



BEFORE THE SPECIAL JUDGE, COMMERCIAL COURTS AND
6th ADDITIONAL DISTRICT & SESSIONS JUDGE AHMEDABAD
(RURAL) AT NAVRANGPURA, AHMEDABAD.

Commercial Trade Mark Civil Suit No.16 of 2023

Mr. Shrey Chimanlal Patel
Proprietor of CRUSH COFFEE

....Plaintiff.

VERSUS

The Crush Coffee & Ors.

....Defendants.

Appearances:-

Learned Advocates Mr.P.K.Chaudhari for the plaintiff.

:-:ORDER BELOW EXH.-5:-

1. Plaintiff has filed present suit for seeking permanent injunction against the infringement of trademark, damages, accounts of profits etc. under the provisions of Trade Marks Act, 1999 and Civil Procedure Code, 1908. One application for seeking interim injunction vide Exh. 5 i.e. the present application under order has also been preferred by the plaintiff under the provisions of Order 39, Rule 1 & 2 of Code of Civil Procedure, 1908, wherein *inter alia* it is being prayed by the plaintiff that:-

"(A) That the defendants, the partnership, partners, heirs, franchises, assigns, licensees, agents and all related business personnel may please be restrained from using, selling, advertising, circulating, displaying and marketing its goods and services and/or cognate goods, under the completely identical-deceptively similar as well as phonetically similar trademark THE CRUSH COFFEE as that of the registered trademark CRUSH COFFEE of the plaintiff and thereby the defendant be restrained temporarily from infringing the plaintiff's well-reputed registered trademarks CRUSH COFFEE, till final disposal of the suit;

"(B) That the defendants, the partnership, partners, heirs, franchises, assigns, licensees, agents and all related business personnel may please be restrained

from using, selling, advertising, circulating, displaying and marketing its services identical to that of the plaintiff and/or cognate goods in online and offline mediums, under the completely identical as well as phonetically similar trademark THE CRUSH COFFEE as that of prior used and well reputed registered trademarks CRUSH COFFEE of the plaintiff and thereby the defendant be temporarily restrained from advertising its services under the trademark THE CRUSH COFFEE, as that of the plaintiff, till final disposal of the suit;

(C) That an ex-parte ad-interim injunction in terms of prayer clause 33(A) & (B) may please be granted;

(D) Any other and further reliefs that this Hon'ble Court deems fit in the interest of justice and equity."

2. Ld. Advocate Mr.P.K.Chaudhari appeared on behalf of plaintiff and argued the matter. During arguments, Ld. Advocate for the plaintiff reiterated the contents of plaint, application for interim injunction Exh.5 by referring the documents placed on record vide Exh.3 and submitted that the plaintiff is the sole proprietor of the firm CRUSH COFFEE and the firm is engaged in the business of management of restaurants and café, on-line ordering services in the field of restaurants, take-out and delivery, franchising services, business management, assistance in the establishment and operation of restaurants and café, franchising services in the nature of providing business management assistance in the establishment and operation of restaurants and café, marketing services in the field of restaurants and café since the year 2017.
3. It is further submitted that the turnover of the plaintiff firm under its brand CRUSH COFFEE runs into crores of rupees. It is further submitted that the plaintiff started the firm originally as a food truck on Sindhu Bhavan Road which is one of the luxurious and prominent localities in Ahmedabad, Gujarat and the huge demand and significant sales led the plaintiff to open a brick-and-mortar establishment. It is further submitted that there is high demand of plaintiff firm's services

under the brand name/trade mark/label CRUSH COFFEE and the same is distinctive to the plaintiff firm and none else and the sales of the plaintiff is mentioned at Para 2 of the present application.

4. It is further submitted that the defendant no.1 seems to be a partnership firm as per the data obtained from GST records, Government of India, and the defendant nos.2 to 4 are partners in the defendant no.1 partnership and seem to be engaged in providing restaurant and café services as per the data obtained from its franchise brochure. It is further submitted that defendants have adopted the identical and deceptively similar trademark THE CRUSH COFFEE for its services and is promoting it in the markets all over the country which has given the cause of action to the present plaintiff to file the present suit.
5. It is further submitted that the plaintiff has successfully launched and introduced multiple outlets (self-owned) in prominent areas throughout the city of Ahmedabad in Gujarat such as Sindhu Bhavan, Rajpath, Tapovan Circle, Wide Angle, Nikol, Science City etc. as well as in Gandhinagar and Vadodara and is continuously expanding its chain of restaurant and café services through its self-owned outlets throughout Gujarat and is planning to expand to other states, making it a country-wide brand and the plaintiff firm has a wide presence over famous social media platforms such as Facebook and Instagram and the plaintiff firm's services and popular offerings can also be availed from popular food delivery aggregates such as Zomato, Swiggy and Magic-pin.
6. It is further submitted that due to long, uninterrupted and continuous use of the mark CRUSH COFFEE since 2017, the mark has become a household name and any common consumer would immediately associate any similar mark with that of the plaintiff more particularly if

it is an identical mark, it would definitely mislead the consumer or general public to believe that the goods or services or business ventures bearing mark CRUSH COFFEE is that of the plaintiff. It is further submitted that such situation, wherein if any person, firm or company uses the same trademark, mark containing the plaintiff's popular brand CRUSH COFFEE as a stand-alone mark or with any suffix or prefix would result into irreparable and irretrievable injury not only to the plaintiff but to all the consumers at large who are so misled.

7. It is further submitted that the plaintiff firm has honestly and bonafidely coined and adopted the distinctive mark CRUSH COFFEE in the year 2017 and thereafter, started procuring equipment and started establishing its business of restaurant and café services and the plaintiff firm started using and commercializing the said mark CRUSH COFFEE with respect to the restaurant and café services since then. It is further submitted that because of the extensive and voluminous use and wide publicity of the said trade mark in respect of the said services, the said trade mark has acquired a humongous reputation and goodwill in the Indian market as well as globally.
8. It is further submitted that the plaintiff, to distinguish the aforesaid services from that of the other establishments, business and entities, has bonafidely adopted the trademark CRUSH COFFEE since 2017 and the same has been used by the plaintiff openly, extensively and continuously in the market since then and due to long and continuous use, the plaintiff has acquired common law rights over the trade mark CRUSH COFFEE. It is further submitted that in order to acquire statutory rights for exclusive use, it had applied for and has successfully obtained registration over the word mark 'CRUSH COFFEE' as well as the label 'CRUSH COFFEE' & CRUSH

COFFEE'. It is further submitted that plaintiff has also applied for numerous trade marks containing the words CRUSH COFFEE as an essential feature under the Trade Marks Act, 1999 and the said registrations grant the plaintiff exclusive right to use the said trade marks containing CRUSH COFFEE to the exclusion of others as per Sec. 28 of the Trademarks Act, 1999 and therefore, any unauthorized use of the mark CRUSH COFFEE for identical or similar or dissimilar services by third parties also amounts to infringement of trade mark u/s 29 of the Trade Marks Act, 1999.

9. It is further submitted that plaintiff is the registered proprietor of the trademark CRUSH COFFEE in various classes such as Class 30 and 43 as per provisions of the Trademarks Act, 1999. It is further submitted that the list of all the trademark registrations of the plaintiff is as mentioned in Para 10 of the application. It is further submitted that the aforesaid trademark registrations of which the plaintiff relies are valid and subsisting in the name of plaintiff, thus, the plaintiff is the registered proprietor of the trademark/wordmark CRUSH COFFEE.
10. It is further submitted that plaintiff adopted the mark in 2017 and started using it for its food truck services, some trademark applications possess the user claim since 2018 as by then the plaintiff firm was properly organized and fully functioning at a large scale in the form of outlets by 2018. It is further submitted that on advice of its legal representative, it has applied for registration in 2018 but it is to be noted that the same was honestly adopted and continuously used since 2017.
11. It is further submitted that in the month of December, 2023, the plaintiff came to know about the illegal activity of the defendants



when some of its customers expressed interest in obtaining a franchise of the plaintiff firm and the same shocked the plaintiff as it was not providing any franchise and owns all its outlets. It is further submitted that upon further inquiry, the plaintiff came across the franchise brochure of the defendant available at <https://thecrushcoffeeindia.com/https-thecrushcoffeeindia-com-franchise-opportunity-franchise-opportunity/> wherein, it uses the trademark THE CRUSH COFFEE and is offering an opportunity of obtaining franchise of the impugned brand.

12. It is further submitted that the defendants herein are promoting their services identical to that of the plaintiff, with the mark THE CRUSH COFFEE appearing prominently on its website as well as all promotional material including its menu, glassware, brochures and social media posts which clearly amounts to infringement of registered trademark of plaintiff. It is further submitted that the word THE CRUSH COFFEE appears prominently on the defendants' label and the above image is clear to prove that the defendants have blatantly copied the CRUSH COFFEE mark and the plaintiff possess a word mark registration no. 4541223 (Class-30) and no. 4449971 (Class 43) which grants the plaintiff a broad spectrum of statutory rights and to restrain third-parties including the defendants herein from using the word CRUSH COFFEE with any suffix or prefix anywhere in India and in any font and representation under the Trademarks Act, 1999.
13. It is further submitted that the defendants have placed the word THE CRUSH COFFEE with coffee beans which is the idea and essential part of the plaintiff's mark, just to deceive the customers into believing that the impugned brand is the same or a sub-brand of the plaintiff's well-reputed brand, thereby causing great harm not only to plaintiff herein but also to the customers who avail the services of the

defendants in the false belief that it is just another outlet introduced by an innovative brand of the plaintiff. It is further submitted that the earlier versions of the impugned mark did not possess the 'COFFEE SOLVES EVERYTHING' slogan which is evident from the images posted over social media and the said slogan has been malafidely added to the impugned mark.

14. It is further submitted that the impugned mark/label that the defendants have dishonestly adopted is devoid of any distinctive character and does not possess any uniqueness and the use of phrase 'THE' is merely an article which does not amount to any distinctiveness. It is further submitted that the defendants have adopted the mark with a malafide and malicious intention of deceiving the public by causing confusion and creating a misconception, thereby indulging into unfair trade practices and such an act of the defendants have the propensity to dilute the registered and prior adopted trademark of the plaintiff.
15. It is further submitted that even an unwary purchaser with average intelligence and imperfect recollection will be appealed to visit the defendants' establishment thinking that it is a new branch launched in Indore or the other locations wherein the franchisee are located by an innovate brand like the plaintiff or that the defendants and/or the franchisee is authorized in any manner by the plaintiff. It is further submitted that by having a presence in the field of identical services i.e. Restaurants and café, the defendants are already well-aware of the reputation and goodwill of the plaintiff and its brand and therefore the defendants have intentionally chosen such a deceptively similar mark to get a back-door entrance into the market and ride upon the goodwill and reputation of the plaintiff.



16. It is further submitted that the plaintiff recently came to know that the defendant no.3, in his individual capacity, has gone forward to apply for registration of the identical and infringing mark before the Trademarks Registry and the same are currently pending under Application No.6145614 (Class 35) and 6145615 (Class 43). It is further submitted that in the examination report of application no. 6145615, the Trademarks Registrar has raised the objection under Sec. 11 of the Trademarks Act, 1999 under which the registered trademarks of the plaintiff herein are cited, to this, the defendant no.3 has tried to hide his malafide by submitting a reply to examination report in which he has submitted that both the marks are different and that he is using the mark since 2016 and the defendant no.3, being well-aware about the registration of the plaintiff firm has dishonestly applied with a false user claim of 2016, for which the plaintiff reserves its right to take appropriate legal steps against the defendant no.3.
17. It is further submitted that the defendant's food truck business under the impugned brand was started on 11.07.2020 and the same can also be verified from the posts uploaded by the impugned brand over its Instagram page. It is further submitted that it is apparently clear that the defendants are a subsequent entrant in the identical business under the identical and/or deceptively similar trademark CRUSH COFFEE and also the fact that the defendants are not an innocent adopter or bonafide adopter of the trademark CRUSH COFFEE but admittedly knew about the plaintiff and its trademark and slavishly copied the same to start the identical business in INDORE and expand the same by illegally diluting the trademark CRUSH COFFEE.
18. It is further submitted that the plaintiff was shocked to see some of the reviews posted by individuals over the business pages of the defendant's outlets in Indore and the consensus among the consumers



is that the goods and services offered in various outlets of the defendants are worse and/or of sub-par quality and such ill-reputation of the defendant's various outlets dilutes and tarnishes the hard-earned reputation painstakingly built by the plaintiff over the years. It is further submitted that upon further research, the plaintiff came across the website of the defendant firm and on the said website the defendants are extensively displaying the mark THE CRUSH COFFEE and the said website of defendant is accessible within the jurisdiction of this Hon'ble Court and can be viewed by prospective customers from all over the country.

19. It is further submitted that in the brochure of the defendants, they have clearly stated that '*The Crush Coffee is a food specialty chain launched in Indore in 2020*' and this proves the subsequent adoption of the defendants of the impugned mark in 2020 as that to the plaintiff's adoption in 2017.
20. It is further submitted that the plaintiff is a registered proprietor of the trademarks CRUSH COFFEE (word, per se) as well as label in Class 30 and 43 and thus, as per Section 28 of the Trademarks Act, 1999, the plaintiff has the exclusive right to use the trademarks CRUSH COFFEE in relation to the goods and services in respect of which the trademarks are registered. It is further submitted that a bare perusal of both the trademarks show that the defendants have adopted the phonetically and structurally similar essential & prominent features as that of the plaintiff's trademark and thus, the defendants are undoubtedly liable for infringement of plaintiff's prior adopted and registered trademarks when the defendant no.2 has already admitted to the same over the digital medium. It is further submitted that the defendants have purposefully availed itself of the jurisdiction of this Hon'ble Court by offering franchise under the impugned mark THE



CRUSH COFFEE to targeted customers in Ahmedabad and with a calculated intention to engage in commercial transactions with customers in Ahmedabad through its website.

21. It is further submitted that the plaintiff has a prima facie case in its favour as it is the inventor, prior user, prior adopter and registered proprietor of the trademark CRUSH COFFEE in various classes (Class 30 & 43) which covers the services provided by the defendants and the defendants have adopted a completely identical and phonetically similar trademark for identical services falling in the same class as well as admitted to adopting the impugned mark after knowing about the plaintiff's brand and has admitted to the same over social media platform. It is further submitted that the balance of convenience also tilts in favour of the plaintiff as he is the registered proprietor and prior adopter of the trademark CRUSH COFFEE and due to the unauthorized act of the defendants who have recently entered the market, the plaintiff has a serious threat of loss of business, reputation and damage to its goodwill and further, any sale of food products under the trademark THE CRUSH COFFEE by the defendants and the same causing any health hazard to consumer will spoil the reputation of the plaintiff herein, which cannot be compensated in terms of money and money will not be an adequate remedy. Thus, the present case is a fit case for grant of ex-parte ad-interim injunction since dishonest adoption of the infringing mark by the defendant is admitted by the defendant itself. With these submissions, Ld. Advocate for the plaintiff has prayed that ex-parte ad interim injunction may kindly be granted against the defendants till the pendency of the present suit.
22. Ld. Advocate for the plaintiff has relied upon the following judgments in support of his contentions.

- i. Allied Blenders and Distillers Pvt. Ltd. vs. Sentino Bio Products Pvt. Ltd. and Others - [(2014) 07 DEL CK 0362 (High Court of Delhi)].
 - ii. Elektromag Devices and Ors. vs. Nikhil Ravindra Bhawalkar and Ors. (Hon'ble High Court of Bombay - Interim Application No.490 of 2023 in Com IP Suit No. 16 of 2023, Court Receiver's Report No.69 of 2023 and Leave Petition (L) No.40501 of 2022, decided on 20.06.2023).
 - iii. Max Healthcare Institute Ltd vs. Sahrudya Health Care Pvt. Ltd. [2019 (79) PTC 353 [DEL] - (High Court of Delhi)].
 - iv. Midas Hygiene Industries P. Ltd. & Anr. vs. Sudhir Bhatia & Ors. [2004 (28) PTC 121 (SC) - (Supreme Court of India)].
 - v. Vikram Stores & Anr. vs. S.N. Perfumery Works & Anr - [2009 (39) PTC 91 (Guj.)- High Court of Gujarat].
 - vi. Archian Foods Private Limited vs. Anchal Trading Company Ors. - [CS (COMM) 878/2023 (High Court of Delhi)].
23. I have heard Ld. advocate for the plaintiff and have perused the entire judicial record.
24. Upon perusal of record it appears that the plaintiff's firm is engaged in the business of management of restaurants and café, on-line ordering services in the field of restaurants, café, take-out and delivery, franchising services, namely business management, assistance in the establishment and operation of restaurants and café, franchising services in the nature of providing business management assistance in the establishment and operation of restaurants and café, marketing services in the field of restaurants and café since 2017 (Mark 3/1).

25. It further appears that the plaintiff originally started his business as a food truck on Sidhu Bhavan Road (Mark 3/3) and the plaintiff firm has a wide presence over famous social media platforms (Mark 3/3). It also appears that the plaintiff is the registered proprietor of the trademark CRUSH COFFEE in Class 30 vide Application No.4541223 for Trademark CRUSH COFFEE (Word), vide Application No. 4916385 for Trademark CRUSH INHOUSE SHAKES (Word) and in Class 43 vide Application No.4449971 for Trademark CRUSH COFFEE (Word), vide Application No.4053367 for Trademark CRUSH COFFEE (Device) (Mark 3/5).
26. It further appears that the trademark CRUSH COFFEE has been openly, extensively and continuously used by the plaintiff since 2017. It further appears that the trademark /word-mark / device mark CRUSH COFFEE is registered in the name of plaintiff in Class 30 & 43 , and Class 30 is related to coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, ices, honey, treacle, yeast, baking powder, salt, mustard and Class 43 is related to food and beverages and coffee bar (Mark 3/5).
27. It further appears that the effective date of application for registration of defendant's trademark i.e. THE CRUSH COFFEE is 08.11.2021 (Mark 3/17).
28. Trade-mark/word-mark/device mark CRUSH COFFEE is registered in the name of plaintiff and it appears that the trade-mark THE CRUSH COFFEE which is applied for registration afterwards by defendant is deceptively similar, identical to the prior used registered trade-mark, except minor differences wherein the defendant has added article 'THE' before the disputed mark i.e. "CRUSH COFFEE".

29. In the judgment of **Midas Hygiene Industries (P) Ltd. Vs. Sudhir Bhati, 2004 0 Supreme (SC) 84**, Hon'ble Apex Court has observed in para 5 that In the judgment of **Midas Hygiene Industries (P) Ltd. Vs. Sudhir Bhati, 2004 0 Supreme (SC) 84**, Hon'ble Apex Court has observed in para 5 that

"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."

30. The Hon'ble High Court of Bombay in the matter titled as **Sulphur Mills Limited Vs. Virendra Kumar Saini, 2021(87) PTC 60[Bom]** has observed in Para 9 as under:

"9. As far as the trade mark is concerned, there is undoubtedly visual, structural and phonetic similarity. Simply replacing the vowel "E" with another vowel "O" will not lend meaningful distinction. But what is a telling circumstance and prima facie establishes the dishonest adoption by the defendant of this mark and its attempt to ride on the reputation and goodwill of the plaintiff is the uncanny resemblance between the defendant's packaging and artistic work and that of the Plaintiff. This cannot be accidental or coincidental. It is deliberate. It is totally mala fide and intended to deceive. There is clear infringement of both trademark and copyright and a strong prima facie case on passing off as well."

31. From the facts placed on record, it appears that the disputed trademark used by the defendants as per copy of GST details of defendant regarding registration of their trademark is visually, phonetically identical/ deceptively similar to the prior used, prior adopted and registered trademark of the plaintiff. So much similarity in the two marks cannot be a coincidence when the plaintiff's trademark is being used by them since the year 2017 and the defendants appears to be the new entrant in the market. There appears to be dishonesty and mala-fide intention on the part of defendants to gain unlawful profit by en-cashing the goodwill earned by the plaintiff over the years.

32. The Hon'ble High Court of Bombay in the matter titled as **Parle Products Pvt. Ltd. & Ors. Vs. Future Consumer Ltd. and Ors.** has observed in para 9 & 10 as under:

"9. I have heard the submissions in detail and perused the record. Prima facie it appears that Plaintiffs are the owners of the copyright in Plaintiffs' Packaging used in respect of their "MONACO", "KRACKJACK" and "HIDE & SEEK" products and have acquired substantial goodwill and reputation in the same. Photographs of the rival products are reproduced below:

A comparison of the rival products hardly leaves any doubt about the manner in which Defendants have blatantly copied Plaintiffs' Packaging / labels. There is no doubt that the rival labels are being used for identical products under nearly identical packaging and trade dresses. The labels / artworks / packaging / trade dresses of Defendants' "CrackO", "Kracker King" and "Peek-a-Boo" products are a reproduction of Plaintiffs' Packaging used in respect of their "MONACO", "KRACKJACK" and "HIDE & SEEK" products and / or reproductions of substantial parts thereof. It is apparent that Defendants must have had Plaintiffs' products before them while designing the impugned packaging. The similarity in the rival packaging/labels cannot be a matter of coincidence.

10. In these circumstances, a strong prima facie case for the grant of ad-interim reliefs is made out. Unless reliefs as prayed for are granted, Plaintiffs are likely to suffer irreparable injury. The balance of convenience is also in favour of Plaintiffs. There are no equities in favour of Defendants. There shall accordingly be an ad-interim order against Defendant Nos.1, 2, 3 and 5 in terms of prayer clauses (a), (b) and (c) of the Interim Application except the bracketed portion, which read as follows:

a) that pending the hearing and final disposal of the suit, Defendants by themselves, their directors, servants, agents, stockists, dealers, distributors, packagers, manufacturers and all persons acting on their behalf be restrained by a temporary order and injunction of this Hon'ble Court from infringing Plaintiffs' copyright in Plaintiffs' Packaging show at EXHIBITS C, D and E to the Plaint by reproducing, publishing, communicating to the public or using in any manner the Impugned Packaging shown at Exhibits M-1, M-2 and M-3 to the Plaint, or any other work which is



reproduction of Plaintiffs' Packaging show at EXHIBITS C, D and E to the Plaint or substantial parts thereof or in any other manner whatsoever;

b) that pending the hearing and final disposal of the suit, Defendants by themselves, their directors, servants, agents, stockists, dealers, distributors, packagers, manufacturers and all persons acting on their behalf be restrained by a temporary order and injunction of this Hon'ble Court from in any manner using the Impugned Packaging shown at EXHIBITS M-1, M-2 and M-3 to the Plaint or any other label or packaging or colour scheme or lay out or get up or trade dress that is identical with and/or deceptively similar to Plaintiffs' Packaging, label, color scheme, lay out, trade dress shown at EXHIBITS C, D, and E to the Plaint or any feature contained therein in respect of biscuits or similar goods so as to pass off their impugned products as and for the products of Plaintiffs in any manner whatsoever;

c) that pending the hearing and final disposal of the suit, the Court Receiver, High Court, Bombay or any other fit person be appointed with all powers under Order XL Rule 1 of Civil Procedure Code, 1908 as the Receiver of Defendants' impugned products in/ bearing the Impugned Packaging with all powers to enter in the premises of Defendants and/or their directors, servants, agents, dealers, stockists, manufacturers, packagers and distributors at any time of the day or night (even on Sundays and holidays), to seize and take charge, possession and control of the impugned products bearing the Impugned Packaging (and also to take charge and possession of all other goods, records (printed and electronic), account books showing manufacture, stock and/or sale/export of the impugned goods bearing the Impugned Packaging) in possession and control of Defendants and/or their directors, agents, servants, distributors, stockists, manufacturers, packagers and/or dealers;"

33. Applying the ratio laid down by Hon'ble Apex Court and Hon'ble High Courts on the facts and circumstances of the present matter, it can be concluded that plaintiff is having strong prima-facie case in its favour and balance of convenience also lies in favor of the plaintiff as Plaintiff has been using their registered trade-mark **CRUSH COFFEE** since the year 2017 and the defendants has mentioned their trademark



which is deceptively similar/identical mark THE CRUSH COFFEE in the GST details of defendant to be used since 2020.

34. Considering the similar nature of products sold i.e. food and beverages with identical/deceptively similar trade-marks by both the parties, there is every possibility of deception in the mind of the public at large that the defendants in any manner are associated with the plaintiff and/or is selling the products of the plaintiff on its behalf, hence there is every possibility that public at large may get confused and deceived that the defendants are associated with the plaintiff and/or is selling /manufacturing their products./services on behalf of the plaintiff.
35. This court is conscious of the fact that ex-parte injunction can be granted by any court only when there appears a prima-facie case, balance of convenience in favour of plaintiff, irreparable loss and injury to plaintiff if the injunction is not granted and also that the delay in granting the injunction would defeat the justice.
36. In the present matter, there appears to be a strong prima-facie case and balance of convenience in favor of plaintiff as the plaintiff is using the their prior adopted registered trade-mark(s) continuously, regularly, uninterruptedly since 2017, whereas, the defendants appears to be new entrant in market and no injury would be caused to the defendants if the ex-parte ad-interim injunction is granted in the present matter, on the contrary, plaintiff may suffer irreparable loss and injury if the ad-interim injunction is not granted as the delay would defeat the justice.
37. Hence, in the considered opinion of this court, ex-parte ad-interim injunction till the next date of hearing is required to be granted in favour of the plaintiff and show-cause-notice be issued to the defendants to state as to why the ad-interim injunction granted till the next date of hearing is not to be granted till the pendency of the present



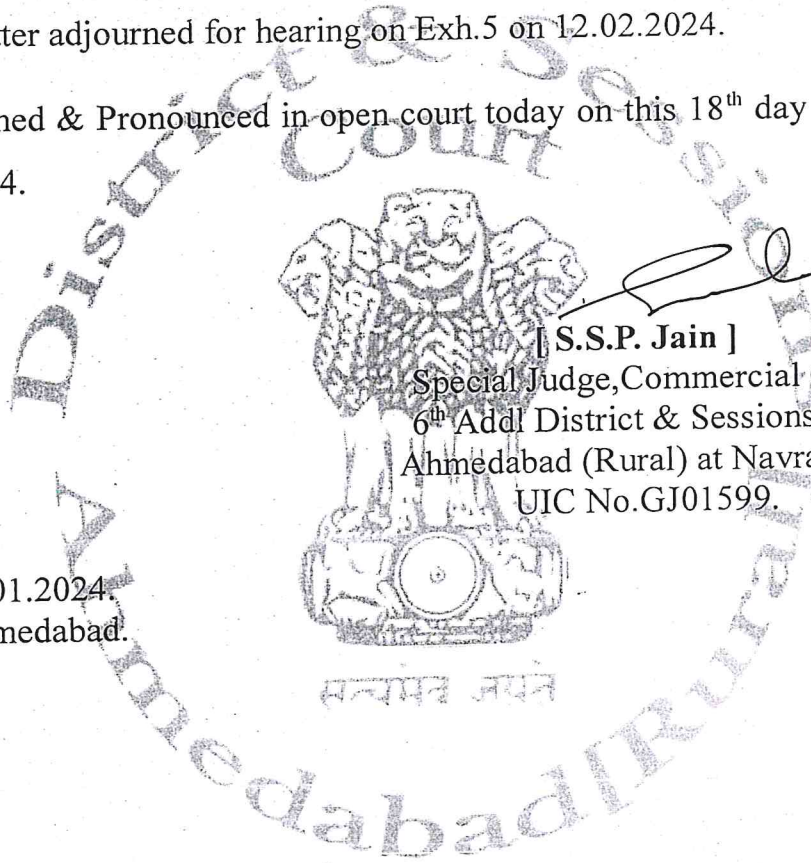
Commercial Trade Mark Civil Suit. Therefore, following order is passed in the interest of justice:-

:-ORDER:-

- The defendants, the partnership, partners, heirs, franchises, assigns, licensees, agents and all related business personnel are **temporarily restrained** from using, selling, advertising, circulating, displaying and marketing its goods and services and/or cognate goods, under the completely identical-deceptively similar as well as phonetically similar trademark **THE CRUSH COFFEE** as that of the registered trademark **CRUSH COFFEE** of the plaintiff and are hereby **further temporarily restrained** from infringing the plaintiff's well-reputed registered trademarks **CRUSH COFFEE** and are hereby **further temporarily restrained** from using, selling, advertising, circulating, displaying and marketing its services identical to that of the plaintiff and/or cognate goods in online and offline mediums, under the completely identical as well as phonetically similar trademark **THE CRUSH COFFEE** as that of registered trademarks **CRUSH COFFEE** of the plaintiff and are hereby **further temporarily restrained** from advertising its services under the trademark **THE CRUSH COFFEE**, as that of the plaintiff, till the next date of hearing i.e. till 12.02.2024.
- Defendants to appear with reply to Exh.5 application before this Court in person or through his/their authorized representative/s on or before 12.02.2024 to show-cause as to why ex-parte ad-interim injunction granted in the present matter be not made absolute and defendants be not restrained to do above stated things till the pendency of Commercial Trade Mark Civil Suit No.16 of 2023.

- Plaintiff is permitted to serve the defendants with copy of plaint, Interim Injunction application, copy of entire set of documents and affidavit, through all modes including email, RPAD, Speed Post in addition to regular mode of service and plaintiff shall submit the proof of service on record.
- Show-cause-notice be issued to the defendants and Matter be kept for hearing on Exh.5.
- Matter adjourned for hearing on Exh.5 on 12.02.2024.

Signed & Pronounced in open court today on this 18th day of January, 2024.



[S.S.P. Jain]

Special Judge, Commercial Court and
6th Addl District & Sessions Judge,
Ahmedabad (Rural) at Navrangpura.
UIC No.GJ01599.

18/01/24

Date :18.01.2024
Place:Ahmedabad.
A.V.Jani

Seen
Dhruv Shah
For Y. Trivedi
Adv for Plaintiff
18/01/2024