

# Dabur India Ltd vs Shiv G Shetti & Ors on 23 March, 2022

**Author: Sanjeev Narula**

**Bench: Sanjeev Narula**

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IN THE HIGH COURT OF DELHI AT NEW DELHI  
CS(OS) 181/2021 & I.A. 4449/2021  
DABUR INDIA LTD

Through:

Ms. Kripa Pandit  
Tandon, Advocates

versus

SHIV G SHETTI & ORS.

Through:

Mr. Gauhar Mirza,  
Anand and Mr. Akh  
Advocates for D-2  
Mr. Neel Mason, M  
Mr. Siddharth Var  
for D-3.  
Mr. Deepak Gogia,

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA  
ORDER

% 23.03.2022 I.A. 4588/2022 (on behalf of the Plaintiff for directions under Section 151 of the Civil Procedure Code, 1908)

1. By way of the instant application, a prayer is made for passing a decree in the suit.

2. Vide order dated 24th March, 2021, while issuing summons, the Court passed an ex-parte interim injunction in favour of the Plaintiff and against the Defendants, the operative portion whereof reads as under:

"3. Learned counsels as mentioned above, accept summons in the suit and notice in the application on behalf of defendant Nos. 2, 3 & 4. The written statements shall be filed by defendant Nos. 2, 3 & 4 within thirty days from today along with the reply affidavit to the application and also the affidavits of admission/denial of the documents filed by the plaintiff, failing which the written statements shall not be taken on record.

4. Issue summons in the suit and notice in the application to the defendant No. 1 on the plaintiff taking steps, through all permissible modes, returnable before the learned Joint Registrar on 18.05.2021 for completion of service, pleadings and admission/denial of the documents.

5. The summons shall indicate that the written statement to the suit and reply affidavit to the application must be filed by the defendant within thirty days from the date of receipt of the summons. The defendant shall also file affidavit of admission/denial of the documents filed by the plaintiff, failing which the written statement shall not be taken on record.

6. The plaintiff is at liberty to file replication and rejoinder affidavit thereto within three weeks after filing of the written statements. The replication shall be accompanied by affidavit of admission/denial in respect of the documents filed by the defendants, failing which the replication shall not be taken on record.

7. List the suit and the application before the Court on 22nd July, 2021.

8. Learned counsel for defendant No.2 submits that the name of defendant No. 2 has been incorrectly mentioned as 'Facebook India Online Services Pvt. Ltd.' whereas the correct name is 'Facebook Inc.' Similarly, learned counsel for defendant No.3 submits that the name of defendant No.3 has also been incorrectly mentioned in the memo of parties as 'Google India Pvt. Ltd.' whereas the correct name is 'Google LLC'. Learned counsel for defendant No. 4 also submits that the name of defendant No. 4 has been incorrectly mentioned in the memo of parties as 'Twitter Communications India Pvt. Ltd.' whereas the correct name is 'Twitter Inc.'

9. Let the amended memo of parties be filed within a week.

10. The present suit has been filed seeking permanent and mandatory injunction from defamation/disparagement and damages, etc.

11. The plaintiff claims to be an existing public limited company incorporated under the provisions of the Companies Act, 1956. It is claimed that the plaintiff launched its packaged fruit juice/beverages in the year 1994 under the trade mark 'REAL'. It is claimed that the plaintiff's juice/beverages are prepared from natural fruit pulp/ juice concentrates mixed with water and packed in "Freshness Seal Packs". It is further claimed that the 'REAL' fruit juice/beverages products goes through 108 quality check tests before being sold in the markets for consumption. It is further claimed that the product is sold in Tetra-Pak, manufactured in completely closed aseptic condition, checked as per Food Safety and Standards Authority of India standards and kept in plant for 5-7 days for incubation before dispatch to ensure that good quality product reaches consumers.

12. It is further claimed that 'REAL' fruit juice/beverages and other goods under the said trade mark are sold extensively not only in India but also in other countries of the world. It is claimed that the plaintiff's 'REAL' fruit juice/beverages have become a huge success in the market and have acquired goodwill and reputation which is reflected in the sales figure. The sales figure from the year 1997-98 to 2019-20 has been placed on record and as per sales figure for the year 2019-20, the annual sale has been shown as Rs. 1,008.37 crores. The plaintiff also claims to have spent extensively on advertisement of its goods in print and visual media and building the brand name. It is claimed that the plaintiff's REAL juices have been granted No. 1 position by 'Neilson'.

13. It is further claimed that in the last week of February, 2021, the plaintiff has come across defendant No.1's Facebook account, wherein a video had been uploaded under the link <https://fb.watch/48oJtW2oMf/> with the caption "Is real mixed fruit juice good for your health?". It is claimed that the impugned video is disparaging to the plaintiff's products and company, and the impugned video contains false and incorrect information and is misleading the consumers. It is further averred that defendant No.1 is operating his Facebook page under the name of 'Kangenindia(@sgshetti).

14. It is claimed that in the impugned video clip, a person is seen dipping a part of the machine, stated an ORP meter, in a glass allegedly containing plaintiff's REAL Mixed Fruit Juice and thereafter the narrator can be heard saying "Yaani ki yeh 10 hazar guna hanikarak hai aapke shareer ke liye, aapki body ke liye".

15. It is further claimed that the impugned video clip has no scientific backing as the narrator does not disclose his name/qualification or scientific background to substantiate the alleged statement made in the video clip. To controvert the contents of the video clip, the plaintiff has placed on record an expert report from Dr. Prabhakar Bhagwan Kanade, Doctorate in Food Science and Technology from University Department of Chemical Technology, Mumbai, who is a former Member of Senior Management Team of Mother Dairy Fruit & Veg Pvt Ltd, Delhi and has more than 25 years of experience in the Research and Development of Food Products. The expert report has certified and confirmed that the impugned video is misleading and mischievous.

16. It is claimed that the impugned video clip is also available on YouTube and Twitter at the following links:-

<http://www.youtube.com/watch?v=voubuoIIV48>  
[http://twitter.com/Rajesh\\_Kumarti1/status/1367862100475842565](http://twitter.com/Rajesh_Kumarti1/status/1367862100475842565)  
[http://twitter.com/Rajesh\\_kumari1/status/1367862100475842565/retweets/  
with\\_comments](http://twitter.com/Rajesh_kumari1/status/1367862100475842565/retweets/with_comments)

17. Mr. Jayant Mehta, learned Senior Counsel for the plaintiff has referred to the legal notice dated 25.02.2021 issued to defendant No.1 to which no reply is stated to have been received. During the course of arguments, a WhatsApp reply stated to be received from defendant No.1 has been referred wherein, defendant No.1 is stated to have deleted the impugned video from his Facebook account.

18. Having gone through the averments and after hearing the submissions made by the learned Senior Counsel for the plaintiff, this Court is of the opinion that the plaintiff has succeeded in making out a prima facie case in its favour and in case, no ex-parte ad-interim injunction is granted in favour of the plaintiff, the same would cause irreparable loss to it. Balance of convenience also lies in favour of the plaintiff.

19. Consequently, the defendants are directed to forthwith take down/remove/block/restrict access to all the abovesaid URLs/weblinks. A copy of the above URLs/weblinks shall be separately supplied to the learned counsel who have put an appearance for the defendants.

20. It is further directed that in case, any further URLs/weblinks containing the impugned defamatory content, comes to the notice of the plaintiff, they shall be at liberty to approach the defendants requesting for removal/blocking access to such URLs/websites. The plaintiff shall also be at liberty to approach this Court.

21. Compliance under Order XXXIX Rule 3 CPC be done within seven days.

22. DASTI."

3. Subsequent to the afore-noted order, the intermediaries viz. Defendants No. 2, 3 and 4 have complied with the directions issued by the Court and have removed/ taken out/ blocked access to the disparaging URLs as provided by the Plaintiff.

4. Defendant No. 1 stands served and since there is no appearance or written statement filed of his behalf, Defendant No. 1 is proceeded against ex parte.

5. The Court is satisfied that the instant suit can be disposed of on the basis of the material placed on record. The Plaintiff has demonstrated that the impugned video is false, misleading, baseless and makes unscientific statements. Accordingly, the Plaintiff has a right to an injunction for restraining the circulation of the said video.

6. Accordingly, the suit is decreed in favour of the Plaintiff and against Defendant No. 1 in terms of the interim order dated 24th March, 2021.

7. Let the decree sheet be drawn up.

SANJEEV NARULA, J MARCH 23, 2022 nk