

Himalaya Global Holdings Ltd And Anr vs Shimla Drugs Health Care Private ... on 23 December, 2025

Author: Ravi Krishan Kapur

Bench: Ravi Krishan Kapur

OIPD-7

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
(COMMERCIAL DIVISION)
ORIGINAL SIDE

IA NO. GA-COM/1/2025
In
IP-COM/53/2025

HIMALAYA GLOBAL HOLDINGS LTD AND ANR.
Vs
SHIMLA DRUGS HEALTH CARE PRIVATE LIMITED AND ANR.

BEFORE:
The Hon'ble JUSTICE RAVI KRISHAN KAPUR
Date : 23rd December, 2025

Appearance:
Ms. Suhrita Majumdar, Adv.
Mr. P. Sinha, Adv.
Mr. Dipro Dawn, Adv.
Ms. Sayani De, Adv.
Ms. Mallika Bothra, Adv.
...for the plaintiff/petitioners.

The Court: Despite service, none appears on the behalf of the respondents. The petitioners also rely on service through e-mail.

This is a suit inter alia for infringement of trademark and trade dress, copyright and passing off.

Briefly, the petitioners have been carrying on business since 1930 and are manufacturers and distributors of a product "Liv.52" which was adopted by the predecessor-in-interest of the petitioners as far back as in the year 1955. The product Liv.52 has been in open, continuous and uninterrupted use. In this connection, a list of the trademark registration in the name of the petitioners regarding the trade mark "Liv.52" is provided below:

The petitioners are also enjoying a word mark registration of the mark "Liv.52" which was granted as far back as in 1957 claiming user since 1955. The above registrations in favour of the petitioners are all valid and subsisting. The products of the petitioner under the trademark "Liv.52" contain a distinct packaging for decades.

In such circumstances, the petitioners enjoy several intellectual property rights in respect of its product "Liv.52". As such, the mark "Liv.52" has gained immense reputation and goodwill over the said mark. The petitioners have also generated huge turnover and incurred considerable advertisement expenses.

It is alleged that in or about October, 2025 the petitioners came to learn of the impugned product "Liv.72" also available in the market. For convenience, the rival products are set out hereinbelow:

Petitioners' Trade Mark Respondents' Impugned Mark LIV.52 LIV.72 Petitioners' Original Product Respondents' Impugned Product Respondents' Impugned Packaging From the above comparison, it is evident that the impugned product and the impugned packaging in its overall visual appearance is deceptively similar to the petitioner's product.

Prima facie it appears that the respondents' adoption of the impugned mark "Liv.72", is obviously calculated to cause confusion and deception in the market. There are overwhelming similarities between the two products. The respondents have adopted a deceptively similar mark in a similar combination of colours : Green, White and Orange, which is identical to that of the petitioners. The combinations of factors in the impugned product amount to infringement. There is also a prima facie case of misrepresentation made out by the petitioners the likelihood of deception cannot be ruled out. It also transpires while making searches that the respondent no.2 had applied for registration of a word mark "Liv.72" under Trade Mark Application No.5098280 in class 5 which was subsequently rejected. Notwithstanding the above, the respondents have continued to freely sell their products in the market. The searches also reveal that when the application had been filed by the respondents it was on a proposed to be use basis. There is prima facie evidence of bad faith on the part of the respondents.

In view of the above, the petitioners have been able to make out a strong prima facie case on merits. The balance of convenience and irreparable injury is also in favour of orders being granted keeping in mind the nature of the product and the class of goods involved.

In view of the above, there shall be an order in terms of prayers (a) to (c) of the Notice of Motion.

Liberty is granted to the respondents to apply for vacating, variation or modification of the order.

Let this matter appear on 7 January, 2026.

In the meantime, the petitioners are directed to effect fresh service on the respondents and file an affidavit of service on the returnable date.

(RAVI KRISHAN KAPUR, J.) spal