



**Mohan Meaking Limited v. Eston Roman
Brewery & Distillery Pvt. Ltd.
Commercial Suit No.07 of 2025**

09.07.2025 Present: M/s C.A. Brijesh, Krisna Gambhir and Arvind Sharma, Advocates, for the plaintiff.

Issue notice to the defendant, returnable for 08.09.2025, on taking steps within one week.

List on 08.09.2025.

OMP No.940 of 2025

Notice in above terms. Learned counsel for the plaintiff has submitted that the plaintiff is a pioneer in the liquor industry and has established breweries and distilleries in various parts of the Country including the State of Himachal Pradesh. Defendant is a company recently incorporated on 31.07.2023. Defendant is engaged in the business of manufacturing, supplying, distributing coffee flavored rum under the mark/label "OLD MIST". Learned counsel for the plaintiff submitted that the plaintiff has a duly registered trade mark of its product, namely, Old Monk Coffee, application for registration whereof is dated 22.11.2021 and which trade mark was registered on 09.06.2022. Learned counsel has drawn the attention of the Court to the said trade mark certificate and submitted that the same is valid upto 22.11.2031. He further submitted that a perusal of the registered trade mark of the

plaintiff and its product and the product of the defendant in issue would reveal that the defendant is bottling its product and labeling it in such a manner so as to pass it off as the product of the plaintiff. Learned counsel submitted that the defendant does not has any registered trade mark vis-à-vis the offending product. Learned counsel has drawn the attention of the Court to the labels of the bottles of the plaintiff as well as the defendant. He has also produced for the perusal of the Court the product which is being manufactured and sold by the plaintiff as well as the product which is being manufactured and sold by the defendant. He submitted that the product being sold by the defendant, is so akin to the one that is being manufactured and sold by the plaintiff, that it can create confusion in the mind of any ordinary person and the defendant can easily pass off its product as that of the defendant which is one of the premier companies as far as manufacturing of liquor products in the country are concerned. Learned counsel submitted that the plaintiff in fact is the 3rd largest rum manufacturer in the entire world. Learned counsel also stated that the cause of action has recently accrued in favour of the plaintiff when they discovered the factum of the said product being manufactured and sold by the

defendant in Goa in the month of June, 2025. Accordingly, he prayed that as the plaintiff has a prima facie case in its favour and further as balance of convenience is also in favour of the plaintiff because it has a registered trade mark, whereas the defendant has none and further as irreparable loss shall be caused to the plaintiff in case the defendant is not restrained from selling the infringing product, in the interregnum, the defendant be restrained from selling the infringing product.

Having heard learned counsel for the plaintiff and having perused the averments made in the plaint as well as the application and upon a close perusal of the label of the product being sold by the plaintiff as compared to the one being sold by the defendant and upon a close perusal of the bottled product of the plaintiff as well as of the defendant, this Court is of the considered view that the plaintiff has been able to make out a prima facie case.

Prima facie it appears that there is an infringement of the trade mark of the plaintiff by the defendant on account of the similarity of the product of the defendant vis-à-vis the registered trade mark and the identity thereof as well as similarity of the goods vis-à-vis that of the plaintiff. This Court further is of the considered

view that in these circumstances, if the infringement is allowed to continue, it is likely to cause confusion on the part of the public and defendant obviously would be in a position to pass off its product as that of the plaintiff. Therefore, as there indeed is a prima facie case in favour of the plaintiff and further balance of convenience is also in favour of the plaintiff as it has a registered trade mark, whereas, the defendant has none and further irreparable loss shall be caused to the defendant, in case, said defendant is allowed to infringe the trade mark of the defendant, till further orders, the defendant is restrained from selling and distributing the infringement product, i.e. The Old Mist Coffee Rum themselves or through their representatives, distributor, employees etc. This order of course was subject to the compliance of the provisions of Order 39 Rule 3 of the CPC.

(Ajay Mohan Goel)
Judge

July 09, 2025
(Vinod)