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## KARNATAKA HIGH COURT ON SIMILAR TRADEMARKS

### A. Introduction

High Court of Karnataka (“**High Court**”), in the case of *N Dinesh Kumar v. Shweta Khandelwal*<sup>1</sup> set aside the injunction order of the trial court of January 2020 that two trademarks were deceptively similar.

### B. Brief Facts:

1. A suit was filed before XVIII Additional City Civil Judge, Bangalore (“**Trial Court**”) by Shweta Khandelwal (“**Plaintiff**”) of Matru Herbals contending that she was carrying business of herbal products since 2015 under the name of ‘Matru Ayurveda.’ Dinesh Kumar (“**Defendant**”) started his herbal products business, Matruveda Herbals, from 2018 under the trade name of ‘Matruveda.’
2. Plaintiff contended that trademark of Defendant is so deceptively similar to her trademark and she suffered huge business losses.
3. Trial Court granted temporary injunction order (“**Order**”)<sup>2</sup> restraining Defendant from using the trademark ‘Matruveda’ as it was deceptively similar to the trademark of the Plaintiff ‘Matru Ayurveda.’
4. Aggrieved by the Order of the Trial Court, Defendant appealed to the High Court.

### C. Order & Reasoning:

1. High Court set aside the Trial Court’s Order. It reiterated that the purpose of a trademark is to distinguish the goods made by one person from those made by another. Therefore it must be seen in connection with the goods in which it is used.
2. As per the Trade Marks Act, 1999,<sup>3</sup> ‘trademark’ is totally different from trade name although there could be there could be cases where trade name is also the trademark.
3. It adjudged that in the present case, there cannot be any dispute that trade names are only a part of the composite whole of the trade mark since the trade name is set inside the trademark as seen below:<sup>4</sup>



4. High Court opined thus:<sup>5</sup>

*“Whether there is likelihood of confusion arising between the two trademarks, in the mind of a 'quintessential common man' who looks at any one of them for a fleeting second and whether he is likely to take it for the other trade mark? This 'quintessential common man' is neither blessed with the wisdom of Solomon nor the trained eyes of Sherlock Holmes. There should be present in the mind of the trial Court this important aspect that where there is/are a common element/elements in the marks of plaintiff and defendant which is also contained in a number of other marks in use in*

<sup>1</sup> Miscellaneous First Appeal No. 790/2021, decided on 15<sup>th</sup> March 2021.

<sup>2</sup>[https://services.ecourts.gov.in/ecourtindia\\_v4\\_bilingual/cases/display\\_pdf.php?filename=/orders/2019/205200068112019\\_2.pdf&caseno=O.S./6811/2019&ccCode=3&appFlag=&normal\\_v=1](https://services.ecourts.gov.in/ecourtindia_v4_bilingual/cases/display_pdf.php?filename=/orders/2019/205200068112019_2.pdf&caseno=O.S./6811/2019&ccCode=3&appFlag=&normal_v=1)

<sup>3</sup> Section 2 (1)(zb).

<sup>4</sup> Logos are presented here from the disputing parties’ websites solely for comparison purposes.

<sup>5</sup> Paragraph 12 of the High Court’s order.

*the same market, whether such a common occurrence in the market tends to cause purchasers to pay more attention to the other features of the respective marks and to distinguish between them by those features.”*

5. High Court also relied on Supreme Court’s judgment in *Parle Products* case: “...in order to come to the conclusion whether one mark is deceptively similar to another, the broad and essential features of the two are to be considered.”<sup>6</sup>
6. Also, as there was no discussion by the Trial Court on the differences between a trademark and a trade name, the Order was set aside by the High Court with directions to the Trial Court to hear and dispose of the applications afresh.

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<sup>6</sup> *Parle Products (P) Ltd. Vs. J.P. and Company, Mysore* reported in (1972) 1 SCC 618 or MANU/SC/0412/1972.