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

Reserved on: 17.01.2026
Pronounced on: 11.03.2026

\+ **FAO(OS)(COMM) 141/2023 & CM APPL. 35794/2023, CM APPL. 43263/2023, CM APPL. 39713/2024**

AND

\+ **FAO(OS)(COMM) 142/2023 & CM APPL. 35806/2023**

KENT RO SYSTEMS LIMITED & ORS. .....Appellants

Through: Mr.Chander M. Lall, Sr. Adv. with Mr. Ankur Sangal, Mr.Ankit Arvind, Mr.Shashwat Rakshit, Ms.Amrit Sharma, Ms.Annanya Mehan, Advs.

versus

KENT CABLES PRIVATE LIMITED & ORS.

.....Respondents

Through: Mr.Jayant Mehta Sr. Adv. with Mr.Sandeep Das, Mr.Ninad Dogra, Mr.Om Shelat, Advs.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE MADHU JAIN

J U D G M E N T

NAVIN CHAWLA, J.

1. The present appeals have been filed, challenging the Judgment dated 30.05.2023 passed by the learned Single Judge of this Court in I.A. 13851/2022 in CS(COMM) 596/2022, titled ***Kent Cables Private Limited & Ors v. Kent RO Systems Limited & Ors.***; and I.A.

14316/2022 in CS(COMM) 613/2022, titled ***Kent RO Systems Ltd. & Ors. v. Kent Cables Pvt. Ltd. & Ors.***.

2. By the Impugned Order, the learned Single Judge has allowed the I.A. 13851/2022 in CS(COMM) 596/2022 filed by the respondents herein; and dismissed the I.A. 14316/2022 in CS(COMM) 613/2022 filed by the appellants herein, and thereby while refusing to restrain the respondents from using the mark 'KENT' for fans, restrained the appellants from manufacturing and selling fans under the trade mark 'KENT' during the pendency of the suit.

CASE OF THE APPELLANTS:

3. The appellant no. 1, Kent RO Systems Ltd., is a public limited company incorporated and registered under the Companies Act, 1956. It is one of the leading companies in India, with business operations in over 50 countries across the world, and is engaged in the manufacturing and sale of a diverse range of electronic goods such as water purifiers, air purifiers, kitchen appliances, and vacuum cleaners, and has been conducting its business under the trade mark 'KENT'. The appellant no. 2, Mr. Mahesh Gupta, is the Chairman and Managing Director of appellant no. 1, and is also the registered proprietor of the trade mark forming the subject matter of the present appeal. Appellant no. 3, S.S. Appliances Pvt. Ltd. is a part of the Kent Group of companies.

4. It is the case of the appellants that the appellant no. 2 adopted the trade mark 'KENT', in the year 1988, for oil meters and started using the same as 'KENT OIL METERS', with 'KENT' being the

dominant part of the trade mark. The trade mark 'KENT OIL METERS' was registered under Class 09 in the year 1994, with appellant no. 3 as the proprietor, claiming use since 19.02.1988. Appellant no. 3 continues to carry on the business of oil meters under the said trade mark.

5. Thereafter, in the year 1999, the appellant no. 2 launched Reverse Osmosis ('RO') based domestic water purifiers in the Indian Market under the trade mark 'KENT'. At the time of the launch of the RO based domestic water purifiers, the appellant no. 2 also founded M/s Kent RO Systems to conduct the business of RO water purifiers, and thereby commenced business in home appliances.

6. On 30.12.2004, another firm, namely, M/s. Kent Appliances was founded to conduct the business of kitchen appliances and vacuum cleaners under the trade mark 'KENT' and its variants. In 2006, the appellants launched another home appliance, that is, air purifiers, under said trade mark. It is the case of the appellants that the same is a type of fan.

7. The appellants began expanding worldwide and started exporting their products outside India, in 2006.

8. Subsequently, appellant no. 1 was incorporated in the year 2007, to take over the business of M/s Kent RO Systems, including its assets and liabilities, and expand its business of home appliances by launching other allied and cognate products under the mark 'KENT', including security devices, vacuum cleaners and kitchen appliances such as grinders, juicers, etc. In view of this, it is the appellants' case

that they are the prior user of the trade mark 'KENT' for home appliances.

9. The appellants have also registered their domain names www.kentrosystems.com and www.kent.co.in, displaying their wide range of goods. The appellants have also made extensive sales of their products under the trade mark 'KENT', indicating the substantial goodwill and reputation earned by their trade mark. The appellants have also incurred significant expenditure on endorsement and promotion of their goods under the trade mark 'KENT', including engaging brand ambassadors and celebrities, thereby making it a well-known and recognised trade mark amongst the general public, with a significant sales turnover.

10. It is the case of the appellants that in July 2022, they came to know that the respondents were trying to expand their business in the category of electrical appliances, including kitchen appliances, CCTV cameras, water heaters, fans, etc, under the mark KENT, which is deceptively similar to the appellants' mark 'KENT'. The appellants contended that, in view of appellants' prior presence and goodwill in the market in relation to several of the said products, the adoption of a deceptively similar mark by the respondents for their goods was *mala fide*.

11. Aggrieved thereby, the appellants filed CS(COMM) 508/2022, praying for the following reliefs:

> *"a. A decree of permanent injunction restraining the Defendants, their proprietors, partners or directors, as the case may be, their*

principal officers, servants, distributors and agents, and all others acting for and on behalf of the Defendants, from manufacturing, selling, offering for sale, advertising, directly or indirectly dealing in kitchen appliances including but not limited to electric kettle, gas stove, juicer grinder, microwave oven, rice cooker, toaster under the trade mark "KENT" or any other mark as may be identical to or deceptively similar with the Plaintiffs' registered trade mark KENT, so as to cause infringement of the Plaintiff's trade mark;

b. A decree of permanent injunction restraining the Defendants, their proprietors, partners or directors, as the case may be, their principal officers, servants, distributors and agents, and all others acting for and on behalf of the Defendants, from manufacturing, selling, offering for sale, advertising, directly or indirectly dealing in kitchen appliances including but not limited to electric kettle, gas stove, juicer grinder, microwave oven, rice cooker, toaster under the impugned trade mark "KENT" or any other mark as may be identical to or deceptively similar with the Plaintiffs' well known trade mark "KENT" so as to cause confusion or deception leading to passing off of the Defendants' goods as those of the Plaintiffs;

c. A decree of permanent injunction restraining the Defendants, their proprietors, partners or directors, as the case may be, their principal officers, servants, distributors and agents, and all others acting for and on behalf of the Defendants, from manufacturing, selling, offering for sale, advertising, directly or indirectly dealing in kitchen appliances including but not limited to electric kettle, gas stove, juicer grinder, microwave oven, rice cooker, toaster under the impugned trade mark "KENT" or any other mark as may be identical to or deceptively similar with the Plaintiffs' registered trade mark "KENT" so as to cause unfair trade practice;

d. An order for delivery up of all the infringing

material having the impugned trade mark "KENT" or "KENT" formative marks including printed material, packaging material, containers, posters, blocks, dyes, stationery material or any other printing material;
e. An order of rendition of accounts of the Defendants to show all illegal gain made by the Defendants by selling their goods under the impugned trade mark "KENT" or "KENT" formative marks.
f. A decree of damages of INR 2,00,05,000/- if any, or any other amount which is ascertained at a later stage after the rendition of
accounts. The Plaintiffs undertakes to deposit necessary additional court fee as may be directed by this Hon'ble Court on a later stage.
g. An order as to costs in the proceedings."

12. Along with the above Suit, the appellants had also filed an application under Order II Rule 2 of the Code of Civil Procedure, 1908 (hereinafter referred to as, 'CPC'), reserving liberty to initiate a separate action against the respondents with respect to fans. In this regard, the appellants, in their Suit, had asserted as under:

"43. That, it is also pertinent to submit that the Defendants also applied for the registration of the trade mark "KENT" for the ceiling fans, and the said application was opposed by the Plaintiffs. During the process of completion of pleadings and evidence, it was noticed that the Defendants claim use of the mark "KENT" since 1984. However, no evidence to that effect has so far been produced. The Plaintiffs are examining the extent of use of the trade mark "KENT" by the Defendants for the ceiling fans and seek liberty under Order 2 Rule 2 of the Code of Civil Procedure to initiate a separate proceedings against the Defendants to restrain them from using the trade mark "KENT" for ceiling fans."

13. In the said Suit, by an *interim* order dated 29.07.2022, the respondents undertook not to launch their goods/products, that is, kitchen appliances, including electric kettle, gas stove, juicer grinder, microwave oven, rice cooker, and toaster, under the trade mark 'KENT' or under any other mark deceptively similar thereto. The said undertaking continues till date.

14. It is alleged that as a counterblast to the above Suit, the respondents filed CS(OS) 596/2022, praying for a decree restraining the appellants from using the trade mark 'KENT' for its products, including fans.

15. It is also the case of the appellants that before the filing of the said Suit by the respondents, the appellants had started manufacturing fans by investing about 155 crores and employing 500 people in the fans business.

16. The appellants then filed CS(COMM) 613/2022, seeking a decree of permanent injunction, restraining the respondents from selling various electrical items, including fans, under the trade mark 'Kent' or any other mark, including the device marks  and  , which may be deceptively similar to the appellants' trade mark. The Impugned Order was passed in the said Suit, dismissing the appellants' application for interim injunction.

CASE OF THE RESPONDENTS:

17. On the other hand, the respondent no.1, Kent Cables Pvt. Ltd., alleges that it is a company incorporated under the Companies Act, 1956, and has been carrying on business in various electronic goods. The respondent no. 2, Kent Fans and Electricals Pvt. Ltd. is also a company incorporated under the Companies Act, 1956. The respondents, till the year 2009 were using the corporate name Goldage Plastic and Chemicals Industry Private Limited, and, in the year 1984, had adopted the trade mark 'KENT' for insulated wires, cables, switches and allied electrical components.

18. It is further contended that the respondents are the prior adopters of the mark 'KENT', being in continuous use of the mark since 07.04.1984. It is further contended that the first registration of the mark in Class 09 was obtained by them on 08.09.1986, claiming user since 01.09.1986. The said mark is said to have acquired substantial goodwill and reputation on account of its colossal sales and immense publicity, as reflected through the respondents' statement of sales and advertisement expenditure.

19. It is the further case of the respondents that the respondent no. 1 is the registered proprietor of the word mark as well as the label mark,  . The same has been registered in multiple classes from time to time, namely, Classes 03, 09, 17 and 32, with 'KENT' being an essential feature of the registered label marks. The respondents also filed an application dated 28.04.1998, seeking

registration of the mark 'KENT' for fans under Class 11. The respondent no. 1 is also the owner and registrant of the website www.kentbharat.com, accessible on the World Wide Web, and has a digital media presence on platforms such as Facebook, Instagram and LinkedIn.

20. It is contended that, in the third week of August 2022, the respondents received information that the appellants were planning to launch fans, lighting products, cables and other electronic goods under a trade mark identical to the respondents' trade mark, 'KENT', thereby creating a false association with the respondents. The respondents verified the said information through various social media platforms, which indicated the appellants' intention to popularize their goods under the identical trade mark of 'KENT'. Accordingly, the respondents also filed oppositions and rectifications against some of the applications for registrations of their mark filed by the appellants.

21. It is the case of the respondents that although the appellants hold registrations of the trade mark 'KENT' in Classes 07, 09 and 11, the same do not cover fans, wires and lighting goods. Fans are also not allied or cognate to the goods in which the appellants are engaged, rather, they are allied and cognate to wires and cables, forming part of the goods dealt with by the respondents. Therefore, the appellants have no right to adopt the trade mark 'KENT' in respect of fans, lighting products, switches, wires, and other allied goods, in relation to which the respondents are prior user.

22. The respondents, therefore, filed CS (COMM.) no. 596/2022, *inter alia* seeking permanent injunction, restraining the appellants

herein from infringing the respondents' registered trade mark, contending that the appellants were proposing to use the trade mark 'KENT', in a fraudulent manner.

IMPUGNED ORDER

23. As noted hereinabove, the learned Single Judge, while considering the applications seeking *interim* injunction in the cross Suits instituted by the parties, dismissed the application filed by the appellants praying for injunctive relief, and, finding a *prima facie* case of passing off being made out, allowed the application filed by the respondents, thereby granting an injunction restraining the appellants from manufacturing and selling fans under the trade mark 'KENT' during the pendency of the suit.

24. As regards the registration of the trade mark, the learned Single Judge noted that the registration by the respondents, being in the year 1986, was prior in time than that of the appellants, whose first registration was in the year 1994 for 'KENT OIL METERS' and in the year 1999 for 'KENT R-O WATER MAKER'. The learned Single Judge held that the respondent no. 1 had *prima facie* succeeded in showing prior use and adoption of the trade mark 'KENT'.

25. The learned Single Judge further recorded that the respondent no. 1, Kent Cables, had been selling fans under the trade mark 'KENT' since 2006, and its brochures were widely advertised, therefore, the launching of fans by the appellants under the trade mark 'KENT' was likely to confuse the potential buyers.

26. The learned Single Judge also placed reliance on the cease and desist notice dated 01.06.2011, issued by the appellants to the respondents, calling upon them to desist from using the trade mark 'KENT' for their fans division, and observed that the appellants were aware of the respondents' use of the trade mark 'KENT' for its fans division since 2011. The learned Single Judge also noted that, despite being aware of the fact that the respondents were engaged in the business of selling fans under the mark 'KENT', the appellants, after more than a decade, decided to launch fans under an identical trade mark, thus indicating an intention to misrepresent.

27. The learned Single Judge further held that the appellants had acquiesced to the use of the mark 'KENT' by the respondents in relation to fans, by not taking any action against the said use by the respondents, therefore, it was not open for them to now seek an injunction against the respondents, or to launch fans under the same mark. It was held that a *prima facie* case of passing off was made in favour of the respondents.

28. In view of the above, the learned Single Judge, while dismissing appellants' application and allowing the respondents' application for injunctive relief, observed as under:-

> *"60. The facts of this case completely fit into the aforementioned case. It is true that Kent Cables does not have registration for fans and the application seeking registration is pending, however, it has been prior user while Kent RO, on the other hand, has not used its trademark for manufacture and/or sale of fans since 1999, when it stepped into the manufacture and sale of water purifiers and in spite of knowledge of sale of fans by Kent Cables at*

least in 2011, took no steps to protect its interests. In this view of the matter, the judgment relied on in Laxmikant V. Patel (supra), dealing with legitimate expansion will not help Kent RO.

61. Insofar as the claim of Kent RO with respect to passing off its goods by Kent Cables is concerned, Kent Cables has been in the market of fans for over a decade and save and except, a stray incident here or there alleging actual confusion, no substantial material has been placed on record by Kent RO in this regard. As for the reference to certain comments by some alleged purchasers on the Amazon website, at this stage, this cannot be taken as a proof of actual confusion and as rightly pointed out by Kent Cables, it is only a self serving document and in fact, there is a likelihood of reverse confusion based on Amazon listing of fans for Kent Cables which gives link to Kent RO's page. The two comments placed on record in the form of screenshots, cannot lead to a conclusion that there is actual confusion as against a huge volume of sales of fans over the years by Kent Cables and/or the authenticity of this document would also require to be tested during trial.

62. Having examined all the contentions of the respective parties and seen holistically, in my view, Kent Cables has made out a case of prior user and passing off by prima facie establishing its reputation and goodwill, confusion likely to be caused amongst the public if Kent RO sells its fans, considering the identity in the trademark KENT and the resultant damage to its reputation. In Wander Ltd. and Another v. Antox India P. Ltd., 1990 (Supp) SCC 727, the Supreme Court held that passing off is a species of unfair trade competition or of actionable unfair trading and in S. Syed Mohideen (supra) and Neon Laboratories Limited (supra), the Supreme Court underscored that rights in passing off

emanate from the common law and prior users rights will override those of subsequent user, even where he would have been accorded registration of its trademark. It cannot be overlooked at this stage that Kent RO has remained dormant for years together with respect to the user of its mark KENT in fans and in the interregnum, Kent Cables has increased its sales considerably. What is the extent of sales of Kent Cables as well as the supineness of Kent RO in remaining dormant, would be a matter of evidence during the trial of the suit. The balance of convenience lies in favour of Kent Cables which has developed a well-established business in manufacture and sale of fans and has been continuing for over 15 years in irreparable harm and injury while in the other hand, Ket RO was yet to launch the fans in 2022 and in any case has its prime business in purifiers, home appliances etc. and a restraint on launching fans would not create any dent in its business at this stage…

63. For the several and myriad reasons as aforementioned, this Court comes to an irresistible conclusion that at this prima facie stage, balance of convenience lies in favour of Kent Cables rather than Kent RO. Accordingly, I.A. 13851/2022 filed by Kent Cables is allowed to the extent of permanently restraining Kent RO, its directors, members, employees, agents, associates, servants and representatives and all other persons including a Body Corporate on their behalf from manufacturing and selling fans under trademark KENT, directly or indirectly, amounting to passing off their goods as those of Kent Cables, during the pendency of the suit. I.A. 14316/2022 filed by Kent RO for restraining Kent Cables from selling fans is dismissed"

29. Aggrieved thereby, the appellants have filed the present appeals, praying for setting aside of the Impugned Order and for passing of an order of *interim* injunction against the respondents.

SUBMISSIONS OF THE LEARNED SENIOR COUNSEL FOR THE APPELLANTS:

30. Mr. Chander M. Lall, the learned senior counsel appearing on behalf of the appellants, submits that the appellant no. 2 had adopted the mark 'KENT', *albeit* for oil meters, in the year 1988. Registration of the mark 'KENT OIL METERS' was obtained by the appellants on 04.07.1994. The appellant no. 2 established a firm in the name of 'KENT RO SYSTEMS' in the year 1999 and started the business of home appliances, introducing its first product, that is, water purifiers under the trade mark 'KENT' in 1999. In the year 2006, the appellants launched another home appliance, that is, air purifiers under the trade mark 'KENT'. He submits that fan is an allied and cognate good to air purifiers and is a home appliance.

31. He submits that, in the year 2006, the appellants started expanding their home appliances sector worldwide, including exporting their products to various countries. They also engaged various celebrities as brand ambassadors for brand endorsement, spending a huge amount of Rs. 1106 crores (approximately) on marketing and developing their brand 'KENT'. They have also been awarded various awards for their 'KENT' products since the year 2006-2007. He submits that therefore, the appellants have an extensive goodwill in the mark and the mark 'KENT' is associated with the appellants.

32. He submits that the appellants also obtained registration of their trade mark 'KENT RO MINERALS' in Class 11 for water purifiers on 26.04.2007, claiming use since the year 1999. It was further submitted that Class 11 includes "apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes" and *inter alia* also includes air purifiers, fans and water purifiers, thereby clearly showing that 'fans' are allied and cognate goods to air purifier.

33. He submits that 'KENT' has also been declared as a well-known trade mark by an order dated 28.05.2014 passed by the learned Single Judge of this Court in CS(OS) 1626/2014, titled ***Kent RO Systems Limited & Anr. v. M/s Kentech Technology & Ors.*** In support, he also places reliance on a publication in the Trade Marks Journal No. 2110 dated 26.06.2023, declaring the appellants' mark 'KENT' as a well-known trade mark.

34. He further asserts that the extensive goodwill and reputation of the trade mark of the appellants is evident from the total sales of home appliances under the said trade mark, amounting to approximately Rs. 7654 crores. He also submits that the said mark is exclusively associated with the appellants and is a source identifier of the appellants' goods. In support, he places reliance on decisions in ***Beiersdorf A.G. v. Ajay Sukhwani & Anr.***, (2009) 39 PTC 38; ***Mind Gym Ltd v. Mindgym Kids Library Pvt. Ltd.***, 2014 SCC OnLine Del 1240; ***Toyota Jidosha Kabushiki Kaisha v. M/s Prius Auto Industries Limited & Ors.***, (2018) 2 SCC 1; ***Intex Technologies (India) Ltd. & Anr. v. M/s AZ Tech (India) & Anr.,*** 2017 SCC OnLine Del 7392,

and ***Prina Chemicals Works v. Sukhdayal***, ILR (1974) 1 Delhi 545.

35. He submits that the appellants are the prior users of the mark for home appliances. He submits that the use of the mark 'KENT' by the respondents is only for goods like wires and cables, which are not allied and cognate goods to home appliances, including fans, as has been held by this Court in ***Raman Kwatra & Anr. v. KEI Industries Limited***, 2023 SCC OnLine Del 38. He submits that, on the other hand, fans have been held to be allied and cognate to home appliances such as washing machines, as held in ***Pearl Appliances Pvt. Ltd. v. Jay Engineering Works Ltd.***, 1991 SCC OnLine Del 503.

36. He submits that, therefore, the adoption of the mark 'KENT' by the respondents for fans is *mala fide*.

37. He submits that the respondents do not have any registration for home appliances or for fans in Class 11. Their application seeking registration of the mark for fans was only on a 'proposed to be used' basis and was opposed by the appellants in the year 2007 itself. He further submits that the appellants also had issued a cease and desist notice to the respondents in the year 2011 itself, calling upon them to desist from using the trade mark 'KENT' for their fans division. Therefore, any use of the mark by the respondents thereafter, cannot come to the aid of the respondents. In support, he places reliance on decisions in ***Hindustan Pencils Pvt. Ltd. v. India Stationery Products Co. & Anr.***, 1989 PTC 61 and ***V.R. Industries Private Ltd. v. Rajesh Kejriwal,*** 2024 SCC Online Del 726.

38. He submits that the respondents have also failed to show any substantial reputation of their mark with respect to home appliances,

including fans. It is further submitted that the certificate filed by the respondents from a Chartered Accountant, purportedly showing sales, without any advertising figures, does not inspire confidence.

39. He submits that the *mala fide* intent of the respondent no. 2 in using the mark is also evident from the fact that it was earlier incorporated in the name of Goldage Plastic and Chemical Industry Private Limited, and it was only after the filing of the opposition by the appellants against their trade mark, that the respondent no. 2 changed its name to Kent Fans and Electrical Private Limited in the year 2009. He submits that the same shows the intention of the respondents to misrepresent to the consumers, indicating some association with the appellants.

40. He submits that the goods of the appellants and the respondents are similar in nature, are sold through the same trade channels, and are displayed side by side, thereby giving rise to a likelihood of actual confusion in the market. The respondents are, therefore, guilty of infringement under Section 29(2)(a) of the Trade Marks Act, 1999 (hereinafter referred to as, the 'Act').

41. He also draws the attention of this Court to some e-seller websites as also to some remarks on the e-commerce platforms to show a case of actual confusion whereby the appellant's store is being associated with the products of the respondents.

42. He also submits that the appellants cannot be accused of acquiescence inasmuch as they had opposed the application of the respondents for registration of their mark and, thereafter, there was hardly any use of the said mark by the respondents. It was only

because the appellants could not find the use of the mark, that the suit was not filed earlier. He submits that the legal notice was issued on the basis of the respondents' brochure, however, the appellants were not required to sue the respondents, as no evidence of actual use of the mark by the respondents was found in the market. In support, he places reliance on ***Indian Hotels Company Ltd. & Anr. v. Jiva Institute of Vedic Science Culture***, (2008) 37 PTC 468 (DB); ***Pankaj Goel v. Dabur India Ltd.***, (2008) 38 PTC 49 (DB); ***Dr. Reddy Laboratories v. Reddy Pharmaceuticals***, (2004) 29 PTC 435; ***M/s Power Control Appliances & Ors. v. Sumeet Machines Private Limited***, (1994) 2 SCC 448; ***Social Work and Research Centre v. Barefoot College International***, 2023 SCC OnLine Del 1343; ***Wockhardt Limited v. Torrent Pharmaceuticals Limited & Anr.***, (2018) 18 SCC 346 and ***V.R. Industries Private Ltd. v. Rajesh Kejriwal***, 2024 SCC OnLine Del 726.

43. He further submits that, in any case, a delay in filing the suit cannot be a ground to refuse grant of an injunction. In support, he places reliance on ***Midas Hygiene Industries (P) Ltd. & Anr. v. Sudhir Bhatia & Ors.***, (2004) 3 SCC 90.

44. He submits that the learned Single Judge has erred in restraining the use of the mark 'KENT' by the appellants for fans, inasmuch as, not only have the respondents failed to show any goodwill in the said mark for the said products, but also because the appellants were the prior registered user of the said mark. In support, he places reliance on the decision of this court in ***Micolube India Ltd. v. Maggon Auto Centre & Anr.***, 2008 SCC OnLine Del 160, which was upheld in

Micolube India Ltd. v. Maggon Auto Centre & Anr., (2008) 38 PTC 271 (DB) and the decision of the Supreme Court in ***Brihan Karan Sugar Syndicate Private Limited v. Yashwantrao Mohite Krushna Sahakari Sakhar Karkhana***, 2023 SCC OnLine SC 1163.

SUBMISSIONS OF THE LEARNED SENIOR COUNSEL FOR THE RESPONDENTS:

45. Mr. Jayant Mehta, the learned senior counsel appearing for the respondents, submits that the jurisdiction of this Court to interfere with a discretionary order of the learned Single Judge, is rather restricted and the present appeal fails to establish any grounds for intervention. In support, he places reliance on the judgment of the Supreme Court in ***Wander Ltd. & Anr. v. Antox India (P) Ltd.,*** 1990 Supp SCC 727; and ***Mittal Electronics v. Sujata Home Appliances (P) Ltd. & Ors.***, (2020) 83 PTC 358.

46. He further submits that the respondents are the prior adopters of the mark 'KENT', having adopted the same in the year 1984 and having obtained registration thereof for products in Class 9 on 08.09.1986. The respondents had also filed an application in 1998, seeking registration of the mark for fans under Class 11. He submits that, therefore, the respondents are the proprietors of the mark 'KENT' and have a superior right over the appellants. In support, he places reliance on ***S. Syed Mohideen v. P. Sulochana Bai***, 2016 2 SCC 683; ***NR Dongre & Ors. v. Whirlpool Corporation & Anr.***, (1996) 5 SCC 714; ***Consolidated Foods Corporation v. Brandon & Co. Private Limited***, 1961 SCC OnLine Bom 55; ***Century Traders v.***

Roshan Lal Duggar & Co., AIR 1978 Delhi 250; ***Neon Laboratories Ltd. v. Medical Technologies Ltd. & Ors.***, (2016) 2 SCC 67; ***Satyam Infoway Limited v. Sifynet Solutions (P) Ltd.***, (2004) 6 SCC 145 and ***Uniply Industries Ltd. v. Unicorn Plywood Pvt. Ltd. & Ors.***, (2001) 5 SCC 95.

47. He submits that the respondents filed an application seeking registration of the mark 'KENT' for fans under Class 11 on 28.04.1998, that is, before the application filed by the respondents for its principal product, that is, RO water purifier, which was registered only on 26.10.1999. He gives the following timelines for the key applications/registrations of the marks of the appellants and the respondents:

Registrant	**Application No.**	**Date of Application**	**Use Claim Date**	**Class**	**Mark**	**Status**
Respondent	459876	**08.08.1986** (8 years prior)	01.09.1986	9 [Wires, cables, Fuse etc.]	KENT (word)	Subsisting
Respondent	511228	02.06.1989	07.04.1984	9 [Wires, cables, Fuse etc.]	JKENT (Device)	Subsisting
Appellant (First registration)	632891	04.07.1994	19.02.1988	9 [Meters (petrol)]	**KENT OIL METERS (DEVICE)**	Subsisting
Respondent	800316	**28.04.1998**	Proposed to be used	11 [Fans]	**KENT (Label)**	Objected
Appellant (First Registration for primary product)	883459	26.10.1999	26.10.1999	7 [Machines for Purification of Water]	**Kent RO Water Marker**	Subsisting
Appellant	1553138	26.04.2007	01.04.1999	11 [Water Purifiers]	**Kent Mineral RO**	Subsisting

48. He submits that the appellants, having obtained registration of

the mark only for water purifiers, cannot claim rights over all other products mentioned in Class 11. He submits that water purifiers and fans are not cognate goods merely because they fall in the same Class. In support, he places reliance on ***FDC Limited v. Docsuggest Healthcare Services Pvt. Ltd. & Anr.***, 2017 SCC OnLine Del 6381; ***Vishnudas Trading as Vishnudas Kishendas v. Vazir Sultan Tobacco Co. Ltd., Hyderabad & Anr.***, (1997) 4 SCC 201; ***Sona Spices Pvt. Ltd. v. Soongachi Tea Industries Pvt. Ltd.***, (2007) 34 PTC 91; ***Mittal Electronics v. Sujata Home Appliances (P) Ltd.***, (2020) 83 PTC 358 and ***Nandhini Deluxe v. Karnataka Cooperative Milk Producers Federation Ltd.***, (2018) 9 SCC 183.

49. He submits that the use of the mark KENT for fans by the respondents from the year 2006 onwards, is evidenced by various documents on record, which are of an unimpeachable character. The said documents are as under:

(i) Acceptance letter dated 16.09.2022 issued by Kendriya Police Kalyan Bhandar, Ministry of Home Affairs;

(ii) Uttar Pradesh Public Works Department approval dated 25.08.2021;

(iii) Approval dated 12.12.2011 in favour of Respondent from Bureau of Energy Efficiency, Govt. of India.

(iv) Madhya Pradesh Public Works Department approval dated 03.05.2013 in favour of Respondent Vendor Registration with Mata Vaishno Devi Shrine Board, Katra dated 7.01.2015

(v) Kent Cables/Kent Industries Invoices for Kent Fans from 2009 onwards.

(vi) E-Commerce Invoices for the Respondents fans from Snapdeal, Paytm, Amazon and Flipkart.

(vii) Screenshots of Respondent's advertisements on news channel AajTak.

(viii) Advertisement Invoices issued by Rajasthan Club.

(ix) Invoices for advertisement on Zee News in the year 2014.

(x) Invoices of Respondent for hoardings;

(xi) Hoardings of Respondent's products including fans.

(xii) Invoices of various Publishers and Agencies.

(xiii) CA certificate for Advertisement expenses incurred by the Respondent from 2014-2021.

50. In support of his plea, he also places reliance on the authorizations from the District Industries Centre, Roorkee, dated 25.02.2009; the Uttarakhand Environment Protection and Pollution Control Board, dated 23.05.2013 and 11.12.2014, and various certifications for the manufacturer and sale of fans, such as Energy Efficiency Certification, ISO Certification, and KVQA Certification.

51. He submits that the above documents also show substantial goodwill and reputation for the products of the respondents and the use of their mark for fans, while on the other hand, the appellants had not even entered into the field of fans till the filing of the suit.

52. He submits that as far as the claim of the appellants for a temporary injunction against the respondents is concerned, the

appellants are not only the subsequent adopters of the mark but are also guilty of acquiescence. He submits that it is the appellants' own case that they had filed objections to the respondents' trade mark application for fans in the year 2007, and issued a cease and desist notice to the respondents on 16.09.2011. The suit was, however, filed only in the year 2022. Having acquiesced and delayed in approaching the court, the appellants are not entitled to the discretionary relief of an injunction. In support, he places on the judgment of the Supreme Court in ***Khoday Distilleries Ltd. v. Scotch Whiskey Association & Ors.***, (2008) 10 SCC 723 and ***M/s Power Controls Appliances & Ors. v. Sumeet Appliances Pvt. Ltd.***, (1994) 2 SCC 448.

53. He submits that, on the other hand, the respondents have not only shown goodwill and reputation in their mark by the volume of their sales, but have also shown that the use of the same mark for fans by the appellants would be likely to cause confusion. Therefore, the learned Single Judge has rightly granted an injunction in favour of the respondents and against the appellants, thereby injuncting the appellants from using the said mark for purposes of fans.

ANALYSIS AND FINDINGS:

54. We have considered the submissions made by the learned counsels for the parties.

55. In the present case, from the above narrations of facts, it is evident that while the appellants had adopted the mark 'KENT' for Oil Meters in the year 1988, the respondents had adopted the said mark for wires, cables, etc. on 01.09.1986. The adoption of the mark

'KENT' by the respondents, therefore, cannot be said to be *mala fide*. In fact, it is the respondents who would be the first adopters of the said mark, *albeit* for a different product, and, therefore, the proprietor of the mark.

56. The appellants and the respondents not only co-existed but also expanded their line of products, with the appellants expanding to the water purifier system in the year 1999 and other home appliances like air purifiers in the year 2006, while the respondents appear to have launched fans with the said mark at least in the year 2009, as is evidenced from the documents placed on record. Even thereafter, the appellants and respondents co-existed in their respective fields.

57. It is further evident that though the appellants had a tremendous success using their mark, 'KENT', with sales of approximately Rs. 7654 crores for the years 2007-2021 and marketing expenditure of Rs. 1106 crores for the said period, the respondents, having adopted their mark *bona fide,* have been using the mark for at least 35 years prior to the filing of the suit.

58. The primary submission of the learned senior counsel for the appellants has been that its products, that is, water purifiers are home appliances and are allied and cognate goods to fans; they are also sold through the same trade channels, so the likelihood of confusion is large. It has further been contended that the appellants hold registration of their mark 'KENT' since 26.04.2007 in Class 11, claiming user since 01.04.1999 and, therefore, the use of the said mark by the respondents for fans is an infringement in terms of Section 29(2)(a) of the Act.

59. On the other hand, the respondents have been able to show that they had applied for registration of their mark 'KENT' for fans in the year 1998, *albeit* on 'proposed to be used basis'. The same was objected to by the appellants in the year 2007, however, no further action was taken on the same against the respondents, apart from giving a cease and desist notice and that too, way back on 16.09.2011. The respondents have also been able to show the use of the said mark through various documents on record, details of which have been mentioned in the submissions of the respondents hereinabove.

60. The first issue to be determined is whether the use of the mark 'KENT' by the respondents for fans amounts to an infringement of the said trade mark. In this regard, the appellants have given the details of their registered trade marks as under:

S. No.	**Trade Mark**	**Reg No.**	**Use Claim**	**Date of Reg.**	**Class & Goods**
1	KENT OIL METERS (Device)	632891	19-02-1988	04-07-1994	09 - METERS (PETROL) INCLUDED IN CLASS 9
2	KENT R-O WATER MAKER	883459	26-10-1999	26-10-1999	07 - MACHINES FOR PURIFICATION OF WATER
3	KENT	1275069	31-10-1996	26-03-2004	7- MIXERS, GRINDERS, JUICERS, BLENDERS, CHUTNEY ATTACHMENTS, MOTORS, GHAR GHANTI, PARTS AND FITTINGS
4	KENT	1317668	30-04-1998	28-10-2004	21- DOMESTIC UTENSILS AND CONTAINERS, PRESSURE COOKERS,

					PRESSURE PANS, FRY PANS, NON-STICK COOKWARE, THERMOWARES, DINNER SETS, SEV MACHINES, GRINDING, MIXING, JUICE EXTRACTING, CHOPPING AND GRATING MACHINES, (ALL HAND OPERATED), HAND TOASTERS, ARTICLES OF KITCHENWARE, GLASSWARE, PARTS AND FITTINGS
5	KENT Ozone	1323797	01-09-2004	03-12-2004	07 - EQUIPMENT OF VEGETABLE AND FRUIT PURIFIER
6	KENT Ozone (Label)	1323799	01-09-2004	03-12-2004	07 - EQUIPMENT OF HIGH PRESSURE DENTAL JET INCLUDED IN CLASS 7.
7	KENT Ozone (Label)	1323799	01-09-2004	03-12-2004	07 - PURIFYING AIR (MACHINE FOR) INCLUDED IN CLASS 7.
8	KENT Healthcare Products (Label)	1352675	01-01-2005	25-04-2005	07 - EQUIPMENT FOR VEGETABLE AND PURIFIER INCLUDED IN CLASS 7.
9	KENT OIL CONSERVATION PRODUCTS (Label)	1352676	01-01-2005	25-04-2005	09 - METERS (PETROL) INCLUDED IN CLASS 9
10	KENT MINERAL RO	1553138	01-04-1999	26-04-2007	11 - WATER PURIFIER
11	KENT MINERAL	1554355	01-04-1999	01-05-2007	11 - WATER

	RO				PURIFIER
12	KENTWATER PRESSURE	2007667	01-04-1999	11-08-2010	11 - WATER PURIFIER
13	KENT MINERAL RO WITH DEVICE	2007672	01-04-1999	11-08-2010	11 - WATER PURIFIER
14	KENT TAP GUARD	2067253	01-04-1999	11-08-2010	11 - WATER PURIFIER
15	KENT TAP GUARD (WITH LABEL)	2067255	01-04-1999	11-08-2010	11 - WATER PURIFIER
16	KENT	2605613	01-04-1999	01-10-2013	07 - MINERAL WATER MAKING MACHINE
17	KENT DETA HAI SABSE SHUDH PAANI (LABEL)	2605620	01-04-1999	01-10-2013	07 - MINERAL WATER MAKING MACHINE
18	KENT MINERAL RO WATER PUIFIERS HOUSE OF PURITY (LABEL)	2605621	01-04-1999	11-08-2010	11 - WATER PURIFIER
19	KENT SUPREME	3365314	08-03-2013	16-09-2016	11- WATER PURIFIERS, MACHINES FOR WATER PURIFICATION, CABINETS FOR PURIFIERS, PART OF PURIFIERS & RELATED GOODS
20	KENT DOOREYE	4033458	19-12-2018	20-12-2018	09 - CAMERA TRACKER, CCTV CAMERA, DVR, ATTENDANCE SYSTEM, ALARM SYSTEMS, HOME AUTOMATION, PIN HOLE CAMERA, CCTV ACCESSORIES, CCTV SURVEILLANCE SYSTEM, FIRE ALARM SYSTEM,

					ACCESS CONTROL SYSTEM, CCTV CABLE, VIDEO DOOR PHONE, VIDEO DOOR-BELL, METAL DETECTORS, SECURITY PRODUCTS, TIMER SWITCH, IP CAMERA, NVR
21	KENT HOMEEYE	4033460	19-12-2018	20-12-2018	09 - CAMERA TRACKER, CCTV CAMERA, DVR, ATTENDANCE SYSTEM, ALARM SYSTEMS, HOME AUTOMATION, PIN HOLE CAMERA, CCTV ACCESSORIES, CCTV SURVEILLANCE SYSTEM, FIRE ALARM SYSTEM, ACCESS CONTROL SYSTEM, CCTV CABLE, Video Door Phone, Video Door-BELL, METAL DETECTORS, SECURITY PRODUCTS, TIMER SWITCH, IP CAMERA, NVR

61. From the above details, it is evident that, as far as Class 11 is concerned, the registration of the mark of the appellants is specifically for water purifiers, machines for water purification, cabinets for purifiers, etc. There is no registration obtained by the appellants for

fans, which is also a product falling under Class 11. Though the appellants also have registrations in other classes of goods, which include domestic and kitchen appliances, they do not include fans. In a nutshell, the appellants do not have a registration of the mark 'KENT' in respect of fans.

62. The appellants invoke Section 29(2)(a) of the Act, which reads as under:

> *"**29. Infringement of registered trade marks.***
> *(1) A registered trade mark is infringed by a person who, not being a registered proprietor or a person using by way of permitted use, uses in the course of trade, a mark which is identical with, or deceptively similar to, the trade mark in relation to goods or services in respect of which the trade mark is registered and in such manner as to render the use of the mark likely to be taken as being used as a trade mark.*
>
> *(2) A registered trade mark is infringed by a person who, not being a registered proprietor or a person using by way of permitted use, uses in the course of trade, a mark which because of—*
>
> *(a) its identity with the registered trade mark and the similarity of the goods or services covered by such registered trade mark; or*
> *(b) its similarity to the registered trade mark and the identity or similarity of the goods or services covered by such registered trade mark; or*
> *(c) its identity with the registered trade mark and the identity of the goods or services covered by such registered trade mark, is likely to cause confusion on the part of the public, or which is likely to have an association with the registered trade mark.*

(3) In any case falling under clause (c) of sub-section (2), the court shall presume that it is likely to cause confusion on the part of the public.

(4) A registered trade mark is infringed by a person who, not being a registered proprietor or a person using by way of permitted use, uses in the course of trade, a mark which—

(a) is identical with or similar to the registered trade mark; and

(b) is used in relation to goods or services which are not similar to those for which the trade mark is registered; and

(c) the registered trade mark has a reputation in India and the use of the mark without due cause takes unfair advantage of or is detrimental to, the distinctive character or repute of the registered trade mark.

(5) A registered trade mark is infringed by a person if he uses such registered trade mark, as his trade name or part of his trade name, or name of his business concern or part of the name, of his business concern dealing in goods or services in respect of which the trade mark is registered.

(6) For the purposes of this section, a person uses a registered mark, if, in particular, he—

(a) affixes it to goods or the packaging thereof;

(b) offers or exposes goods for sale, puts them on the market, or stocks them for those purposes under the registered trade mark, or offers or supplies services under the registered trade mark;

(c) imports or exports goods under the mark; or

(d) uses the registered trade mark on business papers or in advertising.

(7) A registered trade mark is infringed by a person who applies such registered trade mark to a material intended to be used for labeling or packaging goods, as a business paper, or for advertising goods or services, provided such person, when he applied the mark, knew or had reason to believe that the application of the mark was not duly authorised by the proprietor or a licensee.

(8) A registered trade mark is infringed by any advertising of that trade mark if such advertising—

(a) takes unfair advantage of and is contrary to honest practices in industrial or commercial matters; or

(b) is detrimental to its distinctive character; or

(c) is against the reputation of the trade mark.

(9) Where the distinctive elements of a registered trade mark consist of or include words, the trade mark may be infringed by the spoken use of those words as well as by their visual representation and reference in this section to the use of a mark shall be construed accordingly."

63. While there is similarity between the mark which is registered in favour of the appellants and the mark being used by the respondents, the question to be determined would be whether there is similarity of goods for which the mark is registered in favour of the appellants and those for which it is being used by the respondents. However, this question cannot be answered in isolation, but by keeping in mind the fact that the respondents are the proprietors of the mark, having adopted the same and using the same since 1984 with respect to goods like electric wires and cables, switches, etc. They

have also, at least *prima facie*, been able to show the use of the said mark by them for fans since 2009. This would also be relevant to determine if the respondents can be said to be infringing the mark of the appellants under Section 29(4) of the Act, which requires that the use of the registered mark is without due cause and takes unfair advantage of or is determined to the distinctive character or repute of the registered mark.

64. While determining the above issue, regard would also have to be given to the fact that appliances like fans can be said to be a natural progression of business for the respondents from their original business of electric wires and cables, switches, etc. The use of the same by the respondents, in the year 2009, when the appellants were admittedly not selling fans, and disputably in the business of other home appliances, cannot be said to be taking unfair advantage of the trade mark of the appellants.

65. As far as claim of infringement under Section 29(2) of the Act is concerned, merely because fans also fall under Class 11, do not make them cognate goods to water purifiers or air purifiers. It is settled law that Classification is only for purposes of grant of registration, and cannot be determinative of whether the goods are similar.

66. We are also persuaded by the fact that, admittedly, the appellants did not obtain the registration of the mark for fans, though it falls in Class 11, and have not used the said mark for fans, till at least the filing of the suit. While fan is a product mentioned in Class 11, the fact that the appellants did not choose to obtain registration for

the same, shows their intention not to use the mark for the said product, as it itself was not intending to use it nor felt that it required protection of its mark for use for fans.

67. In ***Raman Kwatra*** (supra), a Division Bench of this Court was considering the issue as to whether the respondent therein, having obtained registration of their trade mark including in Class 9 for goods like electrical wires and cables and 'other kinds of electrical and electronic instruments', could claim infringement of their trade mark because of the use of the said mark for electrical appliances such as fans, geysers, emersion rods, etc. The Court held that the expression 'other kinds of electrical and electronic instruments' did not extend to cover all electrical appliances. The said judgment does not hold that a proprietor of a mark using the mark for electrical wires, etc. cannot have a natural progression to electrical appliances, including products like fans.

68. In addition, as far as prayer for injunction against the respondents is concerned, Section 34 of the Act protects the rights of a proprietor of a mark, by providing as under:

> *"**34. Saving for vested rights.—**Nothing in this Act shall entitle the proprietor or a registered user of registered trade mark to interfere with or restrain the use by any person of a trade mark identical with or nearly resembling it in relation to goods or services in relation to which that person or a predecessor in title of his has continuously used that trade mark from a date prior—*
>
> > *(a) to the use of the first-mentioned trade mark in relation to those goods or services by the proprietor or a predecessor in title of his; or*

> *(b) to the date of registration of the first-mentioned trade mark in respect of those goods or services in the name of the proprietor of a predecessor in title of his;*
>
> *whichever is the earlier, and the Registrar shall not refuse (on such use being proved) to register the second mentioned trade mark by reason only of the registration of the first-mentioned trade mark."*

69. Therefore, the prior use of the mark 'KENT' by the respondents for fans, is itself sufficient to disentitle the appellants for an injunctive relief against the respondents, at least, at this *interim* stage.

70. What is also relevant in the present case is that the respondents showed their intention to use the impugned mark for fans, by seeking registration thereof in the year 1998. Though the same was opposed by the appellants by filing objections in 2007, followed by a cease and desist notice in 2011, even in the first Suit filed by the appellants, that is, CS(COMM) 508/2022, while the appellants sought prayer for restraining the respondents from using the impugned mark for other electrical appliances, the appellants, on a vague plea of wanting to find out the use of the said mark for fans, sought permission under Order II Rule 2 of the CPC to file a separate suit if so required for the same. On the other hand, the respondents, through the documents on record, have shown the use of the impugned mark for fans at least from the year 2009.

71. While it is correct that a proprietor of the mark is not expected to sue each and every entity that may be intending to use the impugned mark or that may be using the said mark, at the same time, at least at this stage, it cannot be said that the respondents were using

the said mark only in a limited manner. Their sales would show that, at least for electric wires, they were using the said mark in a substantial manner. For such an entity, the appellants were expected to make regular enquiries and cannot feign ignorance of the use of the mark for fans. Further, having opposed the registration and also given a cease and desist notice, wherein it was admitted that the appellants knew of the use of the mark by the respondents for fans, the appellants could not have kept quiet and allowed the respondents to grow by continuing the use of the mark. By doing so, the appellants clearly acquiesced in the use of the mark by the respondents. It appears that the primary product of the appellants being water purifiers, they did not deem it necessary to seek protection of their mark against the respondents for use of the same for other products like electric wires and fans. Having not done so, the appellants were clearly disentitled to claim an *interim* injunction, which is a discretionary relief governed by the trinity principles of a good *prima facie* case, balance of convenience and irretrievable harm and injury being shown. In our view, the appellants had failed on all three and were rightly denied the grant of an interim injunction.

72. The submission of the learned Senior Counsel for the appellants that any use of the mark by the respondents after the filing of the opposition and the cease and desist notice, cannot be termed as *bona fide*, also does not impress us. As noted hereinabove, the respondents were already using the impugned mark, *albeit* for electric wires, etc., even prior to the filing of the opposition and the notice by the appellants. Though the appellants were aware of even the usage of the

mark by the respondents for fans, they did not deem it necessary to take any action against the respondents till they themselves decided to enter the field of fans.

73. This now brings us to the appellants themselves being injuncted from using the mark KENT for fans. It appears from the record that the appellants had not launched their fans till the filing of the suit by the respondents. Though they had been using the mark for OIL METRES, thereafter for water purifier systems, and lastly for other home and electrical appliances, the mark had not been used for fans. It is the own case of the appellants that the use of the mark is leading to confusion.

74. It is settled law that ordinarily, there can be only one proprietor of a mark for a product. Such proprietor, at least, *prima facie*, for fans is the respondents.

75. While we are mindful of the fact that not allowing the appellants to launch their fans with the mark in which they have otherwise acquired substantial goodwill for other products, may cause prejudice to them, it is all of their own doing. We are also to remain mindful of the limited jurisdiction that we enjoy while testing an order passed by a learned Single Judge of this Court on an application filed under Order XXXIX Rules 1 and 2 of the CPC. We are not to substitute the discretion exercised by the learned Single Judge except where we find the same to be perverse or contrary to law. Such a case, in our opinion, is not made out in the present case. Herein, we may usefully quote from the landmark judgment of ***Wander Ltd.*** (supra) as under:

*"**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 : (SCR 721)*

> *"... These principles are well established, but as has been observed by Viscount Simon in Charles Osenton & Co. v. Jhanaton '...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 individual case'."*
>
> *The appellate judgment does not seem to defer to this principle."*

76. In view of the above, we find no merit in the present set of appeals. The same, along with the pending applications, are accordingly dismissed.

77. We make it clear that our observations in the present judgment are only *prima facie* in nature and shall, in no manner, be read as a binding determination of the rights of the parties or a final expression of opinion on the merits of their rival claims.

78. There shall be no order as to costs.

NAVIN CHAWLA, J.

MADHU JAIN, J.

MARCH 11, 2026/ns/Yg