

## CASE COMMENT ON SUZUKI MOTOR V SUZUKI (INDIA) LTD

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The Delhi High Court passed a judgment in the case of *Suzuki Motor v Suzuki (India) Ltd.*<sup>1</sup> Regarding well known mark on 19th July 2019, by a Single Judge Bench namely, Justice J.R. Midha of Delhi High Court, ruled in favour of Suzuki Motor (Plaintiff) declaring SUZUKI to be a well-known trademark. A decree was passed under Order XII Rule 6 of the Code of Civil Procedure, 1908 against Suzuki Ltd. (Defendant) as they specifically failed to deny the facts which were present in the plaint, thereby affirming the allegations.

### Background

The Plaintiff had instituted the suit for permanent injunction so as to restrain the Defendants from infringing their trade mark SUZUKI. An interim order was passed on 12th December 2005, restraining the Suzuki Ltd. from using SUZUKI as part of their trade name. There were other co-defendants present who were removed in the trial stage as they were not necessary parties in the suit. The Plaintiff sought a decree under Order XII Rule 6 of the Code of Civil Procedure, 1908 against the Defendant, on the ground that there was no defense raised in the written statement. The territorial jurisdiction of the Court had been challenged as the Defendant claimed that not having any office in Delhi. But it was later admitted by the Managing Director on oath before the Court that they have an office in Delhi.

### Contentions of Plaintiff

The Plaintiff had started its business in Japan in the year 1909, having SUZUKI as a part of its corporate name/trade name. It had registered SUZUKI as a trade mark around the world including India. Due to its global brand presence, it has created tremendous goodwill and reputation. The trade mark SUZUKI has become distinctive for the Plaintiff at their global levels due to its continuous and substantial advertising. In India, the Plaintiff registered their mark in the year 1972 and after that in the year 1982; it comes under a joint venture agreement with the Indian government. It has licensed its technology to Maruti Suzuki India Limited (MSIL). The Plaintiff also allowed MSIL to use SUZUKI as its corporate name. Considerable publicity was made on the collaboration. Around that time, the Defendant adopted the name SUZUKI INDIA LIMITED with deceptive and dishonest intention to encash upon the goodwill of the Plaintiff

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<sup>1</sup> Suzuki Motor v Suzuki (India) Ltd., CS (COMM) 235/2018 & I.A. 8507/2019.

and to pass off its business as having some relation to the Plaintiff. SUZUKI is a Japanese surname and there is no support on the part of the Defendant to use it as a corporate name. Also, SUZUKI is a family name of the founder of company. Thus, it is not connected in any way with the Defendant activity. The explanation provided by the Defendant was not satisfactory, including the reason provided by the Managing Director who stated that his father knew someone by the name SUZUKI. This was not considered as genuine.

### **Contentions of Defendant**

The Defendant had been using SUZUKI as a part of its trade name since 1982 and it has earned goodwill and reputation due to its honest and concurrent use in relation to its finance and investment business. The Plaintiff filed the present suit after 25 years. Therefore, the delay should be construed as acquiescence under the Trade Marks Act, 1999. The Plaintiff has wallowed in ‘forum shopping’ as no part of cause of action has arisen in the jurisdiction of this Court. The business place of defendant’s company is in Kolkata, hence the suit is barred by territorial jurisdiction of this Court. The Plaintiff cannot claim monopoly over all classes of goods as it can only use its mark for automobiles. Therefore, there won’t be any deception or confusion by the consumers with regard to the use of the name SUZUKI as the Defendant has no relation to automobiles. The Defendant has not made any admission hence the suit is unwarranted under Order XII Rule 6 of the Code of Procedure.

### **Findings of Court**

The Court observed that the Defendant did not deny that the adoption of the name SUZUKI was dishonest, malafide and intended to deceive the consumers. The Court refers the cases *M/s Gian Chand Brothers v Rattan Lal*<sup>2</sup> and *Badat & Co v East India Trading Co.*<sup>3</sup> As the Defendant did not specifically deny those contentions, hence it is deemed to have been admitted. The Defendant also failed to deny that it was fully aware of Plaintiff’s reputation and goodwill, and that the use of the mark will mislead consumers thinking them to be licensed by Plaintiff which is not true. There has been tarnishment of Plaintiff’s goodwill and reputation and also dilution of the distinctive trade mark due to illegal use by the Defendant. This action has caused irreparable damage to the Plaintiff. This has not been denied by the Defendant. As there was no specific denial by the Defendant, it had been deemed to be admitted. The Court observed

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<sup>2</sup> *M/s Gian Chand Brothers v Rattan Lal*, MANU/SC/0015/2013.

<sup>3</sup> *Badat & Co v East India Trading Co.*, AIR 1964 SC 538.

that vague denials were sufficient to pass decree against the Defendant. The Court stated that the Plaintiff is the registered proprietor of well-known trademark SUZUKI which has been registered with the Registrar of Trade Marks. The Plaintiff had provided to the Court sufficient evidences and material to show SUZUKI was a well-known mark since 1982 when the Defendant adopted the said name. Therefore, the adoption of the mark by the Defendant was fraudulent in nature with the intention to encash upon their goodwill. The defence of the Defendant of not being aware of the Plaintiff's name and trademark since 1982 is rejected as there was enough record to prove its well-known nature. Also, the Defendant is deemed to have constructive notice of the Plaintiff's statutory and exclusive right to use the trade mark. The Managing Director affirmed on oath that a consumer may get confused while dealing with Defendant company thinking it to be Japanese company. Hence, there is no just cause for the Defendant to use SUZUKI as part of corporate name, as the term is a Japanese surname and there is no association with Indian name, place, object or term. SUZUKI has acquired distinctiveness and secondary meaning in the business circle and if anyone adopts the same name it would likely create the idea of a connection with the Plaintiff. As there was dishonest intention to use the mark since the beginning, mere delay in bringing the action cannot be put as defence by the Defendant. By just being a concurrent user is not sufficient in law. There should be honest use. The Defendant failed to prove its honesty and therefore the Court came to the conclusion that there has been infringement of Plaintiff's trade mark on account of statutory rights under Section 28 of The Trademarks Act, 1999. As the concept of passing off is changing, it is not necessary to allow both the Plaintiff and the Defendant to trade in same field. The Defendant had also raised a false defence of territorial jurisdiction of having no office in Delhi. But the Managing director has admitted on oath on having an office at Delhi, hence there was no merit in the said objection. Accordingly, the suit was decreed under Order XII Rule 6 of the Code of Procedure, 1908 against the Defendant. Also, the court observed that the suit warrants prosecution under Section 209 of Indian Penal Code, 1860 for raising false claims. Nevertheless, in the interest of justice, Defendant had been granted three weeks' time to file an unconditional apology.

### **Comments**

This judgment underlines the importance of specific denials in a suit. The judgement also highlights that once the Court comes to a conclusion that there is dishonesty on the part of Defendant, delay is immaterial and judgment emphasizes on the importance of vague denials in a

suit. Also, it highlights the fact that presence of dishonesty will not cause the suit to be dropped off even though there had been delay in filing the suit. The judgment also stresses on the understanding of well-known mark and how passing off can the parties occur even though are in different business. Registration and unauthorized use of such a trademark is an infringement of the trademark. Unauthorized use of such mark creates confusion about the quality of product within the consumers and hence damages the reputation of the brand. Illegitimate imitation of trademarks is a punishable offence.