
High Court rules REDDY belongs to Dr. Reddy's Laboratories Limited

Dr. Reddy's Laboratories Ltd (DRL) obtains permanent injunction against Reddy Pharmaceuticals Ltd (RPL) from using the mark 'Reddy' in relation to pharmaceutical preparations. The final judgment took 10 years from the date of its institution. The case after a full trial was decided in favour of DRL; both parties produced extensive evidence and examined several witnesses. The final outcome it seems was influenced by bad faith in adoption amplified by manner of use of REDDY mark by RPL.

The facts of the case:-

DRL argued that it is one of the leading players in pharmaceutical industry based in Hyderabad. It was set up in the year 1993 and has acquired world class expertise in the development of organic intermediaries, active pharmaceutical ingredients (bulk drugs) and finished dosages and is synonymous with high quality pharmaceutical preparations worldwide.

RPL was incorporated in 1997. Its business is essentially purchasing various pharmaceutical ingredients from the DRL and supplying them to other formulators. Its main office is in Delhi. In September 2003, DRL was surprised to learn that RPL has started marketing pharmaceutical preparations in finished dosage. DRL alleged that RPL was taking advantage of the goodwill that had accrued upon the plaintiff's trademark Dr. Reddy's. As settlement discussions failed DRL initiated court action.

The main contentions of DRL were:

- The trademark/trading style Dr. Reddy's has acquired distinctiveness and is associated only with DRL's products and the adoption of a similar trademark/ trade name by any entity is bound to cause confusion as to the origin of the drugs.
- RPL was prominently displaying the trading name REDDY on its products in such a manner that its trading name is more prominent than the brand name of the drug.
- Despite carrying on its regular course of business from Delhi, the carton of RPL products contain the address of Ameerpet, Hyderabad; the same area where DRL has its head office and business.
- DRL alleged that RPL had adopted a deceptively similar domain name www.ReddyLimited.com with a view to promote its pharmaceutical products

RPL contested the matter and put forth the following contentions in support of its case:

- There is acquiescence and delay in filing of the suit.
- DRL cannot claim any monopolistic proprietary right in a common surname such as REDDY;
- The RPL has a bona fide statutory right to use the impugned trade name which is the surname/family name of the Managing Director of the defendant;
- As DRL has not registered the mark REDDY, they are not entitled to claim a monopoly over the trademark/trade name REDDY.

The court granted an interim injunction in favour of DRL, restraining RPL from using the trademark or name "REDDY" in relation to pharmaceutical preparations. The appeal filed by RPL against the injunction order was dismissed.

Both sides filed extensive evidence and examined witnesses, after trial and final hearing the court gave the following finding/s:

- 1) With regard to acquiescence and delay, the court held that as long as RPL was not in the same line of business i.e. marketing and sale of finished drug formulations there was no cause for concern regarding RPL en-cashing upon the goodwill of DRL by adopting the impugned trademark/trade name. However, as soon as RPL started dealing in pharmaceutical preparations, DRL had acted diligently and alerted RPL to cease use of the impugned trademark/name. Further as the settlement did not work out DRL initiated action. Thus there is no acquiescence.
- 2) RPL's contention that they are the registered proprietor of the mark was negated. The court held that registration itself does not create a trade mark and the right exists independently of the registration, which merely affords further protection under the statute. The common law rights are left wholly unaffected and that priority in adoption and use of trademark is superior to priority in registration.
- 3) RPL's contention that they are using the surname of the director was held not to be a valid defense. The court opined that the question is not simply whether RPL can be prevented from using his own name, but whether RPL can be prevented from garnishing that name in such a way that it looks as if the name was being used not by him but by DRL. The fact that RPL chose to use a trademark/trade name identical to that of DRL and also mention Ameerpet, Hyderabad on its packaging despite having its Registered Office at Delhi further evidenced the malafides of RPL.

In light of the above the court passed a permanent injunction order restraining RPL from using the trademark/trade name 'REDDY' on pharmaceutical preparations.

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