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

% *Date of Decision : 21.07.2026*

+ **FAO(OS) (COMM) 180/2026 CM APPL. 45867/2026 CM APPL. 45868/2026 CM APPL. 45869/2026 CM APPL. 45870/2026**

JAGDISH DAHYALAL PATELAppellant
Through: Mr. Sachin Gupta, Ms. Prashansa Singh, Mr Rajat Jain, Mr. Rohit Pradhan and Ms. Mahima Chanchalani, Advs.

versus

ANCHOR CONSUMER PRODUCTS
PRIVATE LIMITEDRespondent
Through: Ms. Swathi Sukumar, Sr. Adv. with Mr. Sudeep Chatterjee, Mr. Kunal Vats, Mr. Rajit Ghosh, Mr. Sreejan Pankaj, Ms. Aastha Verma, Mr. Ritik Raghuwanshi and Ms. Rishika Aggarwal, Advs.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

MANMEET PRITAM SINGH ARORA, J. (ORAL)

1. The present appeal has been filed under Order 43 Rule 1(r) read with Section 151 of the Code of Civil Procedure, 1908 ['CPC'] and Section 13(1A) of the Commercial Courts Act, 2015 ['Act of 2015'] read with Section 10 of the Delhi High Court Act, 1966 impugning the ex-parte ad-interim injunction order dated 26.05.2026 ['impugned order'] passed by the



learned Single Judge in CS(COMM) 599/2026 titled '**Anchor Consumer Products private limited v. Jagdish Dahyalal Patel**' restraining the Appellant herein from using the mark 'DYNAFRESH' ['impugned mark'] or any other mark identical with or deceptively similar to the Respondent's registered trademark 'DYNA'.

2. Respondent in May, 2026 instituted a commercial suit against Appellant on the assertion that Appellant's impugned mark 'DYNAFRESH', used for air fresheners, is deceptively similar to the Respondent's registered mark 'DYNA', used for soaps and other personal care products since the year 1999.

3. Respondent, through the commercial suit, prayed for an ex-parte ad-interim injunction and an appointment of a Local Commissioner, before the learned Single Judge. The said prayers were granted by the learned Single Judge *vide* impugned order dated 26.05.2026 after recording submissions of the Respondent.

SUBMISSIONS BY THE APPELLANT

4. Mr. Sachin Gupta, learned counsel for the Appellant states that, in the plaint, the Respondent withheld from the learned Single Judge the material fact that the Appellant has been selling air fresheners using the impugned mark 'DYNAFRESH', at least since June 2021, and the Respondent has built a false narrative, to allege that the adoption of the impugned mark 'DYNAFRESH' by the Appellant is recent i.e., in May 2026.

4.1 He states that the Respondent had access to the GST paid tax invoices ['invoices'] of the Appellant, evidencing use since June 2021, as 45 GST



paid tax invoices have been filed by the Appellant with its user-based trademark application no. 6978521 for 'DYNAFRESH' [label] in the relevant Class 3, before the Trade Marks Registry.

He states that the said 45 GST paid tax invoices ought to have been filed by the Respondent along with the plaint, so that the learned Single Judge would have had the knowledge of the use of the impugned mark 'DYNAFRESH' by the Appellant since June 2021 and it may have persuaded the learned Single Judge to not grant an ex-parte ad-interim injunction in favour of the Respondent.

He states that withholding the said invoices is suppression and not only should the impugned order be vacated but the application I.A. No. 15112/2026 seeking ex-parte ad-interim injunction, itself be dismissed. He refers to the judgments of **Amar Singh v. Union of India and Others**¹, **Barbara Taylor Bradford and Anr. v. Sahara Media Entertainment Ltd. and Ors.**², **Oswal Fats and Oils Limited v. Additional Commissioner (Administration), Bareilly Division, Bareilly and Ors.**³.

4.2 He states that the Appellant was entitled to a hearing before passing of the impugned order considering that it had been using the impugned mark since the year 2021 and not recently in 2026, as averred in the plaint. He relies upon the order of the coordinate Bench in **Dabur India Limited v. Emami Limited**⁴.

4.3 He states that he has already filed an application i.e., I.A No.

¹ (2011) 7 SCC 69, at paragraph 53 to 65

² 2003 SCC OnLine Cal 323, at paragraph 213 to 225

³ (2010) 4 SCC 728, at paragraph 20

⁴ 2023 SCC OnLine Del 5824, at paragraph 11



16849/2026 seeking recall of the impugned order, on which notice has been issued directing parties to complete pleadings and the said application is listed for hearing on 10.08.2026.

He, however, states on instructions that Appellant does not wish to pursue the said application and undertakes to withdraw the same. He contends that the Appellant wishes to pursue the present appeal as its remedy against the impugned order.

5. No other plea was raised or pressed during arguments by the learned counsel for the Appellant.

SUBMISSIONS BY THE RESPONDENT

6. Ms. Swathi Sukumar, learned senior counsel appearing on behalf of the Respondent submits that, in the plaint, Respondent had made a full disclosure of the Appellant's first trademark application no. 5586219 dated 27.08.2022 for the impugned mark 'DYNAFRESH' in Class 3 claiming user since 29.02.2020.

She states that the said trademark application was refused by the Registrar of Trademarks ['Registrar'] *vide* reasoned order dated 29.07.2024. She states that the said application was rejected on two grounds i.e., (i) that the impugned mark was in conflict with the Respondent's mark 'DYNA' registered *vide* trademark application no. 1393517 in the same Class 3; and (ii) on the finding that the Appellant's user claim of 29.02.2020 was held to be not proved despite opportunities, leading the Registrar to conclude that the Appellant had no bona fide adoption of the impugned mark 'DYNAFRESH'. She states that the said order dated 29.07.2024 was not challenged by the Appellant and it has attained finality.



6.1. She states that the Appellant is estopped by the said order dated 29.07.2024 dismissing trademark application no. 5586219 for the impugned mark 'DYNAFRESH', from filing the subsequent trademark application no. 6978521, again, for the impugned mark 'DYNAFRESH'.

6.2. She states that in view of the specific rejection of the user claim in order dated 29.07.2024, the Respondent was not liable to refer to the 45 GST paid tax invoices, relied upon by the Appellant, before the Registrar in support of trademark application no. 6978521. She states that the said application is still at the formalities check pass stage before the Registrar and veracity of the said invoices has not been examined by the Registrar.

6.3. She states that, in view of the order dated 29.07.2024, which records that the Appellant failed to produce documents to support its user claim of 29.02.2020 despite several opportunities, makes the invoices, now relied upon, suspect. She states that the Appellant has not filed the order dated 29.07.2024, with the present appeal. She has handed over a copy of the said order dated 29.07.2024 to the Court.

6.4. She states that the fact that a second trademark application no. 6978521 dated 26.04.2025 on the impugned mark 'DYNAFRESH' was filed by the Appellant, was duly disclosed as the status of the said application was filed with the plaint paper-book.

6.5. She states that the Respondent had relied upon additional documents at the hearing dated 26.05.2026 evidencing the listing of the Appellant's product on the e-commerce website of Amazon in the year 2021, 2022 and



2025. She states that, however, as per some of the listings, the Appellant's products are currently unavailable on the e-commerce platform. She states that the said documents form part of the suit record.

6.6. She states that Appellant cannot maintain both, its application for recall of the impugned order being I.A No. 16849/2026 as well as the present appeal, it must elect its remedy. She relies upon the judgment of Supreme Court in **Rajendra (dead) v. Chandadevi and Sons (P) Ltd. Co. and Ors.**⁵ and **Rekha Mukherjee v. Ashis Kumar Das and Ors.**⁶.

FINDINGS AND ANALYSIS

7. We take on record the submission of the learned counsel for the Appellant that the Appellant does not wish to pursue I.A. No. 16849/2026 and wishes to pursue the present appeal against the impugned order dated 26.05.2026. This answers the objection on maintainability raised by the Respondent. Accordingly, I.A. 16849/2026 in CS(COMM) 599/2026 is hereby dismissed as withdrawn and we accordingly proceed to decide the present appeal.

8. The learned Single Judge in the impugned order has granted the ex-parte ad-interim injunction after returning prima facie findings on the existence of substantial goodwill and immense reputation of the Respondent in its registered mark 'DYNA' and on the finding that the Appellant's adoption of the impugned mark 'DYNAFRESH' is not bona fide. Learned Single Judge has also opined that the rival marks are deceptively similar and

⁵ (2005) 12 SCC 335

⁶ (2005) 3 SCC 427



therefore likely to create confusion amongst the public. Learned Single Judge has held that in these facts the balance of convenience is in favour of the Respondent, who will suffer irreparable injury if injunction is not granted.

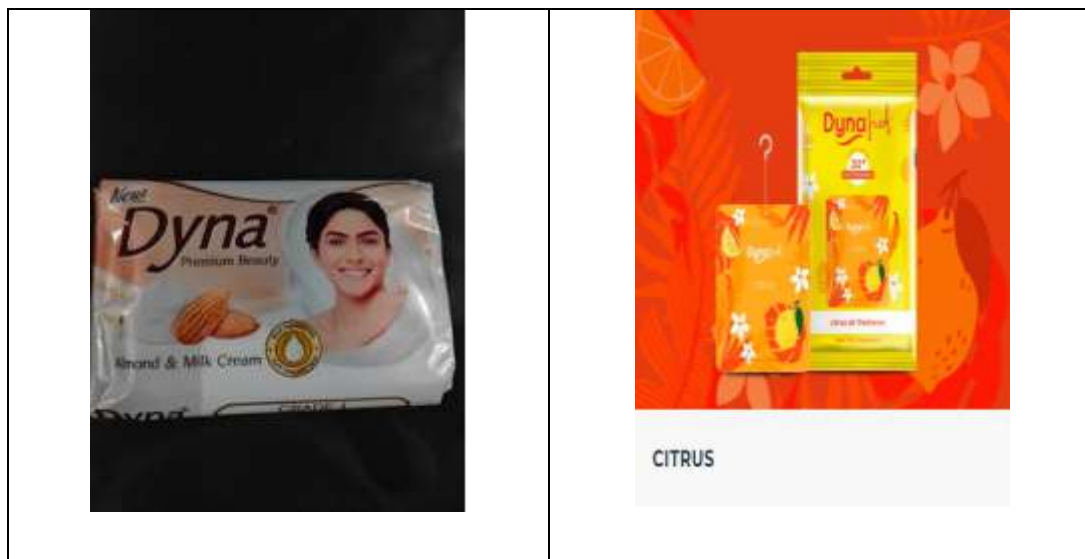
9. The Appellant has during arguments, however, challenged the impugned order *only* on the ground of alleged suppression, by the Respondent, of not filing, along with the plaint, the 45 GST paid tax invoices filed by the Appellant, with its second trademark application no. 6978521 by the Appellant, evidencing purported use of the impugned mark since 05.06.2021. No arguments were addressed by the Appellant, to the findings on merits of the Respondent's claim which forms the basis of the grant of ad-interim injunction.

10. Thus, before we evaluate the weight of the solitary ground of the alleged suppression raised by the Appellant in the present appeal, for seeking setting aside of the impugned order, we deem it appropriate to enlist the findings returned on merits and reasons recorded by the learned Single Judge for granting the ad-interim injunction *vide* the impugned order. The findings can be summarized as under:

- (I) Learned Single Judge, at paragraph 31 of the impugned order, examined the merits of the claims of the Respondent on the anvil of passing off.
- (II) Learned Single Judge examined and compared the rival marks visually. The same is tabulated, as in the impugned order, as under:



Mark of the Respondent/Plaintiff	Mark of the Appellant/Defendant
DYNA	DYNAFRESH
	
	
	



(III) Upon a visual comparison of the rival marks, at paragraph 32 of the impugned order, the learned Single Judge concluded that the Appellant is prominently using the mark 'DYNA' in its trade dress while the word 'FRESH' appears in smaller size, in respect of certain products. It also observed that the word 'FRESH' has been written in a stylized manner with a different font and therefore does not appear to be a part of the entire trademark, on the trade dress. Learned Single Judge concluded, thus it is the mark 'DYNA' as it appears on the Appellant's product which catches the eye of the viewer.

The colour scheme of the trade dress of the Appellant, when compared with the colour scheme of the Respondent's products and packaging appears to be deceptively similar.

Since the Respondent itself uses its mark 'DYNA' with words such as "Premium Beauty" and "Natural" as subscript on its



products, the Appellant's impugned mark 'DYNAFRESH' is likely to give an impression of a close association or deceptive similarity.

- (IV) Upon perusal of the scale of advertisements, celebrity endorsements undertaken by the Respondent to promote its mark 'DYNA', and volume of sales between FY 2005-2006 and FY 2024-2025, the learned Single Judge concluded that the Respondent has earned substantial goodwill and immense reputation for its products sold under the mark 'DYNA'. It concluded that the endorsements lend credence to the assertion of quality and popularity of the products sold by the Respondent.
- (V) Upon perusal of the contents of the order dated 29.07.2024 passed by the Registrar refusing the Appellant's first trademark application no. 5586219 for the impugned mark 'DYNAFRESH' in Class 3, learned Single Judge at paragraph 37 and 38 of the impugned order, concluded that the Appellant's adoption of the impugned mark 'DYNAFRESH' despite rejection, by the Registrar, is not bona fide.
- (VI) After taking into consideration, the commonality of the trade channels and the consumers, learned Single Judge at paragraph 39 of the impugned order concluded that due to deceptive similarity of the rival marks, the consumer with average intelligence and imperfect recollection will get deceived. It held that the use of the impugned mark 'DYNAFRESH' shall cause confusion and deception in the minds of the general public.



(VII) Learned Single Judge at paragraph 40 and 41 of the impugned order, thus concluded that Respondent had firmly established a prima facie case of passing off and concluded that the deceptive similarity shall cause damage to the financial interest of the Respondent and thus held that the balance of convenience is in favour of the Respondent and irreparable injury will be caused to the Respondent. And, consequently issued the ex-parte ad-interim injunction, at paragraph 42 of the impugned order.

11. The Appellant, during arguments, has not challenged the findings of the learned Single Judge on the ground of deceptive similarity of the rival marks 'DYNA' and 'DYNAFRESH'. It has not challenged the findings returned on substantial goodwill and immense reputation of the Respondent's mark 'DYNA' and most importantly, it has not challenged the finding of lack of bona fide adoption of the impugned mark, returned by the learned Single Judge on the basis of the order dated 29.07.2024 passed by the Registrar on Appellant's first trademark application no. 5586219.

12. The Registrar's order dated 29.07.2024 rejecting the Appellant's user-based first trademark application no. 5586219 dated 27.08.2022, claiming user since 29.02.2020 is significant and, the relevant extract reads as under:

"Impugned mark "DYNAFRESH" is found phonetically and visually similar to the cited conflicting mark "DYNA" vide application No. 1393517 for applied specification of goods which is also similar. Impugned mark is subsequent to the mark cited in the examination report. Further, though the applicant has claimed user since 29/02/2020 but has not provided/filed any substantive documentary evidence to establish or even to corroborate the said user. There is likelihood of confusion. No explanation by applicant regarding adoption of the mark when similar mark



already on record.

It is well settled principle of law that the two words shall be compared both visually and phonetically and then within the context of the nature of the goods/services to which they apply as well as the nature and kind of consumer base that is relevant for the sale of such products/services.

User Claim: The applicant of impugned mark claimed to be user since 29/02/2020. In view of the application, the Registrar of Trademarks has opined that after given an ample opportunity the applicant has not been honestly and continuously using the trademark among the trade and public hence the applicant has no bona fide adoption of the subject mark in respect of the applied goods/services.

In view of the above, objection u/sec. 11 cannot be waived. Hence, refused

After perusal of all the documents on record it is concluded that applied mark is not registrable because of the reason stated as above. Hence application no 5586219 cannot be accepted and refused accordingly.”

(Emphasis Supplied)

13. The Registrar vide order dated 29.07.2024 refused acceptance of the Appellant’s first trademark application no. 5586219 for the impugned mark ‘DYNAFRESH’ on the specific ground that it is phonetically and visually similar to the Respondent’s mark ‘DYNA’. The Registrar also recorded that the purported user claim of 29.02.2020 was not proved by the Appellant despite ample opportunities, leading to a conclusion that the Appellant is not honestly and continuously using the mark for its goods; and a further conclusion that the adoption of the impugned mark ‘DYNAFRESH’ by the Appellant is also not bona fide.

14. It is a matter of record that the said order dated 29.07.2024, of the Registrar has not been challenged by the Appellant. The Appellant had a remedy to challenge the order dated 29.07.2024 by filing an appeal,



however, it elected not to challenge the said order and therefore, it has attained finality. The Appellant is thus, bound by the findings in the said order.

15. In our considered opinion, the finding returned by the learned Single Judge, at paragraph 38 of the impugned order, on the basis of the order dated 29.07.2024 is unexceptional and apposite in the facts of this case. Paragraph 37 and 38 of the impugned order is reproduced below:

“37. That apart, vide the order dated 29.07.2024, The Registrar of Trade Marks has refused acceptance of the application of the impugned mark “DYNAFRESH” of the defendant in Class 3 on the ground that it is phonetically and visually similar to the mark “DYNA” of the plaintiff and has also disbelieved the user claimed since the year 2020 for lack of any documentary evidence. The Registrar has also observed that the mark shall cause confusion.

38. Having regard to the above, it appears that the adoption of the mark “DYNAFRESH” by the defendant despite rejection of its application in Class 3 for manufacture and sale of goods under Class 3 is not bona fide.”

16. In this appeal, the Appellant has not challenged the said findings of the learned Single Judge based on the order dated 29.07.2024.

17. In the present appeal, during arguments the Appellant’s sole plea is the non-disclosure, by the Respondent, of the 45 GST paid tax invoices filed by the Appellant with its second trademark application 6978521 for the impugned mark ‘DYNAFRESH’ in Class 3 on 26.04.2025 with the earliest invoice of 05.06.2021, which as per Appellant shows its alleged use of the impugned mark since the year 2021 and not the year 2026 as narrated by the Respondent, in the plaint.

We therefore proceed to consider this plea of the Appellant and



weigh, whether this fact of 45 tax paid invoices was a material fact, which ought to have been filed/disclosed by the Respondent with its plaint and determine if these invoices had been filed, would it have changed the opinion of the learned Single Judge and persuaded the Court to not pass the impugned order.

18. We answer this issue raised by the Appellant in negative for the reasons set out hereinafter.

19. In our considered opinion, the order of the Registrar dated 29.07.2024 refusing the Appellant's first trademark application, which records that the Appellant failed to produce documents to support its user claim since 29.02.2020, despite ample opportunities, leading to a conclusive finding that the user claim and adoption of the impugned mark by the Appellant was not bona fide, is an order of the quasi-judicial authority. The findings in this order dated 29.07.2024, at prima facie stage eclipses the 45 GST paid tax invoices relied upon by the Appellant with its second trademark application no. 6978521 to setup a plea of user since 05.06.2021.

Moreover, the finding of the Registrar in its order dated 29.07.2024 that the Appellant's use of the impugned mark 'DYNAFRESH' is in conflict with Respondent's registered mark 'DYNA' and is likely to create confusion amongst the public, is unaffected by the existence of the 45 GST paid tax invoices, and this finding of the Registrar is by itself sufficient for the learned Single Judge to injunct the Appellant's continuing use of the impugned mark.

20. Upon a query from the Court, learned counsel for the Appellant



clarifies that the factum of the Registrar's order dated 29.07.2024 dismissing its earlier trademark application no. 5586219 for the impugned mark 'DYNAFRESH' has not been disclosed by the Appellant in its second trademark application no. 6978521 filed for the same impugned mark 'DYNAFRESH', before the Registrar. The reason for non-disclosure of the said order is not forthcoming from the counsel.

This Court fails to understand, the legal basis on which the Appellant can maintain a second trademark application for the impugned mark 'DYNAFRESH' when its earlier trademark application has been dismissed on merits including on the ground that it is in conflict with the Respondent's registered mark 'DYNA'. The Appellant's second trademark application no. 6978521 is ex-facie not bona fide for failing to disclose the order dated 29.07.2024 and is infact an illegal attempt to overreach the order dated 29.07.2024. The Appellant's second trademark application no. 6978521 is liable to be held to be barred in law due to the findings, on merits, in view of the Registrar's order dated 29.07.2024 on the doctrine of estoppel.

21. In fact, even in the present appeal, the Appellant has, in the list of dates and synopsis, while pleading that its first trademark application no. 5586219 has been refused by the Registrar, has pleaded that it was refused for want of proof of user claim. However, there is *no* disclosure that the said application was primarily also refused by the Registrar on the ground that it was in conflict with the Respondent's registered mark 'DYNA'. The Appellant has not annexed the order dated 29.07.2024 with this appeal. While the Appellant seeks to wish away the existence of the order dated 29.07.2024, the said order, having been passed by a quasi-judicial authority,



continues to subsist and strictly binds the Appellant and makes its use of the impugned mark 'DYNAFRESH' not bona fide.

22. There can be no dispute with the legal proposition that a plaintiff is obliged to disclose all material facts to the Court in its plaint⁷ and more so when it seeks an ex-parte ad-interim injunction against the defendant. However, in the facts of this case, we are unable to agree with the Appellant that there was any suppression of material facts by the Respondent in the plaint so as to merit vacation of the impugned order and/or the dismissal of the interlocutory application.

The 45 GST paid tax invoices filed by the Appellant to show purported user since 05.06.2021, cannot overcome the finding of no user in the Registrar's order dated 29.07.2024. The said invoices would not have justified the adoption and continued use of the impugned mark 'DYNAFRESH', by the Appellant, given the findings on deceptive similarity with the Respondent's mark 'DYNA', by both the Registrar in its order dated 29.07.2024 and the learned Single Judge in the impugned order. We also take note that the Respondent had by way of its additional documents filed under the cover of 26.05.2026 disclosed to the learned Single Judge the listings of the products of the Appellant on the e-commerce website of Amazon, since 2021. Thus, the learned Single Judge was aware about the attempted use of the impugned mark since 2021.

23. In our considered opinion, the detailed reasons recorded by the learned Single Judge in the impugned order justifies grant of the ex-parte ad-

⁷ Order VI Rule 2 CPC



interim injunction in favour of the Respondent and requires no interference.

24. We therefore find no merit in the present appeal and the same is accordingly dismissed. Pending applications, if any, stands dismissed.

25. I.A. No. 16849/2026 filed in CS(COMM) 599/2026 by the Appellant stands dismissed, as withdrawn. The Registry will place the copy of this order before the learned Single Judge in the concerned suit.

MANMEET PRITAM SINGH ARORA, J

V. KAMESWAR RAO, J

JULY 21, 2026/hp/IB