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Deceptively Similar Trademark: Delhi High Court Grants Permanent Injunction To Karim's

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The Bench of Hon'ble Delhi High Court, comprising of Hon'ble Justice Sanjeev Narula rendered a significant ruling, in favour of Karim Hotels Pvt. Ltd. ("**Plaintiff Company**") in a trademark infringement Suit. The legal dispute revolved around a restaurant operated by the Defendant under the name "KARIN'S" which bore striking resemblance to the already protected mark of the Plaintiff. The Plaintiff Company alleged that the defendants are infringing on their already protected mark "KARIM'S" by using a similar mark, thereby passing off their goods as those of the Plaintiffs.

The Plaintiff i.e. Karim Hotels Pvt Ltd, renowned for its Mughlai cuisine, possessed the registered trademark "KARIM'S" since December 1998. The mark originally adopted by Mr. Haji Karimuddin in 1913, was used extensively in association with the chain of restaurants operated by the Plaintiff Company. In the year 1987, Mr Karimuddin's heirs constituted a Private Limited Company under the name Karim Hotels Pvt. Ltd and over the years, the Plaintiff Company registered multiple trademarks to protect their brand's distinctive identity. The registered trademark of the Plaintiff Company, "KARIM'S," garnered significant goodwill and reputation through years. To use the established goodwill and expand their market presence, Plaintiff Company adopted a business strategy of licensing their trademark to others, specifically in the context of restaurant services.

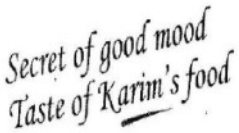
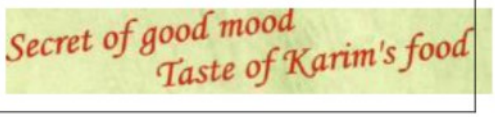
The issue leading to the present Suit, arose when the Defendants, previously in a business relationship with the Plaintiff Company, deliberately began using the deceptive similar mark "KARIN'S" and also the Plaintiff Company's protected mark for their restaurant located at Plot No. 169, Adarsh Nagar, Ghaziabad. By using this similar mark, the defendants allegedly infringed on the Plaintiffs' trademark rights and mislead consumers into believing that their goods or services are associated with or endorsed by the Plaintiff. This act of the Defendant was in direct violation of a prior cancellation agreement dated 1st November, 2009, wherein the defendants had undertaken not to use any marks deceptively similar to "KARIM'S".

For reader's convenience Section 2(1)(h) of the Trademarks Act, 1999 defines mark as deceptive similar when it closely resembles the other to the extent that it could potentially mislead or confuse consumers. This provision is crucial in trademark law as it helps protect the rights of trademark owners and prevent unfair competition.

Upon discovering the infringement, the Plaintiff Company issued a cease-and-desist notice. However, after initial compliance, the defendants resumed their infringing activities, prompting the Plaintiff Company to file the present suit. The Hon'ble Court, granted an ad-interim injunction, restraining the defendants from using the disputed mark and appointed a Local Commissioner. Despite being served with summons and given the opportunity to contest the suit, both Defendants failed to file their written statements, resulting in the closure of their right. As a consequence, the court extended the ad-interim injunction until the pendency of the suit.

The Local Commissioner inspected the defendants' premises and seized infringing materials and filed report. The Commissioners report confirmed the presence of infringing materials bearing the Plaintiffs' trademarks at the defendants' premises. This report provided crucial evidence supporting the Plaintiffs' claims of trademark infringement.

The Hon'ble Court also conducted a visual comparison of the trademarks used by both parties to determine whether the Plaintiffs' intellectual property rights have been infringed. For readers' convenience the table is reproduce hereinbelow

Plaintiffs' trademark	*Defendants' trademark*
KARIM'S	KARIN'S
	
	
	

The Hon'ble Court carefully reviewed the evidence, including trademark registrations, agreements between the parties and the Local Commissioner's report, which documented the presence of the infringing "KARIM'S" signage and materials at the defendants' restaurant. Photographs and seized items, such as menu cards and leaflets bearing the disputed mark, substantiated the Plaintiffs' claims. During the pendency of the Suit the defendants filed affidavits wherein they pleaded that the restaurant operations in the name of "KARIN'S" were closed in October 2012.

The Hon'ble Court decreed the suit in favor of the plaintiffs, acknowledging their rights to the "KARIM'S" trademark and copyright protection over related artistic works. The bench highlighted the striking similarity between "KARIM'S" and "KARIN'S", noting that the defendants had replicated the font, design, colour scheme and overall presentation of the Plaintiffs' trademark, leading to inevitable consumer confusion. The Hon'ble Court also noted their use of similar goods and services and held that indeed the defendants were infringing upon the plaintiff's registered trademark u/s 29(1) and 29(2) of the Trademarks Act, 1999.

The Hon'ble Court, granted permanent injunction, prohibiting the defendants from using any mark identical or deceptively similar to "KARIM'S". The Plaintiffs waived the prayer for damages as the defendants' ceased business under the disputed mark. The Hon'ble Court awarded the Plaintiffs' costs for litigation expenses. In today's intense competitive environment trademark infringement has severe financial implication on businesses. The deceptively similar trademarks can cause confusion among the customers, resulting in loss of customer trust and reputation of the business. This judgment shows the need for protecting intellectual property rights and highlights the consequences of trademark infringement and passing off in commercial disputes.