a direct competitor of the Plaintiff and nobody other than Defendant No. 3 is likely to benefit from making and circulating the impugned advertisement.
9. Mr. Kamod then submitted that the intent, manner and storyline of the impugned advertisement, when viewed as a whole, unmistakably demonstrate a calculated and malicious attempt on the part of the

Defendant Nos. 1 to 4 to disparage, denigrate and ridicule the Plaintiff's product whilst promoting the Defendant No. 3's BERGER EASY CLEAN paint. He submitted that the impugned advertisement does not merely puff up the product of Defendant No. 3 or extol its alleged advantages but, on the contrary, simply runs down and disparages the Plaintiff's product as ineffective, deceptive and fraudulent. He submitted that from the very inception of the impugned advertisement, dramatic background music and phrases such as "*This is not just a product video. This is a myth buster video*" and "*This is not just a demo... it's the truth behind paints!*" are used, thereby creating a false atmosphere of sensationalism and conveying to the viewers that all competing products, including the Plaintiff's product, are falsely marketed and misleading consumers. He submitted that the assertions made in the impugned advertisement, such as "*competition paint that claims stain resistance, but is actually just washable*", "*the truth is visible*", "*the stain stays*" and "*Because washable doesn't mean stain resistant*", are not mere comparative statements but are direct attacks

upon the Plaintiff's product, which is visually identified and prominently displayed throughout the impugned advertisement. He submitted that the overall commercial intent is therefore not to merely promote BERGER EASY CLEAN but to undermine consumer confidence in the Plaintiff's product and portray the same as inferior, ineffective and falsely represented.

10. Mr. Kamod submitted that the disparaging intent becomes even more evident from the manner and storyline adopted in the impugned advertisement. More egregiously, immediately after depicting the alleged failure of the Plaintiff's product, the Defendants insert a meme containing the expressions "*Arre Saala, alag hi fraud chal raha hai*" and "*Fraud!*", accompanied by visible shock and panic. Mr. Kamod submitted that the insertion of such a meme serves no purpose whatsoever except to mock, ridicule and malign the Plaintiff's product and to insinuate that the Plaintiff is deceiving consumers through fraudulent claims. He submitted that the impugned advertisement, therefore, clearly crosses the permissible boundaries of comparative

advertising and squarely falls within the settled principles of disparagement and slander of goods, inasmuch as the storyline, manner of depiction and message sought to be conveyed are all directed towards denigrating, disparaging, belittling and condemning the Plaintiff's product in the eyes of consumers and members of the trade. In support of his submissions, Mr. Kamod then placed reliance upon the judgements of this Court in:

- a. ***Gujarat Coop. Milk Marketing Federation Ltd. v. Hindustan Unilever Ltd.***<sup>1</sup>,
- b. ***USV (P) Ltd. v. Hindustan Unilever Ltd.***<sup>2</sup>,
- c. ***Hindustan Unilever Limited v. Abbott Laboratories & Ors.***<sup>3</sup>

11. Mr. Kamod submitted that the Defendant Nos. 1 to 4 are circulating and/or uploading the impugned advertisement clandestinely in WhatsApp groups and Instagram and not publicly. He submitted that therefore, the dishonesty and bad faith of the Defendant Nos. 1 to 4 is writ large from their conduct. He submitted that if the Defendants get

---

<sup>1</sup> 2018 SCC OnLine Bom 7265.

<sup>2</sup> 2022 SCC OnLine Bom 1471.

<sup>3</sup> [Bombay High Court] Order dated 5<sup>th</sup> September 2024 in Interim Application (L) No. 27529 of 2024 in Commercial IP Suit (L) No. 27527 of 2024.

notice of the Plaintiff's application for ad-interim reliefs, the Defendant Nos. 1 to 4 are likely to further circulate / broadcast the impugned advertisement through Defendant Nos. 5 and 6 in bulk to other paint dealers / retailers / consumers or in groups having these paint dealers / retailers / consumers as members. Further, the Defendant Nos. 1 to 4 may circulate the impugned advertisement further to the members of the trade and the general public with the intention of ensuring that the impugned advertisement reaches as many people as possible before any injunction order is passed by this Court. He submitted that in the interest of justice ad interim orders are granted to the Plaintiff without notice to the Defendants and further dissemination of the impugned advertisement must be restrained forthwith with a view to mitigating and curtailing damage being caused to the plaintiff; failing which, if there is any delay in granting reliefs, the entire purpose of filing the present suit is likely to be frustrated or defeated.

12. I have considered the submissions made by Mr. Kamod and, as noted above, viewed the clip and the Plaintiff, and in my *prima facie* view, a

clear case of disparagement is made out. The impugned advertisement titled *Drishyam Series – Episode 1* commences with dramatic background music and statements such as “*This is not just a product video. This is a myth buster video*” and “*This is not just a demo... it’s the truth behind paints!*” Thereafter, the impugned advertisement displays the Plaintiff’s product alongside Defendant No. 3’s BERGER EASY CLEAN product, and the narrator states, “*On one side BERGER EASY CLEAN, a true stain resistant paint*” and “*On the other, a competition paint that claims stain resistance, but is actually just washable.*” The Plaintiff’s product is thereafter subjected to a so-called stain test, following which the narrator states “*But on the competition paint – the truth is visible. The colour marks stays. The stain stays.*” Also, what is glaring is the insertion in the impugned advertisement of a meme showing individuals reacting in shock with the words “*Arre Saala, alag hi fraud chal raha hai*” followed by the exclamation “*Fraud!*”

13. Also, the fact that the impugned advertisement is titled “*Drishyam Series – Episode 1*” justifies the serious apprehension of the Plaintiff that more such disparaging advertisements may follow soon. Hence, there is merit in the apprehension that the circulation of the impugned advertisement through WhatsApp and social media platforms has the potential to cause immense and irreversible prejudice to the goodwill and reputation of the Plaintiff and its said product.
14. In view of the above, I find that the Plaintiff has made out a case for the grant of ex parte ad-interim reliefs. The balance of convenience is in favour of the Plaintiff. Mr. Kamod’s reliance on the decisions of this Court in *Gujarat Coop. Milk Marketing Federation Ltd. v. Hindustan Unilever Ltd., USV (P) Ltd. v. Hindustan Unilever Ltd., and Hindustan Unilever Limited* are apposite. As already noted above, having regard to the clandestine manner in which the impugned advertisement are being circulated through WhatsApp groups and social media platforms, I am satisfied that giving notice to the Defendants before passing this order would defeat the very purpose of

granting *ad-interim* reliefs. In the circumstances, there shall be *ad-interim* relief in terms of prayer clauses (a), (b) and (d) of the Interim Application against the Defendants, except the portion in red brackets, as reproduced below:

*(a) pending the hearing and final disposal of this suit, the Defendant Nos. 1 to 4 by themselves, their proprietor, partners, directors, members, affiliates, servants, officers, agents, distributors, representatives/executives, assignees and all those connected with the Defendant Nos. 1 to 4 in their business be restrained by an order and temporary injunction of this Hon'ble Court from in any manner circulating/sharing/broadcasting or otherwise howsoever communicating to anyone, the public including trade channels or publishing the impugned advertisements (appended at Exhibit H hereinabove) or any part thereof or such other advertisements of a similar nature in any language or in any manner causing the impugned advertisements or any part thereof or any other advertisement/s of a similar nature to be circulated/telecast/broadcast/shared/communicated to anyone or public or published on any offline or online platform social media platform/s or in any other manner whatsoever which disparages or denigrates the Plaintiff's said product;*

*(b) pending hearing and final disposal of the present suit, the Defendant Nos. 1 to 4 by themselves, their proprietor, partners, directors, members, affiliates, servants, officers, agents, distributors, representatives/executives, assignees and all those connected with the Defendant Nos. 1 to 4 be directed by a temporary order and injunction of this Hon'ble Court from (i) recalling/deleting/taking down the impugned advertisements (appended at Exhibit H hereinabove) from all platforms if and where it is circulated; [(ii) issue appropriate communication to the recipients of the impugned advertisement campaign that the same is incorrect and was issued in error and (iii) issue instructions to the recipients to delete the impugned advertisements from their respective devices and cease and desist from further circulating the impugned advertisements;]*

*(d) pending hearing and final disposal of the present suit, the Defendant Nos. 5 [and 6] be directed by a mandatory order and injunction of this Hon'ble Court to take down/delete the impugned advertisements [and to ensure that it is not further disseminated on the said Platform in any manner whatsoever; ]*

15. The Plaintiff will comply with the provisions of Order XXXIX Rule 3 within 3 working days of the present order being uploaded.
16. Liberty to the Defendants to apply for a variation, modification or recall of this order after at least 7 clear working days' notice to the Advocates of the Plaintiff.
17. List the above Interim Application on 22<sup>nd</sup> June 2026 for further consideration on the ad-interim reliefs.
18. This order will continue until **23<sup>rd</sup> June 2026**.

**[ARIF DOCTOR, J.]**