



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR

MISCELLANEOUS FIRST APPEAL NO.4339 OF 2026 (IPR)

BETWEEN:

ETERNAL LIMITED
FORMERLY ZOMATO LIMITED
GROUND FLOOR 12A,
94 MEGHDOOT NEHRU PLACE,
SOUTH DELHI, NEW DELHI - 110 019
DELHI, INDIA.
REPRESENTED BY ITS
AUTHORISED SIGNATORY
S. KARTIK MADY.

...APPELLANT

(BY SRI. S.S. NAGANANADA, SR. COUNSEL AND
SRI. DHYAN CHINNAPPA, SR. COUNSEL, A/W
SRI. VIKRAM UNNI RAJAGOPAL, ADVOCATE)

AND:

ETERNL RESILIENTTECH PRIVATE LIMITED
GROUND FLOOR, 1568, KIRAN NILAYA,
NEAR POST OFFICE, INDRANAGAR,
NELAMANGALA, BANGALORE - 562 123,
BANGALORE, KARNATAKA, INDIA.
REPRESENTED BY ITS DIRECTOR
DR. VIJAYARAGVAN V.

...RESPONDENT

(BY SRI. UDAY HOLLA, SR. COUNSEL A/W
SRI. SAMMITH S, ADVOCATE FOR C/R)





THIS MFA IS FILED UNDER ORDER XLIII RULE 1(r) READ WITH SECTION 104 OF THE CPC, AGAINST THE ORDER DATED 08/06/2026 PASSED IN O.S.NO.7/2026 ON THE FILE OF THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, BANGALURU RURAL DISTRICT., ALLOWING IA NO.1 FILED UNDER ORDER XXXIX RULES 1 AND 2 READ WITH SECTION 151 OF CPC, 1908.

THIS APPEAL, COMING ON FOR DICTATING JUDGMENT, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:
CORAM: HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR

ORAL JUDGMENT

The appeal is filed by the appellant/defendant calling in question the order dated 08.06.2026 passed on I.A.No.I filed under Order XXXIX Rules 1 and 2 of CPC in O.S.No.7/2026, on the file of the Principal District and Sessions Judge, Bengaluru Rural District, Bengaluru¹, thereby, the application filed seeking to grant an ad-interim ex-parte order of temporary injunction by the plaintiff was allowed.

¹ hereinafter referred to as 'the Trial Court' for short



2. For the sake of convenience and easy reference, the parties are referred as per their rankings before the Trial Court.

3. It is the case of the plaintiff that the plaintiff is a private company incorporated under the Companies Act, 2013, under the name and style of "Eternal Resilinttech Private Limited" and is engaged in business operations in the field of energy and technology, and develops and deploys technology driven solutions, including IoT-enabled systems, AI/ML-based data analytics and software platforms for real-time monitoring and management.

4. The defendant formerly known as "Zomato Limited" and now operating under the name and style of "Eternal Limited", is a technology conglomerate purportedly engaged in the provision of technology-enabled services through digital platforms across multiple business verticals, including online food delivery, quick



commerce, B2B supply chain services, and event discovery and ticketing.

5. It is further contended that the plaintiff company is having registration certificate of trademark under the name and style of "Eternl Resilinttech Private Limited" registered with effect from 20.03.2018, but the defendant company has changed its earlier name from "Zomata Limited" to "Eternal Limited" and got the trademark registered subsequent to the plaintiff's registration of trademark on 28.03.2022 as "Eternal Limited". Hence, the plaintiff has filed suit for permanent injunction and the Trial Court passed an order restraining the defendant, its directors, officers, agents, employees, servants, representatives, successors and all other persons claiming through or under it from, in any manner using, adopting, displaying or continuing to use the mark(s) "Eternal" or any other mark deceptively similar to the plaintiff's registered trademark as "Eternl" and other consequential reliefs.



6. The plaintiff has also filed an application I.A.1/2026 under Order XXXIX Rules 1 and 2 of CPC, seeking to grant an ad-interim ex-parte order of temporary injunction restraining the defendant, its directors, officers, agents, employees, servants, representatives, successors and all other persons claiming through or under it from in any manner using, adopting, displaying or continuing to use the mark(s) "Eternal" or any other mark deceptively similar to the plaintiff's registered trademark "Eternal" mentioned in the application, including across its corporate website, digital platforms, applications, stock exchange filings and official communications, in relation to services similar or allied thereto, pending disposal of the suit.

7. The defendant has filed objections to the said application I.A.No.1/2026 filed by the plaintiff and prays to dismiss the application.



8. The Trial Court, upon considering the application filed for temporary injunction has passed an ad-interim ex-parte order of temporary injunction directing the defendant, its directors, officers, agents, employees, servants, representatives, successors and all other persons claiming through or under it from, in any manner using, adopting, displaying or continuing to use the mark(s) "Eternal" or any other mark deceptively similar to the plaintiff's registered trademark "Eternal" or any other mark deceptively similar to the plaintiff's registered trademark, as specified in the application.

9. Calling in question the said interim order of temporary injunction, the present appeal is filed by the appellant/defendant, raising various grounds in the memorandum of appeal and one of the principle grounds raised is that the Trial Court while granting an ad-interim ex-parte temporary injunction has not assigned any reasons as to why issuance of notice should be dispensed



with to the defendant before granting an ad-interim ex-parte order of temporary injunction.

10. Sri. S.S. Naganand, learned Senior Counsel appearing on behalf of the appellant/defendant submitted that the impugned order suffers from perversity as there is no mention of the reasons as to what the urgency is so as to dispense with issuance of notice to the defendant before granting order of temporary injunction and if an order of temporary injunction is not granted, what would be the irreparable loss and injury that the plaintiff would suffer. Therefore, it is submitted that the grant of an ad-interim ex-parte order of temporary injunction is in violation of Order XXXIX Rule 3 of CPC and no such reasons are assigned and the observations made by the Trial Court are omnibus in nature in not complying with Order XXXIX Rule 3 of CPC.

11. Further, it is submitted that as per the legal notice issued by the plaintiff to the defendant dated



13.03.2025 calling upon the defendant restraining from using the trademark "Eternal", the suit is filed on 04.06.2026; therefore, this delay caused in filing the suit itself shows that there is no urgency so as to entertain the application filed for grant of an ad-interim ex-parte order of temporary injunction and the Trial Court could have issued notice to the defendant. Therefore, the impugned order suffers from non-compliance with the provisions of Order XXXIX Rule 3 of CPC and without mentioning the reasons why the Trial Court is going to grant an ad-interim ex-parte order of temporary injunction, absolutely no reasons are assigned for dispensing with the issuance of notice to the defendant. Hence, prays for interference with the impugned order.

12. In support of the arguments, Sri. S.S. Naganand, learned Senior Counsel appearing on behalf of the appellant/defendant places reliance on the following decisions:



- i. VEDANT FASHIONS PVT. LTD., VS. SMT. RAJUL DEVI² (Vedant Fashions Pvt. Ltd., case)***
- ii. BOWRING INSTITUTE VS. MR. SARWIK S., AND OTHERS³ (Bowring Institute's case)***
- iii. MATRA MOBILI PRIVATE LIMITED VS. MADANAPALLE RETAIL PRIVATE LIMITED⁴ (Matra Mobili Private Limited case)***
- iv. M/S. BURNT TOAST AND ANOTHER VS. RIDDHI BISANI⁵***
- v. AMICA FINANCIAL TECHNOLOGIES PVT. LTD. VS. JUPITER CAPITAL PVT. LTD.⁶ (Amica Financial Technologies Pvt. Ltd. Case)***

13. Further, Sri. Dhyan Chinappa, learned Senior Counsel appearing on behalf of the appellant/defendant submitted that the Trial Court has not expressed its reasons why notice shall be dispensed with before granting an order of temporary injunction and also the Trial Court ought to have mentioned the reasons that, if notice is not dispensed with, what would be the irreparable loss and

² 2014 SCC OnLine Kar 7191

³ Miscellaneous First Appeal No.7641/2024 dated 20.12.2024

⁴ Commercial Appeal No.321/2023 dated 11.09.2023

⁵ Comap No.302/2026 dated 11.06.2026

⁶ Commercial Appeal No.359/2023 dated 10.10.2023



injury caused to the plaintiff and that is not found in the impugned order. Hence, prays to interfere with the impugned order passed by the Trial Court.

14. On the other hand, Sri. Uday Holla, learned Senior Counsel appearing on behalf of the respondent/plaintiff, submitted that the Trial Court has passed a considered order of temporary injunction by mentioning reasons as to why there was necessity of dispensing with notice and accordingly by assigning reasons has passed an ad-interim ex-parte order of temporary injunction. Therefore, when an application is considered under Order XXXIX Rules 1 and 2 of CPC, the remedy lies in seeking vacation of the same by filing an application under Order XXXIX Rule 4 of CPC before the very same Trial Court. Hence, submitted that the appeal is not maintainable.

15. Further, it is submitted that mere delay in filing the suit is not a ground to defeat the grant of an



ad-interim ex-parte order of temporary injunction. When the plaintiff has shown *prima facie* case on the face of the record produced before the Trial Court and has also convinced the Court that the balance of convenience lies in his favour and therefore, if an order of temporary injunction is not granted, then the plaintiff will suffer irreparable loss and injury. Hence, considering all the factors and the same having been assigned in the order granting an ad-interim ex-parte order of temporary injunction, therefore, the order passed by the Trial Court granting an ad-interim ex-parte order of temporary injunction needs no interference and prays to dismiss the appeal.

16. Further, it is also argued that the appeal is not maintainable since the defendant has a remedy under Order XXXIX Rule 4 of CPC for vacating an ad-interim ex-parte order of temporary injunction.



17. In support of the arguments, Sri. Uday Holla, learned Senior Counsel appearing on behalf of the respondent/plaintiff places reliance on the following decisions:

- i. HEINZ ITALIA AND ANOTHER VS. DABUR INDIA LTD.⁷ (Heinz Italia and another's case)***
- ii. MAHENDRA AND MAHENDRA PAPER MILLS LTD. VS. MAHINDRA AND MAHINDRA LTD.⁸ (Mahendra and Mahendra Paper Mills Ltd case)***
- iii. MIDAS HYGIENE INDUSTRIES (P) LTD. AND ANOTHER VS. SUDHIR BHATIA AND OTHERS⁹ (Midas Hygiene Industries (P) Ltd. And another case)***
- iv. PROCTER & GAMBLE HOME PRODUCTS PRIVATE LIMITED VS. MARICO LIMITED AND OTHERS¹⁰ (Procter & Gamble Home Products Private Limited's case)***

18. Learned Senior Counsels appearing on behalf of both the parties have also addressed their arguments on

⁷ (2007) 6 SCC 1

⁸ (2002) 2 SCC 147

⁹ (2004) 3 SCC 90

¹⁰ Miscellaneous First Appeal No.8990/2017 dated 30.11.2017



merits involved in the case. At this stage, the Court makes it clear that it does not enter into discussion on merits involved in the case but whether *prima facie* the appeal is maintainable or not is the only question to be considered by this Court. Therefore, upon hearing the submissions, the following points arise for my consideration:

- i. Whether, under the facts and circumstances involved in the case and in the background of order passed by the Trial Court in granting an ad-interim ex-parte order of temporary injunction requires any interference by this Court on the ground that the Trial Court has not assigned any reasons while granting an ad-interim ex-parte order of temporary injunction?*
- ii. What orders?*

19. It is made clear that this Court will not go on to discuss or consider the case on its merits. Whether the grant of an ad-interim ex-parte order of temporary injunction is in consonance with Order XXXIX Rule 3 of



CPC is only considered in the present case. It is the case of the plaintiff that the plaintiff is having a registered trademark as "Eternl Resilienttech Private Limited" and has got registered the trademark as "Eternl". It is stated in the plaint that the plaintiff/company is doing business operations in the field of energy and technology and develops and deploys, technology-driven solutions including IoT-enabled systems, AI/ML-based data analytics and software platforms for real-time monitoring and management.

20. The defendant formerly known as "Zomato limited" and now operating as "Eternal Limited". In this background, the plaintiff has filed a suit for permanent injunction by making allegations that there is infringement of plaintiff's trademark. According to the learned Senior Counsels Sri. S.S. Naganand and Sri. Dhyan Chinnappa, appearing on behalf of the appellant/defendant, the submissions are that the Trial Court has not assigned reasons as to why notice shall be dispensed with before



granting an ad-interim ex-parte order of temporary injunction. Further, it is submitted that just because the pleadings are stated and documents are mentioned, without making an observation as "perused documents", is not the correct approach of the Trial Court while granting an ad-interim ex-parte order of temporary injunction. Also, he places reliance on the judgments of Division Bench of this Court in the cases of **MATRA MOBILI PRIVATE LIMITED** and **AMICA FINANCIAL TECHNOLOGIES PVT. LTD. CASE** (supra) and also, places reliance on the judgment of the Hon'ble Supreme Court in the case of **VEDANT FASHIONS PVT. LTD.** (supra). With reference to these citations, it is submitted that the order suffers infirmity; hence, prays to make interference with the order passed by the Trial Court.

21. Upon considering the citations in those cases, their Lordship have formed opinion that the reasons have not been assigned before granting an ex-parte order of temporary injunction. In the case of **VEDANT FASHIONS**



PVT. LTD., (supra), this Court has extracted the order passed by the Trial Court granting an ad-interim ex-parte order of temporary injunction; therefore, based on the said order, it is opined that the Trial Court has not assigned reasons as to why notice shall be dispensed with before granting an order of temporary injunction. Therefore, the ratio laid down in the above said judgments is that if there are no reasons assigned for dispensing with notice before passing an ad-interim ex-parte order of temporary injunction, then it is not compliance with Order XXXIX Rule 3 of CPC, and it is amenable for interference by this Court.

22. Considering the present case involved, the prayer made by the plaintiff in the application seeking grant of an ad-interim ex-parte order of temporary injunction in relation to services similar or allied thereto, pending disposal of the suit. The plaintiff claims that it is doing business operations in the field of energy and technology and etc., as stated in the plaint. The



defendant, earlier known as "Zomato Limited" has changed its trademark to "Eternal Limited" and is also engaged in carrying on business and providing technology-enabled services under these technologies.

23. The question for consideration in this case is whether the Trial Court assigned reasons or not. The Trial Court has mentioned the documents placed by the respondent/plaintiff and has observed that the plaintiff's registration of trademark is with effect from 20.03.2018. The Trial Court has referred to and mentioned the documents placed by the plaintiff and found that the defendant has also started providing services in the same line as that of plaintiff. The Trial Court also assigned reasons that the defendant formerly known as "Zomato Limited", recently changed its operating name to "Eternal Limited". The Trial Court found that the phonetics of both "Eternl" and "Eternal" are one and the same and only the alphabet "a" is different in between these two words. Therefore, this is discussed while considering the



application filed for grant of an ad-interim ex-parte order of temporary injunction.

24. Further, the Trial Court had observed that it has perused the plaint and other documents produced by the plaintiff along with the suit and on perusal of the same, it appears that the plaintiff has a *prima facie* case and that of balance of convenience in favour of the plaintiff. At this stage, while granting an ad-interim ex-parte order of temporary injunction, the Trial Court need not make elaborate discussion on contents of the voluminous documents produced to expressly state in the order, therefore, whatever documents are placed by the plaintiff and even if they are considered and mentioned in the order, it is sufficient to hold that the Trial Court applied its mind.

25. Further, the Trial Court assigned reasons that if an ad-interim ex-parte order of temporary injunction is not granted as prayed for by the plaintiff, then the plaintiff will



be put into hardship. Since the Trial Court has found that the defendant has been using the name as "Eternal", which is phonetically similar to the plaintiff's name "Eternal". Therefore, it is found that if an ex-parte order of temporary injunction is not granted, then the plaintiff's right will be defeated.

26. Upon considering the impugned order, the Trial Court assigned all these reasons and also assigned reasons that if an ad-interim ex-parte order of temporary injunction is not granted, then it would lead to multiplicity of proceedings in future. Hence, considering all these aspects and upon perusal of the documents at its own wisdom, it has granted an ad-interim ex-parte order of temporary injunction. The impugned order is not such that it does not contain any mention of reasons before granting an ad-interim ex-parte order of temporary injunction, but the Trial Court has formed *prima facie* opinion that issuance of notice would cause delay, which would defeat the right of the plaintiff. Therefore, upon finding this fact,



it has granted an ad-interim ex-parte order of temporary injunction.

27. When this being the facts revealed from the impugned order, then the recourse available for the defendant is to file an application under Order XXXIX Rule 4 of CPC for vacating the same, but straightway filing of appeal is not maintainable. Suppose, if an ad-interim ex-parte order of temporary injunction does not contain any reasons whatsoever in nature at all and has not discussed anything about the case and documents, then that would be interfered with either in the writ petition or in the appeal, but where an ad-interim ex-parte order of temporary injunction is with reasons, then the appeal under Order XLIII Rule 1(r) read with Section 104 of CPC is not maintainable.

28. According to the defendant, the reasons may not be sufficient. Here, the quantum of reasons is not the criteria while granting an ad-interim ex-parte order of



temporary injunction. What is the paramount thing to be considered before granting an ad-interim ex-parte order of temporary injunction is whether the Trial Court applied its mind or not upon the pleadings made in the plaint and documents produced in the suit along with the application and assigning reasons in the order. The quantum of reasons or omission of some words expressly or otherwise does not mean that an ad-interim ex-parte order of temporary injunction is without reasons. In such cases, the recourse available for the defendant is to file an application under Order XXXIX Rule 4 of CPC for getting vacation of the order, but straightway the appeal is filed. Hence, the appeal is not maintainable.

29. Hence, difference in the factual matrix involved in the impugned order, the manner in which the order is passed and the manner in which the order passed in the above cited decisions makes difference warranting that the said decisions are not applicable in the present case.



30. Though there is delay, according to the learned Senior Counsel appearing on behalf of the appellant/defendant, the legal notice was issued on 14.03.2025, but the suit was filed on 04.06.2026. Therefore, it is submitted that there is no urgency to grant an order of temporary injunction by dispensing with notice to the defendant.

31. Mere delay is not a ground to defeat the grant of an ad-interim ex-parte order of temporary injunction. The Hon'ble Supreme Court in the case of **MIDAS HYGIENE INDUSTRIES (P) LTD. AND ANOTHER** (supra) at Paragraph No.5 held as follows:

"5. The law on the subject is well settled. In cases of infringement either of trade mark or of copyright, normally an injunction must follow. Mere delay in bringing action is not sufficient to defeat grant of injunction in such cases. The grant of injunction also becomes necessary if it prima facie appears that the adoption of the mark was itself dishonest."

32. In cases of infringement either of trademark or copyright, delay will not defeat the grant of an



ad-interim ex-parte order of temporary injunction. Where the plaintiff makes out a *prima facie* case and balance of convenience, even if there is delay, an application for grant of an ad-interim ex-parte order of temporary injunction can be considered because infringement of trademark and copyright is continuous; therefore, mere delay as canvassed by the learned Senior Counsel appearing on behalf of the appellant/defendant is not a reason to defeat an order of temporary injunction.

33. Hence, when sufficient opportunities are available under Order XXXIX Rule 4 of CPC for getting vacation of the ad-interim ex-parte order of temporary injunction, the same is available in case the impugned order contains reasons. The quantum of reasons stated in the order is not a ground to file appeal under Order XLIII Rule 1 read with 151 of CPC. If reasons are assigned before granting an ad-interim ex-parte order of temporary injunction, then the remedy available is to file an



application under Order XXXIX Rule 4 of CPC. Therefore, the appeal is not maintainable.

34. According to the appellant/defendant, there are no sufficient reasons, but as discussed above, the insufficiency of quantum of reasons cannot be a ground to challenge an ad-interim ex-parte order temporary injunction in an appeal under Order XLIII Rule 1 read with Section 104 of CPC. Accordingly, I answer point No.(i) in the **Negative** and point No.(ii) as per the following order. Thus, the appeal is liable to be dismissed with the observation that the remedy available for the appellant/defendant is to invoke Order XXXIX Rule 4 of CPC.

35. In the result, I proceed to pass the following:

ORDER

- i. The appeal is **dismissed**.
- ii. However, liberty is granted to the appellant/defendant to prefer an application under Order XXXIX Rule 4 of CPC for



getting vacation of the ad-interim ex-parte order of temporary injunction.

- iii. If an application is filed by the appellant/defendant, then the Trial Court is directed to consider the same within four weeks from the date of filing of the application and pass appropriate orders as per law on its merits without being influenced by any of the observations made above.
- iv. This order is confined only to the business operations and services similar to those of the plaintiff's company. The defendant company shall continue its business operations and services other than the services and business of the plaintiff, namely "Nugget", to any new customers.

In view of disposal of the appeal, pending I.As', if any, shall stand disposed of.

Sd/-
(HANCHATE SANJEEVKUMAR)
JUDGE