

IN THE COURT OF MS SAVITA RAO, DISTRICT JUDGE
COMMERCIAL COURT-01, SOUTH
SAKET COURTS, DELHI

CS (Comm) No. : 126/23
DLST010021842023



In the matter of :-

M/s ME Testing Laboratory (METL)
Proprietorship, (Single Firm)
Proprietor : Sh. Jitendra Yadav
S/o Sh. Gulab Chand Yadav

At : 55-B, Mannat Residency Basement
Arpit Nagar, Gandhi Path Road
Vaishali Nagar, Jaipur- 302012, Rajasthan

Through Special Power of Attorney Holder
Kapil Saraf, S/o Sh. Natwarlal Saraf
R/o Vrandavan Colony, Maheshwar
Khargon, Madhya Pradesh - 451224

.....Plaintiff

Vs.

M/s M.E. Technology
At: Plot no. 75-A, Kh. No. 708
Jhawar Road, Near Vijay Laxmi Platinum
Mahaveer Nagar, Chokhan
Jodhpur - 342001, Rajasthan

.....Defendant

Date of institution of the case : 02.03.2023
Date of final arguments : 02.09.2025 & 01.11.2025

Date of judgment

: 01.11.2025

JUDGMENT

1. This is suit for permanent injunction restraining the defendant from counterfeiting, using and infringing the plaintiff's registered trademark, passing off, rendition of accounts, delivery up etc. and damages, filed by plaintiff against the defendant on the facts that:

(a) Plaintiff is a professionally managed and ISO certified laboratory engaged in testing of wide range of materials since 2011, for which plaintiff invented/coined/adopted the trademark " ME TESTING LABORATORY (METL) ". Plaintiff has on roll highly qualified, experienced and trained technical personnel. Plaintiff is the original adopter and first user of the trademark ' ME' for testing laboratory. Plaintiff is the registered proprietor of trademark " ME TESTING LABORATORY WITH DEVICE OF METL" vide trademark application no. 4171418 under class 42 and has been granted and in all event, the priority in coining, adoption and use of the said mark by the plaintiff.

(b) Since 2011, plaintiff has been honestly & bonafidely, continuously, commercially, openly, exclusively and to the exclusion of others, uninterruptedly using the Trademark of "ME TESTING LABORATORY (METL)" in relation to its said services and business and has been carrying on its said services and business thereunder. Plaintiff has built up a worldwide and globally valuable trade, goodwill and reputation thereunder and acquired proprietary rights therein. The trademark "ME" is the principal, distinct and memorable part of the plaintiff's corporate name right since its inception. Further, Plaintiff has been regularly and continuously

been promoting its said distinctive Trademark and has been spending enormous amount of money, efforts, labour and skills thereon. The Plaintiff's Trademark enjoys tremendous goodwill and reputation all over the country. By virtue of long and extensive use, vast publicity and excellent quality of product the Plaintiff's Trademark "ME TESTING LABORATORY (METL) (ME TESTING LABORATORY)" has acquired tremendous reputation and goodwill amongst the consumers and members of the trade all over the country.

(c) In 2017, defendant approached the Plaintiff and MOU dated 29th May, 2017 was signed between them mentioning that the Defendant will be the Quality Consultant for the Plaintiff. Said MOU was valid for two years, which was not further renewed and expired on 29th May, 2019. Defendant has its presence not only on the internet through its interactive website, but also on various social media platforms such as Justdial and YouTube. However, in March 2020, plaintiff was shocked to notice that the Defendant has continued working as a Civil Engineering Consulting Company, and has unlawfully adopted and started providing similar services under the labelmark "M. E. Technology". Defendant is also engaged in the service/ business of material testing and calibration services with the brand name/ mark "ME Technology" which is deceptively similar to the already established brand name/trademark "ME LABORATORY (METL)" of Plaintiff. They have been doing TESTING so without taking permission from the Plaintiff and are still continuing their illegal act.

(d) The impugned mark "ME Technology" used by the Defendant in relation to providing impugned services and business is identical with and deceptively similar to the Plaintiff's said

trademark "ME TESTING LABORATORY (METL)" in each and every respect including phonetically, structurally, in its basic idea and in its essential features. The impugned mark name/corporate name of the Defendant's impugned brand "ME Technology" is deceptively similar to that of Plaintiff's trademark "ME TEST LABORATORY (METL)" that even the Plaintiff's customers got confused.

(e) Defendant is not the proprietor of the impugned Trade Mark and has illegally adopted and is so using the same as a Trademark in relation to its impugned services and business without the leave and license of the Plaintiff. Its mark is not even registered under the trademark act. The Defendant has no right to use a deceptively similar brand name in any manner in relation to its impugned services and business or for any other specification of goods and business whatsoever being in violation of the Plaintiff's rights therein. Hence, on 16th December, 2020 plaintiff sent a legal notice to defendant regarding the infringement/falsification and passing off being committed by the METL Defendant in respect of the trademark. On 8th January, 2021, plaintiff received a reply from the Defendant stating unsatisfactory reasons and misconceived, wrong and baseless and vexatious statements for using the impugned trademark and providing impugned services under the mark "ME".

(f) Since defendant, by impugned adoption and user of the impugned Trademark is violating the common law right of the Plaintiff in said Trademark in relation to said services and business, despite being aware of the plaintiff's rights, goodwill and user etc. with regard to the said trademark, plaintiff was constrained to file

the present suit against the defendant alongwith application U/o 39 Rules 1 & 2 CPC r/w section 151 CPC.

2. Vide order dated 03.03.2023, request of plaintiff for appointment of Local Commissioner was allowed, to elucidate the facts and to check and verify the accounts and invoices of defendant. However, question of interim injunction was not decided and it was noted that same shall be decided after hearing the other side.

3. After service of summons, counsel for defendant appeared and written statement as well as application under Order 7 Rule 10 & 11 CPC r/w section 151 CPC alongwith application under section 340 r/w/ section 195 Cr.P.C. was filed on behalf of defendant. Replication as well as reply to application under Order 7 Rule 10 & 11 CPC and another application under Order 11 Rule 1 CPC were also filed on behalf of plaintiff. Vide order dated 24.07.2024, application of plaintiff under Order 11 Rule 1 CPC for bringing on record the additional documents was allowed, whereas application under Order 7 Rule 10 & 11 CPC filed by defendant was dismissed.

4. In written statement filed on behalf of defendant, it was stated that :

(a) Defendant is an eminent NABL accredited and ISO certified laboratory, engaged in the business of consulting engineers and testing services for concrete mix design, bituminous, CBR and investigations of soil, pile load test, plate load test, lab test on soil, survey, cube testing, NDT testing. building material testing like cement. sand, bricks aggregate, water, paver blocks. electrical and mechanical testing, calibration services and QA/QC for constructions.

(b) Defendant was not aware of presence of the Plaintiff and its business prior to year 2017. Proprietor of the Defendant started working in the field of the testing in the year 2013-14 as a freelancer and earned the huge reputation and goodwill in the market and somewhere in the year 2016, he decided to organize his services and establish a firm, whereafter he started providing services in the name and style of "M.E. Technology". The Defendant is original user and adopter of the trademark "M.E. Technology" and using the said trade name extensively and continuously since at least 2016.

(c) Defendant for conducting its business activities, also got opened a bank account with ICICI Bank on 06.02.2016 which is also evident from the bank statement of the Defendant. The brand name "M.E. Technology" is the principle, distinct and memorable part of Defendant's corporate name since its inception and same was coined and adopted by the Defendant based on name of the father of its proprietor, which is "Madan Engineering Technology". Therefrom, services under the said trade name had been provided by the Defendant uniformly to all its clients and due to excellent quality and impeccable reputation, defendant has earned several accreditation to its name.

(d) Defendant was using the above trade name and trade mark "M.E. Technology" consistently and continuously with its services since its inception and with premium quality of its services, defendant had earned a huge goodwill and reputation amongst its clients in western part of Rajasthan. Plaintiff was very much aware of the existence of Defendant and with a malafide intention of taking over the clientele and business of defendant, devised a dubious scheme and approached the

defendant multiple times in the year 2017 for working in collaboration. Defendant, unwary of the malafide intentions of the Plaintiff decided to sign a memorandum after multiple requests of the Plaintiff.

(e) Finally a memorandum was signed by plaintiff and defendant on 29.05.2017 wherein defendant "M.E. Technology" was entered into as quality consultant, however, nothing was intended therein to enter into any principal-agent relationship rather it was principal to principal basis. On the contrary, the arrangement was that plaintiff requested to outsource some work to it and defendant agreed there to. However, when defendant started outsourcing projects to plaintiff, plaintiff did not deliver satisfactory services and defendant started receiving numerous complaints from the clients. Defendant thereafter ceased outsourcing any work to the plaintiff. Plaintiff requested multiple times to defendant to resume sending some work and finally defendant relying on assurances given by plaintiff instructed plaintiff to share its profile again along with the rate list. Plaintiff upon instructions of the defendant wrote to defendant on 13.12.2017 via e-mail, wherein plaintiff shared its company profile along with service and rate list. Further, plaintiff assured the defendant to provide best of its services and showed willingness to work with defendant. Defendant again trusting the plaintiff, outsourced a project and same was forwarded to plaintiff's address and in the name of defendant on 21.12.2017. However, plaintiff again did not deliver satisfactory service and defendant stopped all transactions with the Plaintiff.

(f) Defendant due to its impeccable services has acquired huge goodwill and reputation amongst its client and

there has been a continuous rise in its turnover. Defendant has also invested a lot in advertising, machinery and infrastructure. Plaintiff being very much upset by the fact that defendant stopped outsourcing any work to Plaintiff decided to malign the image of defendant in the market and pursuant to its malafide intentions, sent a legal notice with falsified and deceiving statements on 16.12.2020, wherein, the plaintiff deliberately concealed the vital fact of earlier business transactions and Memorandum of Understanding signed between Defendant and Plaintiff and further it was stated that Plaintiff recently got wind of the fact that defendant has been providing similar services and accepting tenders and orders in the name of "M.E." which belonged to Plaintiff.

(g) The above notice being mischievous and false was properly replied by the Defendant on 05.01.2021 wherein defendant denied the contents of the notice of Plaintiff and warned Plaintiff to refrain from making such frivolous and false claims. Plaintiff again served upon Defendant rejoinder notice dated 30.01.2021, wherein, an evasive explanation was furnished and an absurd preposition was made by Plaintiff in relation to the Memorandum of Understanding.

(h) Plaintiff has concealed the vital facts and has misrepresented before the Court regarding the business transactions between Plaintiff and Defendant. The Defendant has been carrying on its trade activities with its unique trade mark which is a device mark and is completely distinct and not similar to the device mark of the Plaintiff. A mere look on both the marks clearly reveals that there is not even an iota of similarity between

both the marks and in no case it can be said that the consumers would be confused or deceived by use of the mark.

(i) Further, plaintiff has availed registration of its mark TESTING LABORATORY which is a device mark vide trademark no. 4171418 in class 42 and the said trademark was said to be used since 2018. The very fact that same is a device mark and shall be taken as whole and there is no provision in the law under which Plaintiff can claim any exclusive rights over the generic abbreviation "ME", nullifies the claim of Plaintiff. It is a clear position of law that a device mark is to be seen as whole and no exclusive rights can be claimed over its parts which are generic or otherwise not registrable as trade mark and any exclusive rights over such parts of the device mark can only be claimed after obtaining registration over such marks.

(j) Further the claim of the Plaintiff attains nullity as the defendant is a prior user of the mark and Plaintiff has not been able to show any use of the impugned mark prior to year 2018. Plaintiff applied for registration of the word mark "ME Testing Laboratory" vide application no. 4828717 in class 42 with malafide intentions to somehow encroach upon the mark "ME" and with planning to harass the Defendant. Plaintiff itself in the application has claimed the use of the said mark since year 2018, this very fact even if taken true without prejudice, makes it clear that the Plaintiff has never used the word mark as applied earlier to 2018 and is falsely claiming before the Court of use over the abbreviation "ME" since 2011.

(k) Further, the status of the application shows objected under the provision of Section 11 of the Trade Marks Act, 1999 owing to its similarity with earlier mark and the Plaintiff was also

required to provide user affidavit in support of claim for use date. Plaintiff responded to the above examination report on 15.03.2021 wherein the Plaintiff has specifically stated on oath that the business location of Plaintiff is different than those of others and further, the Plaintiff has also stated that "ME" is a very common word. The Plaintiff further has categorically stated that "That the opponents were using a brand "ME", "ME" and the applicant is using "ME TESTING LABORATORY" for its own brand which is different from each and every extent."

(L) Plaintiff also filed evidence during hearing in the matter of registration of above mentioned mark, wherein Plaintiff has specifically stated on oath that Plaintiff commenced its use of the trade mark since 2018 and further in the same affidavit, year wise turnover is also provided, wherein plaintiff has put in figures totally different from what it has presented before this Court. Thus, it becomes evident that plaintiff has not only misled the learned Registrar of trademarks but also knowingly made false statements before the Court who is in habit of spuriously furnishing false affidavits. In the light of above it becomes crystal clear that all the claims and assertions made by Plaintiff are false and concocted and Plaintiff is clearly guilty of perjury.

(M) Plaintiff has been using the impugned mark since 2018 and has failed to prove any right over the mark let alone the exclusive right. If at all plaintiff had any issues with the use of impugned mark by the defendant, plaintiff would certainly have proceeded against the Defendant at the very first instance, however, owing to the malafide intention of the Plaintiff, it chose to first enter into the business transactions with the Defendant to enter in the market on the shoulders of the Defendant and when it

sued to Plaintiff, it decided to send a legal notice with falsified facts.

(N) The suit is clearly barred by limitation. Plaintiff was well aware of the defendant's trade name and business activities before 2020, now to wriggle out from the situation where the plaintiff's suit is barred by provisions of Limitation Act, 1963, plaintiff has not only concealed the material facts but has also made the false statement that in the month of March 2020, it came to notice of plaintiff that defendant has continued providing impugned services under the mark " ME". Plaintiff is wasting the precious time of the Court in furtherance of its malafide intention by creating an illusory cause of action by way of clever drafting and, therefore, the present suit is liable to be dismissed with exemplary punitive costs. From a plain reading of the plaint itself, it clearly emerges that no cause of action exists in the favour of Plaintiff and against the Defendant and the present suit is barred by law warranting dismissal at the threshold. Plaintiff's conduct of initiating the present suit proceedings is dictated by the malafide intention of harassing an admitted competitor who has been honestly and unperturbedly conducting its trade activities in the trade name and style of "M.E. Technology". Plaintiff after so many years of being seized of the knowledge of defendant's existence and trade name ' M.E. Technology' has now decided to object the use of the same which is nothing but an attempt to scuttle free trade, hinder competition and with malafide intentions to create monopoly.

5. In replication, contents of written statement were denied and those of plaint were reiterated and reaffirmed.

6. From the pleadings of parties, following issues were framed:

- (1) Whether the plaintiff is entitled for decree of permanent injunction against defendant , as prayed for? OPP
- (2) Whether defendant is infringing the registered trademark ' ME TECHNOLOGY' or ' ME TESTING LABORATORY (METL)' of plaintiff? OPP
- (3) Whether the plaintiff is entitled for damages as prayed for ? OPP
- (4) Relief

7. After framing of the issues, plaintiff examined PW1. His cross examination was not conducted on behalf of defendant. Defendant did not lead its own evidence and also did not avail the opportunity to address the arguments.

8. In plaintiff's evidence, **Sh. Kapil Saraf, AR** of plaintiff was examined as **PW1** who filed his evidence by way of affidavit Ex. PW1/A and relied upon following documents:-

1. Power of Attorney as Ex. PW1/A
2. Certificate of registration and examination report of METL (Device mark) Trademark of plaintiff issued by the Registrar of Trademarks in India and copy of incorporation certificate as Ex. PW1/1 (colly.)
3. True copy of application filed for the certificate of registration of the “ME TESTING LABORATORY” (word) before the Registrar of Trademarks in India as Ex. PW1/2
4. Copy of Turnover for the financial year of 2018-2019, 2019-2020 & 2020-2021 of the plaintiff under the trademark “ME

TESTING LABORATORY (METL)” duly certified by the Chartered Accountant as Ex. PW1/3 (OSR)

5. Copy of Certificate of no GST due on the plaintiff firm for the financial year 2021-2022 under the trademark “ME TESTING LABORATORY (METL)” duly certified by the Chartered Accountant as Ex. PW1/4 (colly.) (OSR)

6. Copy of Certificates of Accreditations of plaintiff firm under the trademark “ME TESTING LABORATORY (METL)” as Ex. PW1/5 (OSR)

7. Printout of the pages of the website ([www.https://www.metljaipur.com/](https://www.metljaipur.com/)) of plaintiff firm as Ex. PW1/6

8. Printout of pages of www.Indiamart.com, facebook, www.sulekha.com and www.bharatibiz.com , showcasing services provided under the trademark of plaintiff as Ex. PW1/7

9. Photographs of advertisement done by the plaintiff of the year 2022 and uniforms of the employees of the plaintiff firm under its trademark the copy of the copyright registration certificate as Ex. PW1/8 (OSR)

10. Copy of MoU dated 29.05.2017 was signed between plaintiff and the defendant as Ex. PW1/9 (OSR)

11. Copies of pages of the website <http://www.metetechnology.in/> the website of the defendant and its presence on different platforms as Ex. PW1/10.

12. Copies of notice dated 16.12.2020 and reply dated 05.01.2021 and replication of the reply dated 30.01.2021 as Ex. PW1/11 (colly) (OSR)

13. Invoices/bills as Ex. PW1/12 (OSR)

14. Copy of Certificate of Registration of “ME Testing Laboratory” under Rajasthan Shops and Commercial Establishments Act, 1958 as Ex. PW1/13 (OSR)
15. Copy of Evidence in support of hearing filed before the Trademark Registry alongwith Acknowledgment Slip as Mark 14 (mentioned as Ex. PW1/14 in the evidence affidavit, same is de-exhibited and marked)
16. True copy of application filed for the certificate of registration of the “ME TESTING LABORATORY” (word) before the Registrar of trademarks in India as Ex. PW1/15
17. Certificate of 65B under IEA as Ex. PW1/16

Issue wise findings are as under :-

9. **Issues no. 1, 2 & 3 :** Plaintiff has pleaded with regard to its status as being a professionally managed and ISO certified laboratory, engaged in testing of wide range of materials which carries out specialized testing of water, metals and other building materials etc. , with further claim of original adopter and first user of trademark " ME" for testing laboratory. It is claimed that the plaintiff is using the trademark " ME" for the wide range of testing services since several years and has become very well known brand in India. To protect its proprietary rights, plaintiff obtained registration of the trademark vide registration no. 4171418.
10. Trademark registration Certificate Ex. PW1/15 placed on record, refers to the date of application as 20.01.2021 with user details since 17.09.2018. Proprietor’s name was mentioned as Sh. Jitendra Yadav through whom the instant proceedings have been initiated. In the legal notice dated 16.12.2020 issued upon the defendant Ex. PW1/11, it was mentioned that plaintiff got wind of

the fact that defendant had been providing similar services and accepting tenders and orders in name " M.E." which belonged to plaintiff. Defendant was called upon to cease and desist from using the trademark " ME" or any other trademark identical or deceptively similar to the plaintiff's trademark.

11. Reply dated 05.01.2021 to the legal notice as part of Ex. PW1/11 refers to information by defendant that :

"1.....your client has not apprised you with the correct facts and has also concealed the facts with regards to the Memorandum of Understanding entered by both the parties, which resulted into issuance of this frivolous notice.....

3. our client is the original user and adopter of the trademark " M.E. TECHNOLOGY" and using the said mark extensively since 2011. The brand name " M.E. TECHNOLOGY" is the principle, distinct and memorable art of out client's corporate name right since its inception and same being adopted and coined as per the name of his father. The services under the said trademark have been extensively provided to the large number of clients all over India and due to excellent quality have several accreditations to its name.

4. That, your client has concealed the material facts that on 29th May 2017, your client has entered into a Memorandum of Understanding with our client for providing Testing of Road Materil, Water, Soil & Building Material as third party for " Quality Consultants". Therefore, your client with malafide intentions concealed the material fact which led to the issuance of this frivolous notice wherein, stating the false facts that your client recently got the wind of the fact that our client is using the brand name " M.E. TECHNOLOGY" as his business name. On the contrary, your client was well versed with the existence of clients business since its inception."

12. Ld. counsel for plaintiff submitted that defendant was permissive user of plaintiff's trademark by virtue of the agreement dated 29.05.2017, however, the agreement was not further renewed despite that defendant is still continuing user of the plaintiff's trademark in relation to providing impugned services and business which is identical with and deceptively similar to the plaintiff's said trademark. Plaintiff got to know about the continuation of user of trademark of the plaintiff by defendant in year 2020.

13. In legal notice Ex. PW1/11, there was no mention of any agreement with the defendant, however in the plaint filed herein, plaintiff mentioned that in year 2017, parties entered into MOU dated 29th May, 2017 which was valid for two years and expired on 29th May, 2019. MOU Ex. PW1/9 contains following recitation :

The Memorandum of understanding made on Monday 29, May 2017 by and between Mr. Shantanu Tahanguria (Executive Officer) "M.E Testing Laboratory" (m.e.testinglaboratory@gmail.com) having its office at C-31, Urmila Marg, Hanuman Nagar, Khatipura Road, Jaipur (Raj.) and Mr. Rajnish Yadav (Quality Consultant) " M.E. Technology" (metehnolozy@gmail.com) having its office at 18E, 267, Chopsani Housing Board, Jodhpur (Raj.), with mutual consent of both the parties.

Whereas "ME Testing Laboratory" perform work of Testing Road Material, Water, Soil & Building Material as a third party for " Quality Consultant".

.....
....."

14. From the perusal of the MOU Ex. PW1/9 between the parties, no such inference, as pleaded by plaintiff, can be drawn that defendant was permissive user of the plaintiff's trademark. Name of establishment of defendant itself is mentioned as "ME" Technology and that of plaintiff as "ME" Testing Laboratory, thereby plaintiff itself seems to be aware of the existence of defendant's user of name as 'M.E.' Technology at the time of execution of MOU dated 29.5.2017.

15. So much so, as already noted, the user claim of the plaintiff as per trademark registration is of year 2018 and not prior thereto. Defendant had pleaded and also responded to the plaintiff vide reply to the legal notice and in written statement that defendant was continuous user of the said trade name since year 2011. Plaintiff moved application under Order 11 Rule 1 CPC and sought permission to file on record the documents which, as stated, were in response to the submissions made by defendant in written

statement. It was stated that plaintiff had extracted a document of 2010 which was Certificate of Registration of "ME Testing Laboratory" under Rajasthan Shops and Commercial Establishments Act which had been filed before the trademark registry, reflecting user of the mark by plaintiff for more than last 13 years. The certificate Ex. PW1/13 issued by Rajasthan Shops and Commercial Establishments, Jaipur dated 19.8.2010 is in name of 'ME Testing Laboratory' with proprietor/owner's name as Vijender Kumar S/o Roop Chand. Plaintiff's identity herein is Jitendra Yadav proprietor of 'ME Testing Laboratory' S/o Sh. Gulab Chand Yadav. Clarification was put to Ld. counsel for plaintiff to which she answered that the certificate had been issued in name of plaintiff whose name is Vijender Kumar. Apparently, the said submission is wrong. Ld. counsel for plaintiff was apprised of the same on which she sought time to consult her client. Subsequent thereto, Ld. counsel for plaintiff submitted that the plaintiff had bought the establishment from Sh. Vijender Kumar in the year 2017 while conceding that no such pleading nor any document in support of the same is part of record.

16. Another document dated 26.5.2014 was placed on record which was the order issued by DMRC Limited, addressed to M/s Continental Engineering Corporation stating that:

" Your proposal to engage M/s M.E. Testing Laboratory as third party agency for material testing only for those test mentioned in NABL accreditation for Jaipur metro Project is hereby approved".

17. Nothing was placed on record on behalf of plaintiff that this document pertained to plaintiff's establishment, in wake of the user claim of the plaintiff as per the registration since the year 2018 only. In MOU, although the 'M.E. Testing Laboratory' has been referred as ISO Certified and NABL Accredited Lab, however, the earliest

NABL Accreditation placed on record on behalf of plaintiff is with issuance date as 12.7.2018. Ld. counsel for plaintiff conceded that no other certificate substantiating the contention of plaintiff with regard to its user prior to 2018 is part of record.

18. All the tax invoices and Test Reports placed on record on behalf of plaintiff are of the year 2018 and subsequent thereto. Plaintiff however pleads user of trademark since the year 2011. In trademark application, the claim of user is since 2018. There is no material or justification on record to substantiate such a claim of user prior to 2018, as declared in trademark registration application. Consequently, plaintiff has failed to establish on record its claim of prior user or that the defendant was permissive user of the trademark /trade name of the plaintiff for period of 2 years by virtue of the MOU. It is also apparent that the plaintiff was aware of the defendant's trade name and business activities as on date of entering into the MOU with defendant. Thereby defendant rather seems to be prior user of the trade name "M.E." than plaintiff. Even if the plaintiff's contradictory contention is accepted - that though the registration for trademark was applied on 20.01.2021 with user claim of year 2018, the actual user dates back to 2011 – the plaintiff, nevertheless, became aware of defendant's use of the mark at least in 2017 i.e. at the time of execution of the MOU. Thereby, plaintiff was admittedly aware of and did not object to defendant's concurrent user even if not the prior user.

19. Reliance is placed upon following:

(a) Vishnu Vardhan @ Vishnu Pradhan Vs. The State of Uttar Pradesh & Ors. Civil Appeal no. 7777/2023:

" The principle of "finality of litigation" cannot be pressed to the extent of such an absurdity that it becomes an engine of fraud in the hands of dishonest litigants. The courts of law are meant for imparting justice

between the parties. One who comes to the court, must come with clean hands. We are constrained to say that more often than not, process of the court is being abused. Property- grabbers, tax-evaders, bank-loan-dodgers and other unscrupulous persons from all walks of life find the court-process a convenient lever to retain the illegal gains indefinitely. We have no hesitation to say that a person, who's case is based on falsehood, has no right to approach the court. He can be summarily thrown out at any stage of the litigation".

(b) K.D. Sharma Vs. Steel Authority of India Ltd. & Ors.

Civil Appeal No. 4270 of 2008:

" The party who does not come with candid facts and 'clean breast' cannot hold a writ of the court with 'soiled hands'. Suppression or concealment of material facts is not an advocacy. It is a jugglery, manipulation, maneuvering or misrepresentation, which has no place in equitable and prerogative jurisdiction. If the applicant does not disclose all the material facts fairly and truly but stats them in a distorted manner and mislead the court, the court has inherent power to prevent an abuse of its process to discharge the rule nisi..".

(c) The Auroville Foundation Vs. Natasha Storey Civil

Appeal No. 13651 of 2024:

" 9. It is no more res integra that the Doctrine of "Clean hands and non-suppression of material facts" is applicable with full force to every proceedings before any judicial forum. If it is brought to the notice of the Court that the petition has been guilty of suppression of material and relevant facts or has not come with clean hands, such conduct must be seriously viewed by the courts as the abuse of process of law and the petition must be dismissed on that ground alone without entering into the merits of the matter".

20. Filing of the suit by the plaintiff, in the facts noted above i.e. not disclosing and rather suppressing the correct facts and furnishing of false information on record, is apparent abuse of process of law, warranting the imposition of penalty upon the plaintiff. However, since the defendant has also not appeared in the matter for last many dates, therefore, this court is not imposing any penalty upon the plaintiff for its blatant misuse of process by filing of the suit on the frivolous grounds knowing the falsity of its claim.

21. All the issues are hereby decided against the plaintiff . The suit filed by plaintiff stands dismissed . Decree sheet be prepared accordingly. After completion of formalities, files be consigned to record room.

Announced in the Open Court

on 01.11.2025

**(SAVITA RAO)
District Judge (Commercial)-01
South District: Saket:New Delhi**