



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
INTERIM APPLICATION (L) NO.13030 OF 2026
IN
COMMERCIAL IP SUIT (L) NO.12511 OF 2026
WITH
LEAVE PETITION (L) NO.13002 OF 2026

Indian Agro Chem Industries Pvt. Ltd.

...Applicant/
Plaintiff

Versus

Ampra Biobact Private Limited

...Respondent/
Defendant

Mr. Anand Mohan, Mr. Mahesh Mahadgut, Mr. Kaivalya Shetye and
Ms. Logita Chandar i/b. Mr. Mahesh Mahadgut, for the
Applicant/Plaintiff.

CORAM: MADHAV J. JAMDAR, J.
DATED : 15th OCTOBER 2026

P. C.:

LEAVE PETITION (L) NO.13002 OF 2026:

1. None appears for the Respondent/Defendant, despite
service. No reply has been filed.

2. Accordingly, the contentions raised in the Leave Petition have remained uncontroverted.
3. Perused the plaint and the Leave Petition.
4. Accordingly, the Leave Petition is allowed in terms of prayer clause (a).
5. The Leave Petition is disposed of.

INTERIM APPLICATION (L) NO.13030 OF 2026:

1. This is an action for infringement of trade mark and passing off. Leave under Clause XIV of the Letters Patent sought by Leave Petition (L) No. 13002 of 2026, has been granted by a separate order passed today. The Plaintiff accordingly seeks ad-interim reliefs both in respect of infringement of its registered trade mark and passing off.
2. Mr. Mohan, learned Counsel appearing for the Plaintiff has drawn my attention to the Affidavit of Service dated 29th April 2026 which shows that the Defendant has been served. After effecting an amendment to the Plaint pursuant to the Order dated

5th May 2026, Affidavit of Service dated 18th June 2026 shows that even the amended Plaint and Interim Application have been served. The Defendant has chosen to remain absent despite notice / service. The present Interim Application can accordingly be taken up for hearing of ad-interim reliefs.

3. It is stated that the Plaintiff is the prior user and registered proprietor of the trade mark “**PK MOR**”, used by the Plaintiff in relation to a water soluble fertilizer. It is submitted that the present action concerns the use by the Defendant of the similar mark “**PK-BOR**” in relation to a water soluble fertilizer.

4. Mr. Mohan has drawn my attention to the averments made in the Plaint and the documents annexed thereto. A perusal of the Plaint shows that the Plaintiff has raised the following contentions:

i. It is stated in Paragraphs 1 and 5 of the Plaint that the Plaintiff is a company incorporated on 4th July 1995 under the Companies Act, 1956, and is carrying on business *inter alia* as the manufacturer, marketer and seller of agrochemicals, industrial chemicals, chemical intermediates and pesticides, and offers crop protection solutions. The Plaintiff imports, repackages and

markets, under the trade mark “**PK MOR**”, a plant and crop water soluble fertilizer which provides necessary nutrients to plants and crops, as enumerated in Paragraphs 1 and 5 of the Complaint.

ii. At Paragraph 6 of the Complaint (as amended), it is stated that in and around early March 2022, the Plaintiff coined the mark / word “**PK MOR**” and, soon after its adoption, commenced use of the said trade mark, which has been in extensive, continuous and uninterrupted use since October 2022. The Plaintiff is the registered proprietor of the word mark “**PK MOR**” (which appears on the Register as “**PKMor**”) under Registration No. 5367060 in Class 1, with effect from 11th March 2022, in respect of “*Chemicals for use in industry as well as in agriculture, horticulture and forestry; Plant growth regulators; Preparations for regulating plant growth; Substances for regulating plant growth; Biostimulants being plant growth stimulants; Biostimulants being chemicals for stimulating plant growth; Biostimulants being chemical products for stimulating plant growth*”. The Certificate of Registration was sealed on 22nd March 2023. The registration is valid and subsisting, as enumerated in Paragraph 6 of the Complaint and Exhibit “A” thereto.

iii. The Plaintiff further states that it is the proprietor of other marks bearing the suffix “MOR”, including “AminoMor” (No. 5743792) and “MangMor” (No. 5743794), both registered in Class 1, as enumerated in Paragraph 6 at Pages 17-18 of the Plaintiff.

iv. At Paragraphs 8 and 10 of the Plaintiff, it is stated that the Plaintiff launched its product under the trade mark “PK MOR” in October 2022, and that the product has been sold in the market under the said trade mark since then. The Plaintiff relies upon a certificate of its Chartered Accountant dated 7th February 2026, which sets out the quantities sold, promotional expenses and sales of the brand “**PK Mor**”, as enumerated in Paragraph 8 of the Plaintiff and Exhibit “B” at Page 53.

v. Copies of representative invoices, drawn from the Plaintiff’s records, are annexed to the Plaintiff. They span the period from October 2022 to February 2026. The earliest of them, dated 4th October 2022, records the sale of “*PK MOR - 500 GM*”, as enumerated in Paragraph 8 at Page 19 of the Plaintiff and Exhibits “C-1” to “C-19”.

vi. At Paragraph 9 of the Plaintiff, it is stated that the Plaintiff has promoted the product through its website and through pamphlets,

brochures, leaflets, bags and stationery material. The promotional material on record is largely in Marathi and depicts the mark both as “PK MOR” and in Devanagari script as “पी के मोर”, as enumerated in Paragraph 9 of the Complaint and Exhibit “D”. The Plaintiff’s product pack bears the mark “PK Mor” together with “पीके मोर”, as enumerated in Paragraph 10 at Page 20 of the Complaint and Exhibit “E”.

vii. At Paragraphs 1 and 2 of the Complaint, it is stated that the Defendant is a company engaged in a business similar to that of the Plaintiff, and is importing, packaging and marketing a water soluble fertilizer, which provides nutrients to crops and plants, under the mark “PK-BOR”. The impugned mark has been adopted by merely replacing the letter “M” in the Plaintiff’s mark with the letter “B”.

viii. The side by side comparison of the rival marks is given as follows at Paragraph 2 of the Complaint, at Page 12:

Plaintiff’s Mark	Defendant’s Mark
PK MOR	PK-BOR

ix. It is stated that in or around November 2025, the Plaintiff's representative came across the Defendant's product under the mark "PK-BOR", being the same type of goods with the same composition, as enumerated in Paragraph 13 of the Plaintiff's Complaint and Exhibit "F". At Paragraph 17, the Plaintiff sets out a comparison of the rival products, both of which contain Phosphorous, Potassium and Boron in the ratio P25: K26+B1, and both of which are used as water soluble fertilizers to provide nutrients to plants and crops. The Defendant's pack bears "PK-BOR" as its principal feature, with the description "*Water Soluble Fertilizer P 25: K 26 + B 1%*" placed beneath it, as seen in Exhibit "F".

x. At Paragraph 18 of the Plaintiff's Complaint, it is stated that the area of operations, customer base and trade channels of the rival products are the same. It is stated that the consumers of the rival goods are farmers, many of whom may be illiterate or semi-literate, and that the goods, being fertilizers, are available over the counter, where an unwary customer with imperfect recollection is likely to be deceived, as enumerated in Paragraphs 18 and 21 of the Plaintiff's Complaint.

xi. At Paragraph 14 of the Plaintiff's Complaint, it is stated that the Plaintiff's Advocates issued a Cease-and-Desist Notice dated 24th November

2025 to the Defendant at both its addresses, bringing to its notice the Plaintiff's prior rights and calling upon it to cease use of the impugned mark, as enumerated in Paragraph 14 at Page 22 of the Plaintiff and Exhibit "G".

xii. At Paragraph 15 of the Plaintiff, the Plaintiff discloses that the Defendant, by its Advocate's Reply dated 18th December 2025, declined to comply and contended *inter alia* (a) that the Defendant's product / mark has garnered reputation and goodwill in the market; (b) that the product bearing the impugned mark is used to nurture various plants and helps to progress the yields; (c) that the Defendant's product is based on the chemical composition Phosphorus, Potassium and Boron; and (d) that the impugned mark is phonetically, structurally and visually different from the Plaintiff's trade mark, as enumerated in Paragraph 15 of the Plaintiff and Exhibit "H" thereof.

xiii. At Paragraphs 16 and 18 of the Plaintiff, the Plaintiff states that the Defendant's explanation is an afterthought; that the Defendant could have adopted any permutation and combination from its alleged composition, but chose to adopt a mark deceptively similar to the Plaintiff's trade mark; that a search of

the trade mark registry and the internet would have disclosed the Plaintiff's trade mark; that the Reply does not state any date from which the impugned mark has been used; and that a search of the records of the Trade Marks Registry did not reveal any application by the Defendant for registration of the impugned mark.

xiv. At Paragraph 20 of the Complaint, it is stated that despite being put to notice, the Defendant continues to deal in the impugned product. At Paragraph 29, it is stated that the cause of action arose in November 2025, further arose when the Defendant sent its Reply in December 2025, and is a continuing one.

5. From the above and a perusal of the Complaint, it is clear that the Plaintiff is the registered proprietor of the word mark "PK MOR" (registered as "PKMor") under No. 5367060 in Class 1, with effect from 11th March 2022; and further that the Plaintiff's use of the mark since October 2022 is well supported *inter alia* by the Chartered Accountant certificate which records sales of Rs. 1,52,21,701.12 up to 31st January 2026, as well as invoices commencing from 4th October 2022.

6. The Defendant's Reply to the cease and desist notice does not dispute the Plaintiff's adoption, registration or use of the mark

“PK MOR”. It states that “*contents in clauses 1 to 7 might be reasonable in general*”. Notably, the Reply does not state or offer any date from which the Defendant has used the mark “PK-BOR”, beyond asserting use “*since long back*”. This *prima facie* does not appear to be borne out of any claim or material, and on the material on record, the Plaintiff’s registration and use are *prima facie* prior in point of time.

7. The rival goods are clearly of an identical nature. The Plaintiff’s registration clearly covers the goods which the Defendant is offering, and there is also an overlap in terms of actual use.

8. The rival marks are clearly phonetically, visually and structurally similar, to the point of being nearly identical. There is an inconsequential difference of one letter, “B” in place of “M”, in the middle, which hardly makes any difference to the overall impression of the rival marks. The hyphen in the impugned mark makes no difference either in the facts of these case, particularly having regard to the nature of the goods and the aspect of phonetic similarity.

9. It also must not be lost sight of that the goods in question are fertilizers, which are agricultural inputs sold to and purchased by farmers and agriculturalists, who may not necessarily be well-versed with names of chemicals or, for that matter, literate. The rival marks “PK MOR” and “PK-BOR”, which are even otherwise deceptively similar and near-identical, only become even more so when the aforesaid circumstance is borne in mind.

10. The defence in the Reply, that the mark “PK-BOR” is chemically derived from Phosphorus, Potassium and Boron, cannot be accepted for a number of clear reasons.

- i. First, the mark must be seen for what it is, as a whole and as it would strike a purchaser, and not by what a party states it to be etymologically derived from. To a purchaser of the goods, “PK-BOR” does not convey the names of chemicals; it conveys a mark which is nearly identical to “PK MOR”.
- ii. Second, it is clear that “PK-BOR” is being used by the Defendant, admittedly, as a mark (or in any event in a manner “*likely to be taken as a mark*” which is the legal standard). It is *prima facie* being used as a description of ingredients. This is clear, firstly, from the manner of use “PK-

BOR” appears as the principal feature of the Defendant’s pack, and the composition is separately described beneath it. It is also clear, secondly, from the Defendant’s own correspondence, in which the Defendant refers to “PK Bor” as its *“product mark”*, asserts *“a valid, lawful and defensible right to use our above mark”*, and claims that it *“withholds its reputation and goodwill in the wide range of market”*. Having claimed “PK-BOR” as a mark, and goodwill therein, the Defendant cannot *prima facie* justify the same expression as a description of the ingredients of its product.

11. In the circumstances, use by the Defendant of the mark “PK-BOR”, which is deceptively similar and nearly identical to the Plaintiff’s registered trade mark “PK MOR”, in relation to goods identical or similar to those for which the Plaintiff’s mark is registered / used, is likely to cause confusion on the part of the public as well as members of the trade, and a *prima facie* case of infringement as well as passing off is made out. This is so not only in view of the valid registration and prior use, but also the goodwill built up by the Plaintiff under its mark through use since

October 2022, and having regard to the nature of goods, the likely purchasers, and other surrounding circumstances.

12. It is also required to be noted that the Defendant has been served twice as set out in the affidavit of service dated 29th April 2026 and affidavit of service dated 18th June 2026 and despite the same, the Defendant is not appearing and no reply has been filed to the Interim Application. Accordingly, the contentions raised in the Interim Application have remained uncontroverted.

13. Thus, a very strong *prima facie* case is made out, as well as the balance of convenience and the equities of irreparable injury, clearly favour the grant of ad-interim reliefs.

14. In light of the above, *prima facie* case has been made out for grant of ad-interim relief in terms of prayer clauses (a) and (b), which read as under :

“(a) That pending the hearing and final disposal of the Suit, the Defendant by itself, its Directors, employees, servants, agents, associates, distributors, franchisees, sister concerns, representatives, affiliates and/or assigns and all persons acting for and on its behalf be restrained by a temporary order and injunction of this Hon’ble Court from in any manner using for manufacturing, selling, offering for sale, stocking, soliciting, exporting, displaying, advertising, marketing, importing, promoting in relation to

Chemicals for use in industry as well as in agriculture, horticulture and forestry; Plant growth regulators; Preparations for regulating plant growth; Substances for regulating plant growth; Biostimulants being plant growth stimulants; Biostimulants being chemicals for stimulating plant growth; Biostimulants being chemical products for stimulating plant growth and/or such allied and cogent goods the impugned trade mark 'PK-BOR' and/or using any other trade mark or device mark which is identical with and/or deceptively similar to the Plaintiff's registered mark 'PK MOR' and/or using any other mark comprising of the words 'PK' and / or 'MOR' in combination with any other word, mark, so as to infringe the Plaintiff's registered trademarks bearing No. 5367060 or in any other manner whatsoever;

(b) That pending the hearing and final disposal of the Suit, the Defendant by itself, its Directors, employees, servants, agents, associates, distributors, franchisees, sister concerns, representatives, affiliates and/or assigns and all persons acting for and on its behalf be restrained by a temporary order and injunction of this Hon'ble Court from in any manner using for manufacturing, selling, offering for sale, stocking, soliciting, exporting, displaying, advertising, marketing, importing promoting in relation to Chemicals for use in industry as well as in agriculture, horticulture and forestry; Plant growth regulators; Preparations for regulating plant growth; Substances for regulating plant growth; Biostimulants being plant growth stimulants; Biostimulants being chemicals for stimulating plant growth; Biostimulants being chemical products for stimulating plant growth and/or such allied and cogent goods the impugned trade mark 'PK-BOR' and/or using any

other trade mark or device mark which is identical with and/or deceptively similar to the Plaintiff's registered mark 'PK MOR' and its family of marks and/or using any other mark comprising of the words 'PK' and / or 'MOR' in combination with any other word mark so as to pass off the Defendant's goods as and those of the Plaintiff or in some way connected with the Plaintiff;"

15. Stand over to 10th December 2026.

16. Ad-interim relief to continue till next date.

17. This order will be digitally signed by the Personal Assistant of this Court. All concerned will act on production of a digitally signed copy of this order.

[MADHAV J. JAMDAR, J.]

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