



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/APPEAL FROM ORDER NO. 224 of 2025
With
CIVIL APPLICATION (FOR STAY) NO. 1 of 2025
In
R/APPEAL FROM ORDER NO. 224 of 2025**

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M/S SATYAM FASHION THROUGH GHANSHYAM
LAXMANBHAI VAGHASIA

Versus

MEESHO TECHNOLOGIES PRIVATE LIMITED TRADING AS
MEESHO.COM & ORS.

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Appearance:

MR PARTH B THUMMAR(13122) for the Appellant(s) No. 1
MR.JAYDEEP B. CHHOTALA(16194) for the Appellant(s) No. 1
MS. KETKI P JHA(9864) for the Respondent(s) No. 2
NOTICE THROUGH SPEED POST SERVED for the
Respondent(s) No. 1,10,11,12,13,3,5,7,8,9
NOTICE THROUGH SPEED POST UNSERVED for the
Respondent(s) No. 6
REFUSED SERVED (N)(10) for the Respondent(s) No. 4

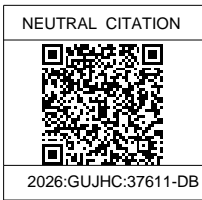
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**CORAM:HONOURABLE THE CHIEF JUSTICE MRS.
JUSTICE SUNITA AGARWAL
and
HONOURABLE MR.JUSTICE D.N.RAY**

Date : 16/06/2026

**ORAL JUDGMENT
(PER : HONOURABLE THE CHIEF JUSTICE MRS.
JUSTICE SUNITA AGARWAL)**

1. Ms. Ketki P. Jha, learned advocate has put in appearance to submit that the respondent No.2 is a non-contesting party and an application for deletion of respondent No.2 from the array of parties has already been filed before the competent



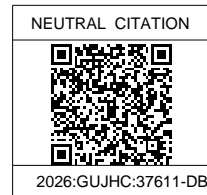
Court and is pending adjudication.

2. The service report indicates that all the respondents, except respondent No.6 are served with the notice of the present appeal, under the order dated 27.11.2025. The contesting respondents Nos.4 to 13 (except respondent No.6) are not appearing in the matter inspite of service of notice. We, thus, find that the respondents are avoiding adjudication of the present matter.

3. We, therefore, proceed with the final hearing of the matter.

4. Heard learned Counsel for the appellant and perused the record. This appeal from order is directed under Order XLIII Rule 1(r) of the Code of Civil Procedure, 1908 against the judgment and order dated 12.09.2025 passed passed by the Commercial Court / 9th Additional District Judge, Surat, in rejection of application for grant of ad-interim injunction under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908 seeking temporary injunction restraining the defendants from infringement of the registered design of the plaintiff and for passing of such design until final disposal of the suit.

5. While assailing the order of rejection of interim injunction application, learned Counsel for the appellant / original plaintiff has invited attention of the Court to the written statement filed on behalf of the defendant, wherein it



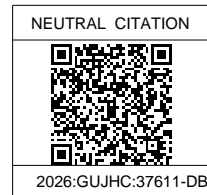
is stated in paragraphs '2' to '5' as under:-

"2. That the Plaintiff has not approached this Hon'ble Court with clean hands. The Plaintiff has concealed and suppressed material facts, including but not limited to prior publications and availability of similar designs in the public domain, both in India and abroad, much before the date of the alleged registration. The suit is therefore hit by the doctrine of suppression veri and suggestio falsi and is liable to be dismissed.

3. That the alleged registered design of the Plaintiff lacks novelty and originality as required under Section 4 read with Section 2(d) of the Designs Act, 2000. The design relied upon by the Plaintiff is neither new nor original but has been previously published and commonly used in the relevant trade. Hence, the alleged registration is liable to be cancelled under Section 19 of the Designs Act, 2000.

4. That under Section 22 of the Designs Act, 2000, an action for piracy of design lies only where a valid, subsisting and enforceable registered design exists. In the present case, since the Plaintiff's alleged design is not valid in law and is liable to be cancelled, no relief under Section 22 can be granted to the Plaintiff.

5. The Defendant most respectfully submits that the Plaintiff's alleged registered design, dated 06/02/2025, is invalid and unenforceable in law. As per Section 4 of the Designs Act, 2000, "A design which (a) is not new or original; or (b) has been disclosed to the public anywhere in India or in any other country by publication in tangible form or by use or in any other way prior to the filing date, or where applicable, the priority date of the application for registration; or (c) is not significantly distinguishable from known designs or combination of known designs; or (d) comprises or contains scandalous or obscene matter, shall not be registered." The Plaintiff's design falls squarely within the mischief of Section 4 as it had already been disclosed to the public prior to the application date.



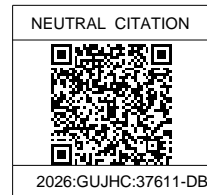
The Defendant relies upon the e-commerce platform Meesho i.e. defendant no. 1, where identical/similar product listings and customer reviews are available with a review dated 25/01/2025, clearly showing that the design was already published before the Plaintiff's application on 06/02/2025.

Consequently, the Plaintiff's registration is also liable to be cancelled under Section 19(1)(b) of the Designs Act, 2000, which provides that "any person interested may present a petition for the cancellation of the registration of a design at any time after the registration of the design to the Controller on any of the following grounds, namely:- (a) that the design has been previously registered in India; or (b) that it has been published in India or in any other country prior to the date of registration; or (c) that the design is not a new or original design; or (d) that the design is not registrable under this Act; or (e) that it is not a design as defined under clause (d) of section 2." Therefore, by virtue of Sections 4 and 19 of the Act, the Plaintiff's design lacks novelty and originality, stands vitiated by prior publication, and is liable to be cancelled. The Defendant is placing on record the link of the said Meesho listing I.e. <https://www.meesho.com/maira-fab-embroidered-vichitra-silk-straighti-kurta-with-trousers-dupatta/p/7rx6r?srsrtid=AfmBOopOi0kgPlemoNjW4ySalMoEhkCPXDS-ODZ:B1GjoOltbzclf9Kr> along with screenshots of the product and customer review dated 28/01/2025 with separate document list which clearly evidences prior publication."

6. The prayers made in the written statement are as under:-

"a) Dismiss the present suit as misconceived, not maintainable, and devoid of merit;

b) Hold and declare that the Plaintiff's alleged registered design lacks novelty/originality and is liable to be



cancelled under Section 19 of the Designs Act, 2000;

c) Award costs of the present proceedings in favour of the Defendant and against the Plaintiff, and

d) Pass such further and other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

7. Placing the written statement, the attention of the Court is further invited to Section 22 of the Designs Act' 2000 (*in short 'the Act' 2000*'), which reads as under:-

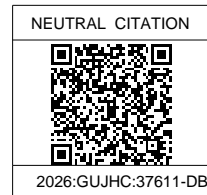
“22. Piracy of registered design.—(1) During the existence of copyright in any design it shall not be lawful for any person—

(a) for the purpose of sale to apply or cause to be applied to any article in any class of articles in which the design is registered, the design or any fraudulent or obvious imitation thereof, except with the license or written consent of the registered proprietor, or to do anything with a view to enable the design to be so applied; or

(b) to import for the purposes of sale, without the consent of the registered proprietor, any article belonging to the class in which the design has been registered, and having applied to it the design or any fraudulent or obvious imitation thereof; or

(c) knowing that the design or any fraudulent or obvious imitation thereof has been applied to any article in any class of articles in which the design is registered without the consent of the registered proprietor, to publish or expose or cause to be published or exposed for sale that article.

(2) If any person acts in contravention of this section, he shall be liable for every contravention—



(a) to pay to the registered proprietor of the design a sum not exceeding twenty-five thousand rupees recoverable as a contract debt, or

(b) if the proprietor elects to bring a suit for the recovery of damages for any such contravention, and for an injunction against the repetition thereof, to pay such damages as may be awarded and to be restrained by injunction accordingly:

Provided that the total sum recoverable in respect of any one design under clause (a) shall not exceed fifty thousand rupees:

Provided further that no suit or any other proceeding for relief under this sub-section shall be instituted in any court below the court of District Judge.

(3) In any suit or any other proceeding for relief under sub-section (2), ever ground on which the registration of a design may be cancelled under section 19 shall be available as a ground of defence.

(4) Notwithstanding anything contained in the second proviso to sub-section (2), where any ground or which the registration of a design may be cancelled under section 19 has been availed of as a ground of defence under sub-section (3) in any suit or other proceeding for relief under sub-section (2), the suit or such other proceedings shall be transferred by the Court, in which the suit or such other proceeding is pending, to the High Court for decision.

(5) When the court makes a decree in a suit under sub-section (2), it shall send a copy of the decree to the Controller, who shall cause an entry thereof to be made in the register of designs.”

8. The learned Counsel for the appellant, referring to sub-sections (3) and (4) of Section 22 of the Act' 2000 would



submit that in any suit or proceeding for relief under sub-section (2), the ground on which registration of a design may be canceled under Section 19 of the Act' 2000 of the Act shall be available as a ground of defence. However, in case the registration of a design is sought to be cancelled under Section 19 of the Act' 2000 and the defendants avail cancellation as a ground of defence, the suit or such other proceedings for relief under sub-section (2) shall have to be transferred by the concerned Court to the High Court for decision.

9. The submission is that during the course of argument on the application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908, the attention of the Commercial Court was invited to the provisions of Section 22(4) of the Act' 2000. In fact, the Commercial Court in the order impugned has noted the arguments of the defendant that he has made an application for cancellation of registration of design in view of Section 4 read with Section 9 of the Act' 2000 before the Controller of the design at Kolkata.

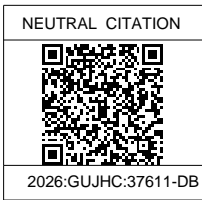
10. A perusal of the prayer made by the defendant along with the written statement at page '73' of the paper-book indicates that, besides dismissal of the suit being misconceived, the defendant has also made a prayer to the Civil Court to hold and declare that the plaintiff's alleged registered design lacks novelty / originality and is liable to be canceled under Section 19 of the Act' 2000.



11. Taking note of the above, we are of the view that in light of the defence taken by the defendant and the relief sought before the Commercial Court, seeking for cancellation of registration under Section 19 of the Act' 2000, in view of sub-section (4) of Section 22 of the said Act, the Commercial Court has no option but to transfer the suit to the High Court for decision. There was no occasion for the Commercial Court to proceed with the interim injunction application when in the written statement, the defendant has sought cancellation of registration under Section 19 of the Act' 2000, as a ground of defence.

12. At this stage, we may take note of the decision of the Apex Court in the case of ***S.D. Containers Indore v. Mold-Tek Packaging Ltd., [(2021) 3 SCC 289]***, wherein the Apex Court has discussed about the impact of Section 22(4) of the Act' 2000 in a matter where the defendant had taken a defence of cancellation of registration before the Commercial Court and the Commercial Court proceeded to transfer the suit to the High Court.

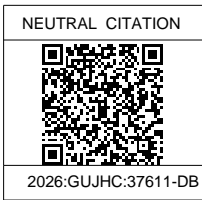
13. The Apex Court in the said case was dealing with the order of the High Court in setting aside the order of the Commercial Court in transferring the suit under Section 22(4) of the Act' 2000 to the High Court, directing the Commercial Court that it was itself competent to decide the suit in terms of Commercial Courts Act' 2015. Having considered the provisions of the Commercial Courts Act' 2015 and the provisions of Section 22(4) of the Act' 2000, it was held



therein that there is no provision in the Commercial Courts Act' 2015 either prohibiting or permitting the transfer of the proceedings under the Act' 2000 to the High Courts, which do not have ordinary original civil jurisdiction.

14. In terms of Section 22(4) of the Act' 2000, the defendant has a right to seek cancellation of the designs which necessarily mandates the Courts to transfer the suit. The transfer of suit is a ministerial act if there is a prayer for cancellation of the registration. The civil suit in which there is plea to revoke the registered designs, has to be transferred to the High Court, where there is no ordinary original civil jurisdiction.

15. It was further observed in paragraph '14' that there are two options available under the Act' 2000, to seek revocation of registration. One of them is before the Controller, appeal against which appeal would lie to the High Court. However, in a suit for infringement before the Civil Court on the basis of registration certificate, the defendant has been given the right to seek revocation of registration. It is further clarified therein that both the aforesaid provisions are independent provisions giving rise to different and distinct cause of action. However, in the eventuality, where the defendant seeks revocation of registration in a suit for infringement before the Civil Court, the suit is to be transferred to the High Court in terms of sub-section (4) of Section 22 of the Act' 2000. The order passed by the High Court directing the Commercial Court to decide the suit itself in terms of the Commercial Courts Act' 2015 was,



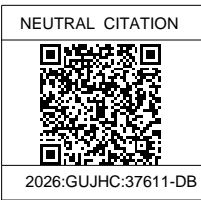
thus, set aside.

16. Taking note of the above decision of the Apex Court and the provisions of Section 22(4) of the Act' 2000 as well as the plea taken by the defendant in the written statement and the prayer made therein, we are of the considered view that since the defendant had sought the relief for cancellation of registration of the design before the Civil Court while filing the written statement, sub-section (4) of Section 22 of the Act' 2000 would be attracted and the suit is liable to be transferred to the High Court.

17. It seems that the Commercial Court has completely ignored the provisions of Section 22(4) of the Act' 2000 while proceeding with the interim injunction application in the suit even though it has taken note of the written statement and the defence of the defendant in the order impugned.

18. In view of the above, while setting aside the judgment and order dated 12.09.2025 passed by the Commercial Court of rejection of application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908, the matter is relegated with the direction to the Commercial Court concerned, Surat to pass an appropriate order to transfer the suit to the High Court forthwith. Needful be done within a period of one week from the date of receipt of copy of this order.

19. With the above, the present appeal stands allowed. No order as costs.



CIVIL APPLICATION (FOR STAY) NO. 1 of 2025

Connected Civil Application would not survive and shall stand disposed of accordingly.

(SUNITA AGARWAL, CJ.)

(D.N.RAY, J.)

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