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

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Judgment Reserved on: 05.05.2026

Judgment delivered on: 01.07.2026

Judgment uploaded on: 02.07.2026

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**FAO(OS) (COMM) 123/2026 CM APPL. 28395/2026 CM APPL.  
28398/2026 CM APPL. 29895/2026**

MORE THAN WATER PRIVATE LIMITED

.....Appellant

versus

NESCO LIMITED

.....Respondent

**Advocates who appeared in this case**

For the Appellant : Mr. Chander M. Lall, Senior Advocate with  
Mr. Anirudh Bhatia, Advocate.

For the Respondents : Mr. J. Sai Deepak, Senior Advocate with  
Mr. Naqeeb Nawab, Ms. Sanandika Pratap  
Singh, Mr. Prakhar Singh, Mr. Vibhav  
Singh, Mr. B Sidhi Pramodh Rayudu, Ms.  
Purnima Vashishtha, Advocates.

**CORAM:****HON'BLE MR. JUSTICE V. KAMESWAR RAO****HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA****JUDGMENT****MANMEET PRITAM SINGH ARORA, J.**

1. This is an appeal under Order XLIII Rule 1 of the Code of Civil Procedure, 1908 ['CPC'], read with Section 13(1) of the Commercial Courts Act 2015, and Section 10 of the Delhi High Court Act, 1966, against the judgment dated 15.04.2026 ['impugned judgment'].



## FACTUAL MATRIX

2. The Appellant is engaged in the business of manufacturing, marketing, distribution and sale of packaged drinking water in paper-based boxes, i.e., tetra pack bearing the trademark 'MORE THAN



WATERBOX' in quantities of 250ml, 500ml and 1000ml.

3. It is stated that the device mark 'WATERBOX IS THE RIGHT



CHOICE' was coined and adopted by Mr. Hemang Ramesh Boricha, proprietor of M/s. Meera Enterprises [Appellant's predecessor] in 2018. It is contended that M/s. Meera Enterprises also coined and adopted the wordmark 'WATERBOX'. It is stated that the Appellant was incorporated on 02.09.2022, pursuant to which M/s. Meera Enterprises executed an Assignment Deed dated 07.10.2022 in favour of the Appellant, whereby all the rights, title, interest and ownership of the wordmark 'WATERBOX' along with the tagline 'WATERBOX IS THE RIGHT CHOICE', device marks/logos and packaging, artistic works, designs, layouts and the social media accounts created by M/s Meera Enterprises were transferred in favour of the Appellant.

4. The Appellant, therefore, claims proprietorship rights over the marks 'WATERBOX', 'WATER BOX', 'MORE THAN WATERBOX',



, ‘WATERBOX IS THE RIGHT CHOICE’,



WATER  
BOX  
IS  
THE  
RIGHT  
CHOICE.

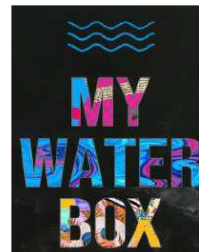
‘ IS THE RIGHT CHOICE. ’, ‘ WATER BOX IS THE RIGHT CHOICE. ’ [‘Appellant’s marks’] and claims user for the period 2018 till 2022 through its predecessor M/s. Meera Enterprise, and from 2023 onwards, in its own name.

The Appellant does not hold registration for either of the marks.

5. It is stated that in January 2026, the Appellant, on a perusal of the official website of the Trade Marks Registry, learnt about the Respondent’s





registration for the device mark ‘MY WATER BOX/ bearing TM no. 6879596 in class 32 dated 26.02.2025 with a user claim of 15.10.2020. The registration has been granted to the device in a black and white colour combination. It is stated that the Respondent is currently using



the device mark in a coloured formation on its products [hereinafter collectively referred to as the ‘impugned mark’].

6. It is stated that, in addition to the deceptive similarity of the word marks between the impugned mark and the Appellant’s marks, the



Respondent also adopted a wave design  in the impugned mark that is deceptively similar to the wave design  used by the Appellant in its marks.

7. The Appellant asserts that being the prior adopter of its marks and aggrieved by the Respondent's adoption of the impugned mark, it has filed the underlying suit for passing off.

8. The learned Single Judge, *vide* the impugned judgment, has denied an absolute interim injunction on the ground that the Appellant failed to establish a *prima facie* case of goodwill and reputation in its marks. However, despite the said finding, the learned Single Judge has issued a limited injunction by directing that both the parties can continue manufacturing and offering for sale their respective products under their respective marks 'only' within the territories of their respective states, i.e., the State of Gujarat for the Appellant and the State of Maharashtra for the Respondent.

9. In these facts, the Appellant has instituted the present appeal challenging the non-grant of the absolute injunction as well as the territorial restraint imposed on the Appellant.

The Respondent has filed cross-objections *vide* CM No. 33853/2026 challenging the injunction granted against it despite the expression of the opinion of a lack of *prima facie* case against the Appellant. The Respondent has contended that it has no objection to the restraint being vacated *qua* the Appellant also.

#### **COURT'S FINDINGS**

10. This Court has heard the learned counsel for the parties and perused the record.



11. The scope of interference, while hearing an appeal against the order passed by a Commercial Court, in Intellectual Property matters, under Order XXXIX Rule 1 and 2 CPC, stands settled by the judgment of the Supreme Court in **Wander Ltd. v. Antox India (P) Ltd**<sup>1</sup>. The relevant paragraph reads as follows: -

“13. On a consideration of the matter, we are afraid, the appellate bench fell into error on two important propositions. The first is a misdirection in regard to the very scope and nature of the appeals before it and the limitations on the powers of the appellate court to substitute its own discretion in an appeal preferred against a discretionary order. The second pertains to the infirmities in the ratiocination as to the quality of Antox's alleged user of the trademark on which the passing-off action is founded. We shall deal with these two separately.

14. The appeals before the Division Bench were against the exercise of discretion by the Single Judge. In such appeals, the appellate court will not interfere with the exercise of discretion of the court of first instance and substitute its own discretion except where the discretion has been shown to have been exercised arbitrarily, or capriciously or perversely or where the court had ignored the settled principles of law regulating grant or refusal of interlocutory injunctions. An appeal against exercise of discretion is said to be an appeal on principle. Appellate court will not reassess the material and seek to reach a conclusion different from the one reached by the court below if the one reached by that court was reasonably possible on the material. The appellate court would normally not be justified in interfering with the exercise of discretion under appeal solely on the ground that if it had considered the matter at the trial stage it would have come to a contrary conclusion. If the discretion has been exercised by the trial court reasonably and in a judicial manner the fact that the appellate court would have taken a different view may not justify interference with the trial court's exercise of discretion. After referring to these principles Gajendragadkar, J. in **Printers (Mysore) Private Ltd. v. Pothan Joseph**<sup>2</sup>:

“... These principles are well established, but as has been observed by Viscount Simon in **Charles Osenton & Co. v. Jhanaton**<sup>3</sup> ‘...the law as to the reversal by a court of appeal of an order made by a judge below in the exercise of his discretion is well established, and any difficulty that arises is due only to the application of well settled principles in an

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<sup>1</sup> 1990 Supp SCC 727

<sup>2</sup> AIR 1960 SC 1156

<sup>3</sup> 1942 AC 130



individual case’.

The appellate judgment does not seem to defer to this principle.  
....”

[Emphasis supplied]

12. In its recent decision in **Pernod Ricard India (P) Ltd. v. Karanveer Singh Chhabra**<sup>4</sup>, the Supreme Court has reiterated the aforesaid principles at paragraph ‘19.8’, which reads as under: -

“19.8. In **Wander Ltd.**, this Court elaborated the principles governing the grant or refusal of interim injunctions in trademark infringement and passing off actions. It was underscored that appellate courts ought to be circumspect in interfering with the discretionary orders of lower courts in such matters. Interference is warranted only where the discretion has been exercised arbitrarily, capriciously, perversely, or in disregard of settled legal principles.

[Emphasis supplied]

13. Thus, as summarised by the Division Bench of this Court in **Sanjay Gupta and Vinay Gupta v. Vineet Jain, Proprietor of Vijaypal Vineet Kumar and Co.**<sup>5</sup>, an appeal against an interlocutory order passed by the Commercial Court, the Appellate Court would not substitute its subjective view for the view adopted by the Commercial Court. It is only if the Commercial Court errs on principle that the Appellate Court would interfere; otherwise, factual and discretionary evidence and findings of the Commercial Court are ordinarily immune from interference in an appeal.

14. We shall therefore examine both the parties’ submissions, keeping these settled principles in mind.

15. The learned Single Judge by the impugned judgment has disposed of I.A. 3663/2026 filed by the Appellant seeking an interim injunction against the Respondent from using the impugned mark. Since the claim of the

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<sup>4</sup> 2025 SCC OnLine SC 1701

<sup>5</sup> 2026 SCC OnLine Del 1862



Appellant is based on the relief of passing off, the learned Single Judge examined whether the first ‘ingredient of goodwill owned by a trader’ existed in favour of the Appellant. After examining the documents filed by the Appellant, the learned Single Judge concluded that the Appellant has failed to make out a prima facie case for the grant of interim injunction on the following findings: -

- a. The invoices for the year 2020 filed by the Appellant to prove use of the mark ‘WATERBOX IS THE RIGHT CHOICE’ on goods w.e.f. 2018 appears to be doubtful, and the veracity would have to be tested at trial. Thus, there is no prima facie proof of use of the mark prior to 31.12.2020.
- b. There was admittedly no sale of goods using the marks<sup>6</sup> carried out during the calendar years 2021, 2022 and until July 2023.
- c. The Chartered Accountant certificate [‘CA certificate’] for showing sales for the period August 2023-24, 2024-25 and until December, 2025 is not substantiated with invoices. The Appellant has relied upon four invoices illustratively for the said period, and in the absence of all the invoices, the figures cited in the certificate were not found reliable by the learned Single Judge.

Nonetheless, even on perusal of the sales figures cited in the certificate, the Court held that there were no substantial sales for the products under the mark ‘MORE THAN WATERBOX’ and therefore that Appellant had failed to establish goodwill and reputation in its favour.

- d. The invoices placed on record to show the expenditure incurred for

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<sup>6</sup> ‘WATERBOX IS THE RIGHT CHOICE’, WATERBOX.




promotion pertain to the period from the month of September, 2024 to March, 2025, and even the amounts discernible from the invoices towards promotion do not show any substantial expenditure. There is no evidence of any expenditure towards promotion incurred between 2018 and August, 2024. Thus, the expenditure on promotion fails to lead to an inference that Appellant's mark had earned a reputation or goodwill in the market amongst the consumers.

The Court concluded that the promotional expenditure was at the highest attributable to 'MORE THAN WATERBOX' and there was no proof of any commercial expenditure for the mark 'WATERBOX IS THE RIGHT CHOICE'.

- e. The claim of the Appellant with respect to the use of its mark since 2018 was also found doubtful in view of the express declaration made by it in its TM application no. 5840781 filed on 09.03.2023 for



registration of the device mark , wherein the user detail was specified as 'proposed to be used'. The Court held that this statement before the Registrar was an admission of no commercial use of the mark 'MORE THAN WATERBOX' by the Appellant before the year 2023.

- f. There is no regular or continuous use of a single mark, whether under 'WATERBOX IS THE RIGHT CHOICE' or 'MORE THAN WATERBOX', since the year 2018 to date.
- g. In view of the aforesaid prima facie findings on lack of reputation or goodwill, the learned Single Judge opined that there was no need to



consider the ingredients of misrepresentation and damage to goodwill.

- h. In addition to opining that prima facie the invoices for the year 2020 relied upon by the Appellant were doubtful, the Court held that the claim of the Appellant that it was selling water in tetra packs during the period 2018-2020 using the mark ‘WATER BOX IS THE RIGHT CHOICE’ was even otherwise impermissible in law, in view of the circular and notification issued by BIS<sup>7</sup>.
  - i. The evidence relied upon by the Appellant did not show any extensive advertisement expenditure incurred by it to promote the brand, and therefore, the brand association in the minds of the consuming public had also not been established. The Appellant had solely relied upon its social media accounts on Instagram and Facebook to contend its reputation, and the learned Single Judge has examined that the number of followers<sup>8</sup> on the Instagram account and held that the same is insufficient to form an opinion on the reputation and goodwill of the Appellant.
  - j. Lastly, it was observed that the issue of this Court’s territorial jurisdiction involves both questions of law as well as fact and, accordingly, was left open for adjudication at the appropriate stage.
16. However, despite the aforesaid findings as regards lack of prima facie case for grant of interim injunction, the learned Single Judge took note of the fact that all invoices of the Appellant placed on record showed that it was undertaking sales only within the State of Gujarat. It also noted that the Respondent was undertaking sales only within the State of Maharashtra. In

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<sup>7</sup> Bureau of Indian Standards Regulations, 2022

<sup>8</sup> 10.9K



these facts, the learned Single Judge proceeded to grant a limited injunction and directed that the Appellant and Respondent would be restricted to manufacture and offer for sale their respective products under the respective



trademarks, i.e., ‘MORE THAN WATERBOX’/

and



‘MY WATER BOX’/ only within the territories of their respective states during the pendency of the suit.

17. The Appellant is aggrieved by the non-grant of an absolute injunction against the Respondent from using its marks anywhere in India and is even *more* aggrieved by the restraint issued against it, limiting it to selling the goods in the State of Gujarat alone. It submits that it has applied for a Central Licence dated 21.02.2026 to FSSAI<sup>9</sup> and is entitled to sell its products pan-India. It is stated that, in fact, even prior to the filing of the underlying suit, the Appellant has been selling its products bearing the mark



‘MORE THAN WATERBOX’/

across India, and its

products are available on e-commerce platforms for sale outside Gujarat. It is stated that there was no prayer by the Respondent in the underlying suit, by way of a counter-claim or an application, seeking any restraint against the

<sup>9</sup> Food Safety and Standards Authority of India



Appellant from selling outside the State of Gujarat. It submits that the injunction granted against the Appellant is therefore liable to be vacated, and the Appellant cannot be worse off for filing the underlying suit.

17.1. The Appellant has challenged the findings on lack of goodwill and reputation by contending that there is no need for a plaintiff to have an immense reputation or long use with respect to a mark, and so long as it is proved that the plaintiff is the prior adopter of the mark, it is entitled to an injunction. In this regard, reliance is placed upon the judgment of a Co-ordinate Benches of this Court in **Century Traders v. Roshan Lal Duggar and Co.**<sup>10</sup> and **VIP Industries Ltd. v. Carlton Shoes Ltd. and Anr.**<sup>11</sup>. It relies upon the creation of social media accounts on Facebook and Instagram to show adoption of the mark ‘WATERBOX’ and ‘WATERBOX IS THE RIGHT CHOICE’ in the year 2018 and the emails dated 01.08.2020, 22.02.2021, 26.02.2023, and 01.03.2023 from Instagram account to establish that ‘WATERBOX’ formed part of the username of M/s. Meera Enterprise on social media platform Instagram since at least 2018.

It relies upon the registration of its website [www.morethanwater.in](http://www.morethanwater.in) on 26.02.2023 and lastly, the TM application dated 09.03.2023 filed for registration of the device mark ‘MORE THAN WATERBOX’/



in Class 32 on a ‘proposed to be used’ basis. It relies upon sales invoices from 12.08.2023 to 16.02.2026 to show the use of the mark. It also relies upon the CA certificate dated 21.01.2026 certifying sales

<sup>10</sup> 1977 SCC OnLine Del 50 [Paragraph Nos. 10 to 12]

<sup>11</sup> 2025 SCC OnLine Del 4620 [Paragraph Nos. 67 and 113]



for the period 2023 to December 2025 and promotional expenditure for the period 2024-2025.

17.2. The Appellant has contended that the Respondent's TM registration



no. 6879596 in Class 32 for 'MY WATER BOX'/ dated 26.02.2025 is vitiated by fraud, and it has been obtained by misleading the Registrar of Trademarks by relying upon doctored photographs alleging user since 2020. It has also stated that the alleged invoices relied upon by the Respondent before the Registrar to show use of the impugned mark for the period 2020-23 are not reliable. It contends that the Respondent's first commercial use of the impugned mark is evident from the invoice dated 02.10.2025. It also refers to the Respondent's Instagram post-dated 03.12.2025 announcing the launch of its product bearing the impugned mark. It states that the Respondent's website [www.mywaterbox.com](http://www.mywaterbox.com) was registered on 02.03.2023, used by an advertising company till 2024 and was not in use till 23.05.2025. It states that the Respondent's website [www.mywaterbox.in](http://www.mywaterbox.in) was registered on 17.01.2025, and its web archives show that the website was not in use till 19.03.2025. It contends that the documents, thus, show that the Respondent's user claim of 15.10.2020 is false and that it has no evidence of use of the impugned mark and trade dress prior to 2025.

17.3. It contends that on a comparison of the rival marks 'MORE THAN WATERBOX' and 'MY WATER BOX', it is evident that 'WATERBOX' is the dominant feature of the competing marks, and to this extent, the marks



are identical. It is contended that even on a comparison of the trade dresses, placement of the device marks on the tetra packs, and the similar wave designs are likely to cause consumer confusion, specifically considering that packaged drinking water is a product of daily mass consumption, purchased by all strata of society without a high degree of care or caution. The Appellant relies upon the actual confusion documented in the messages exchanged with a social media user on the platform of Instagram in November, 2025 and February, 2026.

18. In reply, the Respondent at the hearing dated 05.05.2026, in this appeal, has stated that it is not relying on any of the documents filed before the Registry of Trademarks showing the use of the impugned mark since 2020 or the claim of adoption since 2018. It has unequivocally stated that it is not relying upon its TM registration no. 6879596 in its defence in these proceedings. It stated that it will be relying only on user claim of 2025.

18.1. The Respondent contends that the learned Single Judge has rightly concluded that the Appellant has failed to establish goodwill, which is the sine qua non of a passing off action. It is stated that Appellant, on its showing, allegedly used 'WATERBOX IS THE RIGHT CHOICE' in 2018 and adopted 'MORE THAN WATERBOX' in the year 2023. There is, thus, sporadic or no continuous use of the marks from 2018, as alleged. It is stated that the invoices of M/s. Meera Enterprise for the year 2020 are fabricated, and cannot be relied upon. The FSSAI application dated 14.11.2019 of M/s. Meera Enterprise was rejected by the competent authority, and a valid license was obtained only on 31.01.2020. There could therefore be no lawful commercial use prior thereto. Also, the GST registration of M/s. Meera Enterprise also stood cancelled on 31.12.2020. Packaging of water in tetra



packs became permissible only from 2022 onwards.

18.2. It is stated that the earliest invoice, filed before the learned Single Judge by the Appellant in the suit showing use of the mark 'MORE THAN WATER BOX', is dated 28.09.2025, and the Respondent denies the veracity of the invoices for the years 2024-2026 filed subsequently. It contends that the sales figures for the years 2024-25 and 2025-26, as shown in the CA certificate dated 21.01.2026, are meagre and fail to prove reputation and goodwill. It contends that the FSSAI licence dated 20.01.2023 does not permit the Appellant to sell outside the State of Gujarat and, in the absence of the Central FSSAI Licence, the Appellant's activities of sale outside the State of Gujarat are unlawful. It contends that Appellant filed an application for a Central FSSAI Licence after filing the underlying suit, and the same was rejected as of 17.04.2026, prior to the filing of this appeal; however, this material fact has been withheld from this Court in this appeal.

18.3. It is stated that, in these facts, the Appellant's claim for the common use of the mark 'WATERBOX' since 2018 is incorrect. It is stated that the Appellant has now filed a TM application no. 7460258 dated 15.01.2026 before the Registry of Trademarks for the wordmark 'WATERBOX' claiming user since 23.06.2018, which is untenable.

18.4. It is stated that the Respondent obtained the Central FSSAI Licence for the manufacture and sale of packaged drinking water on 17.07.2025. The Respondent's earliest invoice is dated 02.10.2025. The Appellant has been unable to show any lawful commercial use of goodwill in the mark 'MORE THAN WATERBOX' prior thereto; consequently, no action for passing off is maintainable.

18.5. It is stated that the Respondent, though it objected to the territorial



jurisdiction of the High Court of Delhi on the plea that it does not sell goods in Delhi or outside the State of Maharashtra, the same cannot be read to mean that the Respondent does not intend to sell in Delhi or beyond the State of Maharashtra. In view of the findings of the learned Single Judge as regards the lack of goodwill and reputation against the Appellant, no injunction could have been issued against the Respondent.

**I. CONSEQUENCES OF PARTIES PLACING RELIANCE UPON PRIMA FACIE FAKE DOCUMENTS AND MAKING FALSE ASSERTIONS.**

19. Before we consider the issue, as to whether the appeal has to be allowed on merits of the Appellant's claim of prior user vis-à-vis the Respondent so as to lift the injunction granted against the Appellant and to restrain the Respondent from selling anywhere in India, we would like to consider whether the Appellant can be granted the discretionary relief of interim injunction, in view of the allegation of filing of fabricated documents i.e., invoices for user and the false assertions of possessing a Central FSSAI License levelled against it.

20. The Appellant has asserted that the mark 'WATERBOX' was assigned to it by M/s. Meera Enterprise on 07.10.2022. It has claimed that the mark 'WATERBOX' was adopted and used by M/s. Meera Enterprise since the year 2018. It has relied upon two invoices dated 09.02.2020 and 12.01.2020 issued by M/s. Meera Enterprise to show the commercial use of the mark 'WATERBOX' on the products. The learned Single Judge in the impugned judgment at paragraph nos. '19' and '20' has returned findings to record that the contents of the said invoices do not appear to be genuine.

21. In this appeal, we have also examined the said invoices and find that the findings of the learned Single Judge are well-founded. We note that the HSN code 2710 mentioned in these invoices is also wholly inapplicable to



water, and this further shows that these invoices are not genuine. Learned senior counsel for the Appellant had sought time during the hearing of the appeal to seek instructions, and had been unable to explain this discrepancy at the subsequent hearing. The Appellant has also admitted that it does not have any GST returns filed by M/s. Meera Enterprises for the said invoices, and therefore, there is no contemporary evidence to prove the genuineness of the said documents at this prima facie stage. In these facts, we find that the learned Single Judge has rightly disregarded the said invoices of M/s. Meera Enterprises, as the contents prima facie appear to be incorrect and lead to an inference of manipulation.

22. The Appellant was issued an FSSAI registration for the State of Gujarat on 20.01.2023. The said licence permits the Appellant to carry out the manufacturing and sale of packaged drinking water in Gujarat. The Respondent contended that in view of the said FSSAI licence, the Appellant cannot carry out business operations for the sale and packaged drinking water outside the State of Gujarat. To repel this argument, learned senior counsel for the Appellant contended that the Appellant had applied for a Central FSSAI Licence on 21.02.2026 and, on the grant of the said licence, there could be no legal impediment to sales outside the State of Gujarat. However, the Respondent has placed on record with CM No. 36012/2026 the application status of the Appellant's Central FSSAI License, which records that the said application for license was rejected as of 17.04.2026. This rejection was not disclosed in the memorandum of appeal or during the course of the arguments. This shows that the submissions made by the Appellant in this appeal, heard in May 2026, relying on the pendency of its application for a Central FSSAI Licence, were false and misleading.



23. We are of the considered opinion that the conduct of the Appellant in relying upon prima facie manipulated invoices of 2020 issued by M/s. Meera Enterprises to prove commercial use of the mark 'WATERBOX IS THE RIGHT CHOICE' for the period 2018-2020, and also misleading this Court during the hearing of the appeal with respect to the pendency of its application for a Central FSSAI Licence are sufficient to disentitle the Appellant from the grant of the discretionary relief of interim injunction in its favour. No party, and more so a plaintiff, can seek discretionary relief from the Court by relying upon false information and false documents. In view of this conduct of the Appellant, we are not inclined to interfere with the impugned judgment.

24. We cannot accede to the plea of the Appellant that the Court may ignore the invoices of 2020 issued by M/s. Meera Enterprises filed on record, and the matter be decided on the basis of the invoices issued by the Appellant from 12.08.2023. This submission of the Appellant also shows a lack of contrition for filing and relying on manipulated invoices issued by M/s. Meera Enterprises. Accepting such submissions emboldens dishonesty in litigation. It is the bounden duty of the plaintiff/Appellant to approach the Court with clean hands. The Appellant must suffer the consequences of relying on documents that ex facie contain information that makes them wholly unreliable. The Appellant also cannot choose to mislead the Court by withholding information about the rejection of its Central FSSAI Licence and instead positively asserting reliance on the said license during arguments to justify its sales outside the State of Gujarat.



We find it apposite to refer to the judgment of the Supreme Court in **Tommorroland Limited v. Housing and Urban Development Corporation Limited**<sup>12</sup>, wherein the relevant paragraph reads as under: -

“56. It needs no emphasis that whosoever comes to the court claiming equity, must come with clean hands. The expression “clean hands” connotes that the suitor or the defendant have not concealed material facts from the court and there is no attempt by them to secure illegitimate gains. Any contrary conduct must warrant turning down relief to such a party, owing to it not acting in good faith and beguiling the court with a view to secure undue gain. A court of law cannot be the abettor of inequity by siding with the party approaching it with unclean hands. This also brings to mind the oft-quoted legal maxim—he who seeks equity must do equity.”

[Emphasis supplied]

25. In addition to the Appellant, in this case, we find that the Respondent, while applying for registration of its mark ‘MY WATER BOX’ before the Registrar of Trademarks, has relied upon ex facie fabricated photographs to show use of the impugned mark in 2021-25, to overcome the objections of third-party cited marks raised by the Registrar. The learned Single Judge at paragraph no. ‘27’ of the impugned judgment has already examined the invoices relied upon by the Respondent for the period 2020-24 and opined that the said invoices do not show any commercial sale of the products.

We have also examined some of the invoices filed by the Respondent before the Registrar of Trademarks to claim use of the impugned mark during the period 2020-2023. The said invoices, i.e., invoices dated 11.11.2020, 24.11.2020, 20.12.2020, 22.01.2021, 21.10.2021, 10.02.2022, 02.11.2022, and 03.01.2023<sup>13</sup> do not record any commercial sales. The said invoices do not mention any price of the products bearing the impugned mark and merely record the quantity. The contents of the invoices are highly

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<sup>12</sup> (2025) 4 SCC 19

<sup>13</sup> Page Number 571 to 578 of the appeal paper book.



odd and are contrary to the ordinary course and, in our considered opinion, have been rightly not considered by the learned Single Judge.

Learned senior counsel for the Respondent has submitted that the Respondent does not rely upon any of the aforesaid documents or the trademark registration granted in its favour. He states that Respondent is only relying upon its use of the impugned mark from 2025, when it applied for registration, and its invoice dated 02.10.2025 for the sale of the product bearing the said mark.

26. We, however, find it alarming that Respondent approached the Registrar of Trademarks for registration of the impugned mark on the strength of photographs which are ex facie fabricated and invoices contents whereof are prima facie non-confirming, if not fake.

27. The Respondent's conduct of relying upon ex facie fabricated photographs and unreliable invoices before the Registrar of Trademarks for bolstering a false user claim of 2020 is equally deplorable. It is unfortunate that the Respondent has gotten away with such conduct before the Trademark Registry and has secured registration of TM no. 6879596 in its favour for the mark 'MY WATER BOX'.

28. This case is a classic example of the ills that have crept into the legal proceedings where corporate entities like the parties herein have lost any fear of consequences of relying upon false documents in Court proceedings and proceedings before the Registrar of Trademarks. The conduct of the parties in relying upon false documents makes the task of the Court at the interim stage to determine the claims of prior user difficult and thus interferes with the administration of justice. The conduct of both parties in fabricating invoices for bolstering their claims of commercial use exhibits a



lack of ethics on the part of these corporate entities and indicates dishonesty. The invoices relied upon by these parties are not ordinary documents but are fiscal documents forming part of their accounts, which form the basis of all their tax compliance for income tax and GST. The propensity of these entities to manipulate the content of the invoices is alarming. Thus, the invoices of the parties, which contain non-confirming content, cannot be accepted as correct at this interim stage, and parties will be put to strict proof to prove these invoices at trial. And, if the invoices are found to be fake, appropriate perjury proceedings shall be taken against the officers of the Appellant.

29. The Respondent has stated before this Court at the hearing dated 05.05.2026 that it will not rely upon the TM no. 6879596 or its claim of user since 2020, in its defence, and will merely rely upon its user of the mark since 02.10.2025.

In view of our prima facie finding that the registration has been obtained by the Respondent by relying upon fabricated photographs and invalid invoices, the Respondent is hereby restrained from relying upon the said registration of the impugned mark against any third party, including the Appellant, during the pendency of this suit. The Respondent will prove the authenticity of the photographs and invoices relied upon by it before the Registrar of Trademarks in these proceedings, and if the same are found to be genuine, only thereafter will it be entitled to rely upon the said registration. And, similarly, if the photographs and the invoices are found to be fake, a direction shall be issued by the Court to the Registrar of Trademarks for removal of the said registration and initiation of appropriate perjury proceedings shall be taken against the officers of the Respondent for



relying upon the said documents before the Registry of Trademarks.

30. The Appellant has challenged the findings of the learned Single Judge with respect to a prima facie lack of proof of reputation and goodwill by relying on sales under the mark 'MORE THAN WATERBOX' w.e.f. 12.08.2023. In the appeal, it has filed its GST returns<sup>14</sup> for the period April 2023 to March 2026 and its invoices for the corresponding period 12.08.2023 to 16.02.2026 in the compilation dated 05.05.2026 filed before this Court. The Appellant contends that these documents, along with the CA certificate dated 21.01.2026, are sufficient to establish reputation and goodwill.

31. The Respondent has contended that even the Appellant's invoices for the period commencing August 2023 have inconsistencies, which make them unreliable, and the Respondent had objected to the said invoices being considered before the learned Single Judge, and in this background, the Appellant had not pressed reliance on these additional documents, which were sought to be brought on record before the learned Single Judge *vide* I.A. No. 7236/2026<sup>15</sup> and I.A. No. 8792/2026.

Illustratively, for the year 2025, it is seen from the invoices that there is a discrepancy in the date of the invoices when matched with the invoice number. For instance, invoice no. WB149 is for 17.12.2025 and invoice no. WB150 is for 05.12.2025, which, in the ordinary course, if invoices were issued regularly, would not have been possible. And, so on.

32. In view of the fact that the Appellant did not press I.A. No. 7236/2026 and I.A. No. 8792/2026 before the learned Single Judge, it is impermissible

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<sup>14</sup> Vide diary no. e-200863/2026

<sup>15</sup> Seeking to, inter alia, place on record invoices from 12.08.2023 to 16.02.2026 at pdf page 847 to 1151 of the suit record.



for the Appellant to rely upon the said documents [invoices for 2023-26] in this appeal. The appeal has to be decided on the basis of the documents relied upon before the learned Single Judge, and therefore these documents cannot be considered, more so because it contains discrepancies which cannot be ignored at a prima facie stage.

33. Keeping in view the inconsistencies pointed out by the Respondent in the invoices of the Appellant, even for the calendar year 2025, we are of the considered opinion that this is a fit case where the Appellant must be put to trial to prove the genuineness of its invoices before its claim of sales is accepted. In this case, the claim of goodwill cannot be decided on the basis of the CA Certificate, as the invoices relied upon by the Appellant and forming the basis of the CA certificate have inconsistencies which cannot be overlooked at the prima facie stage.

34. Notwithstanding the above, we have perused the GST returns of the Appellant and the same show that though sporadic sales were recorded by the Appellant from August 2023, commercial sales actually began in December 2024 when it registered monthly sales to the tune of Rs. 1.51 lakhs. The sales thereafter increased from April 2025 onwards and steadily increased. The peak sales were recorded during the financial year April 2025 to December 2025 [a period of nine months], when the Appellant recorded cumulative sales of Rs. 39.60 lakhs. The corresponding promotional expenditure for this period is Rs. 8.08 lakhs as per the CA certificate dated 21.01.2026. In our view, considering the small quantum of sales and small promotional expenditure, the finding of the learned Single Judge, opining a lack of proof of goodwill and reputation, appears reasonable and requires no interference in the appeal.



The learned Single Judge has recorded that the first invoice of the Appellant available on the record is dated 28.09.2025. The Respondent's first commercial sale on record is dated 02.10.2025. Although the Appellant is the prior user of the mark 'MORE THAN WATERBOX', in view of the learned Single Judge's detailed findings in paragraph nos. '21', '23', '24', '25', '29' and '30' regarding the Appellant's failure to establish goodwill or reputation, coupled with our finding that the Appellant has approached the Court with unclean hands, we are not inclined to grant any injunction in favour of the Appellant.

35. The reliance placed by the Appellant on the judgments of **Century Traders** (supra) and **VIP Industries Ltd.** (supra) to contend that the extent or duration of the use is not necessary for determining the plaintiff's right to seek protection against passing off. There is no dispute on the law laid down in the aforesaid judgment; however, the Co-ordinate Bench in **VIP Industries Ltd.** (supra) itself held that the plaintiff would have to satisfy the Court that its marks carry goodwill. In the facts of the present case, though arguably the Appellant has shown adoption of its mark 'MORE THAN WATERBOX' for regular commercial use since 2025, the Appellant has been unable to satisfy that it had earned goodwill and reputation in the said mark.

36. In the judgment of **Century Traders** (supra) relied upon by the Appellant, the Court at paragraph '12' has observed that a mere casual, intermittent or experimental use of the mark is insufficient to show an intention to adopt the mark. The said observations of the Division Bench squarely apply to the adoption of the mark 'WATERBOX IS A RIGHT' CHOICE by M/s. Meera Enterprise, the predecessor of the Appellant. The



documents filed on record by the Appellant for the period 2018-22 to show adoption and use of the mark by M/s. Meera Enterprise fail to show actual use of the mark and merely indicates adoption of the mark.

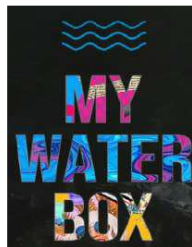
The Appellant must therefore lead evidence at trial to prove first its reputation and goodwill before being entitled to any relief.

37. The Appellant has contended that the learned Single Judge has failed to undertake a comparison of the rival marks 'MORE THAN WATERBOX' and 'MY WATER BOX'.



'WATERBOX'.

and 'MY WATER BOX'.



. It has contended that 'WATERBOX' is the dominant feature of its mark, and this feature has been wholly consumed by the Respondent. It has also contended that the learned Single Judge has failed to take into consideration the fact that the trade dresses of both the products are similar. The trade dresses are as follows: -



<p align="center"><b><u>TRADE DRESS OF THE APPELLANT'S PRODUCT</u></b></p>	<p align="center"><b><u>TRADE DRESS OF THE RESPONDENT'S PRODUCT</u></b></p>
	
	

38. In this regard, we would like to observe that the Appellant is indirectly seeking proprietary rights over the wordmark ‘WATERBOX’, which is further substantiated by the fact that the Appellant has applied for registration of the wordmark ‘WATERBOX’ vide TM application no. 7460258 dated 15.01.2026. However, the Appellant has failed to prove any proprietary rights in the wordmark ‘WATERBOX’. We find that the word ‘WATERBOX’ per se is descriptive of the product in question, as it literally means ‘water in the box’. This mark ‘WATERBOX’ is akin to ‘WATERBOTTLE’. The said word ‘WATERBOX’ is therefore non-distinctive and incapable of distinguishing the product. The Court will, at the



stage of final disposal, also have to decide whether the rival marks Appellant and Respondent are capable of distinguishing their products.

39. This Court notes that, on a bare comparison, the rival device marks,



i.e., 'MORE THAN WATERBOX'/'

and 'MY WATER



BOX'/' , the same prima facie appear to be similar, though not identical. The use of the words 'WATERBOX' and the design of the wave in both the device marks is common. However, in view of our prima facie view that the word 'WATERBOX' is descriptive, the Appellant has not approached the Court with clean hands and the findings of the learned Single Judge that the Appellant has failed to establish goodwill and reputation in its mark, the issue of deceptive similarity leading the consuming public to believe that the services provided by the Respondent are associated with the Appellant, is left open to be determined at trial.

40. This brings us to the issue of the limited injunction granted by the learned Single Judge at paragraph no. '41' of the impugned judgment restraining the Appellant from selling outside the State of Gujarat and the Respondent from selling outside the State of Maharashtra. It is not clear from the judgment as to the basis of the grant of this restraint. In view of the finding of the learned Single Judge that the Appellant has failed to make out a prima facie case of goodwill and reputation in its favour, our finding that the Appellant approached the Court with unclean hands and the judgment of



the Supreme Court in **Tommoroland Limited** (supra), the restraint against the Respondent is hereby vacated.

So also, in view of the submission of the Respondent that it has no objection to the restraint against the Appellant being vacated, the Appellant is also released from the injunction of territorial restraint issued by the learned Single Judge. The Appellant is, however, cautioned that it must conduct sales of its products outside the State of Gujarat only if it is permissible in law and is not a breach of the FSSAI licence dated 11.04.2025.

41. We may also note that before the learned Single Judge, the Respondent has vehemently disputed the territorial jurisdiction of the High Court of Delhi to entertain this suit on the plea that its commercial operations are limited to the State of Maharashtra only. It had relied on the fact that it does not undertake sales outside the State of Maharashtra heavily to non-suit the Appellant. The submissions of the Respondent in its cross-objections, conceding to its intention to sell in Delhi and outside the State of Maharashtra, cast a shadow on the correctness of the stand taken in the written statement. It is directed that the stand now taken in the appeal will bind the Respondent while deciding the objection to the territorial jurisdiction at the time of final disposal of the suit.

42. The Respondent has filed CM No. 29895/2026 against the Appellant for initiating perjury proceedings. The application has been filed in view of the false documents relied upon by the Appellant in this appeal. It is stated that an application seeking identical relief has been filed before the learned Single Judge in the suit. Since examination of the pleas raised by the Respondent requires trial, and the veracity of the documents relied upon by



the Appellant will be tested at trial, we direct that the relief sought by the Respondent in CM No. 29895/2026 will be pursued by it in I.A. No. 6512/2026 and CRL MA. 11166/2026, and we do not find any reason for issuing notice in CM No. 29895/2026, as it would amount to duplication of the proceedings. CM No. 29895/2026 is disposed of with the aforesaid directions.

43. The Respondent is directed to comply with the direction set out in paragraph no. '29' of this judgment.

44. It is also clarified that the continuing use of the impugned mark by the Respondent during the pendency of this suit shall not create any equities in its favour.

45. With the aforesaid directions, the appeal and the cross-objections filed by the Respondent stand disposed of. Pending applications stand disposed of.

46. The Registrar of Trademarks, at Mumbai shall take note of the restraint issued in respect of TM no. 6879596 and make an appropriate noting in its register. The Registry is directed to send a copy of this judgment to the Registrar of Trademarks at Mumbai through e-mail on [mumbai.tmr@nic.in](mailto:mumbai.tmr@nic.in) and [mhatre1558@gmail.com](mailto:mhatre1558@gmail.com) for information and compliance.

**MANMEET PRITAM SINGH ARORA, J**

**V. KAMESWAR RAO, J**

**JULY 01, 2026/mt/aa/aj**