

IN THE COURT OF DISTRICT JUDGE
(COMMERCIAL COURT-02)
SOUTH DISTRICT, SAKET COURT, NEW DELHI

CS (COMM) 638/2022

R C Plasto Tanks & Pipes Pvt ltd.

.....Plaintiff

Plot No. D/2-A, MIDC Hingna Road,
Nagpur, Maharashtra 440028

Versus

Srilakshmi Nalubolu

..... Defendant

Proprietor of
Lakshmi Plasto
19-9-5C 2, 1st Floor,
Kennady, Tirupati
Chittoor, Andhra Pradesh - 517501

<i>Date of institution</i>	:	<i>10.11.2022</i>
<i>Date of Submissions</i>	:	<i>26.09.2025</i>
<i>Date of judgment</i>	:	<i>30.10.2025</i>

JUDGMENT

1. Plaintiff's case is that it is engaged in manufacturing, supplying and exporting extensive range of Water Storage Tanks, PVC Pipes and Fittings, C-PVC Pipes and Fittings, agricultural pipes and fittings, HDPE pipes, Casing pipes solvent cement and other allied and cognate goods under the trade name Plasto. It is stated that the plaintiff through its predecessor bonafidely conceived and adopted the trademark/label/artistic work "PLASTO/**PLASTO**" in respect of the goods in the year 1981

and since then the same is an inherently distinctive trade mark. It is averred that the Plaintiff is the owner and proprietor of the same on account of honest, bonafide and prior adoption and continuous use of the said trademark/label/artistic work "PLASTO/**PLASTO**".

2. It is pleaded that in the year 1981, the plaintiff had conceived, adopted and started the use of the highly distinctive and unique mark "PLASTO/**PLASTO**" in the course of business and plaintiff is carrying on its affairs, promotion of its goods & services as well as sales of its products, maintains various websites with various domain names which all have its corporate name "PLASTO". It is pleaded that the word "PLASTO" is especially coined and unique word having distinctive designed lettering style, logo, font, colour scheme. It is averred that plaintiff by carrying on its business and by advertising has created a meaning in it which refers only to the plaintiff and its products.

3. It is averred that in the year 2009 and 2016, the plaintiff adopted domain names comprising its trademark as its essential features i.e. www.plasto.in and www.rcplasto.in respectively. The goods of plaintiff are manufactured in India, sold, marketed, distributed and exported across number of countries and plaintiff company displays, advertises, solicits and sells its products under the said trademark/label on the websites www.flipkart.com, www.amazon.in, www.indiamart.com, www.tradeindia.com and also through its own interactive website www.plasto.in and www.rcplasto.in and the said products of the plaintiff are

accessible across India and globe. It is stated that plaintiff has widely advertised and promoted its mark PLASTO, which resulted in awareness of mark amongst the consumers and that the famous Bollywood actor Mr. Hrithik Roshan does promotion and advertisement of said trademark. As a result, plaintiff's services are extremely popular among the consumers.

4. It is pleaded that the Defendant is engaged in the business of manufacturing, marketing and selling of Plastic Water Tanks, Storage Tanks made of Plastic, Water Storage Tanks (Non-Metallic -) [Containers], Plastic Storage Drums, Water Tanks use made of Plastic being Goods and other allied and cognate goods. Upon inquiry, plaintiff came across the trademark number 4954740, which discloses that Smt. Srilakshmi Nalubolu w/o Sh. Ari Leela Mohan, is the proprietor of M/s Lakshmi Plasto and that defendant with *mala-fide* intention adopted the identical and/or similar trademark /label/trade name/domain "LAKSHMI PLASTO" in relation to impugned goods and business.

5. It is pleaded that in the first week of August 2022, plaintiff came across the impugned goods of defendant under the impugned trademark/label/trade name "LAKSHMI PLASTO" and it was revealed that defendant has filed an application bearing no. 4954740 (Device) for trademark/label/device "LAKSHMI PLASTO" for the states of Andhra Pradesh and Telengana for its impugned goods and services. It is stated that impugned trademark application no. 4954740 got accepted and advertised in trademark journal published in Journal No. 2054-0 dated 30.05.2022 and Plaintiff has filed opposition bearing no.

1186654 against the impugned trademark of defendant for the impugned trademark/device “LAKSHMI PLASTO”. It is stated that defendant has very cleverly and craftily copied the plaintiff’s trademark “PLASTO” after adopting the prefix “LAKSHMI” to the impugned trademark/label/trade name “LAKSHMI PLASTO”, which is identical and/or similar with Plaintiff’s said trademark/label/artistic work “PLASTO” in each and every respect including visually, structurally phonetically.

6. It is further stated that defendant has also adopted the domain name for its website www.lakshmiplasto.com on 23.05.2022 and copied the essential & dominant part of plaintiff’s trademark in its impugned domain name and adopted the impugned trademark/label/trade name/domain name only with a view to trade upon tremendous goodwill and plaintiff’s said trademark /trade name/label.

7. It is pleaded that by adoption and user of impugned trademark/label/trade name/domain name “LAKSHMI PLASTO”, the defendant is infringing the plaintiff’s registered trademark/trade name/label “PLASTO”. It is stated that impugned goods of defendant are manufactured in India, sold, marketed, distributed and exported across number of states in India and also defendant displays, advertises, solicits and sells its impugned product under the said trademark/label/device on various major e-commerce interactive websites i.e. www.instagram.com www.indiamart.com, www.facebook.com and also through its own interactive website

<https://www.lakshmiplasto.com> , showing its various products under said trademark/label/artistic work “LAKSHMI PLASTO”.

8. It is stated that in the first week of August 2022, when the Plaintiff came across the impugned goods of defendant under the trademark/label/trade name, it made further inquiry which revealed that defendant has started manufacturing and/or trading in the impugned trademark/label/trade name in relation to impugned goods and business. It is stated that defendant is restricted to the States of Andhra Pradesh and Telengana for its impugned goods and services but it has malafidely exceeded the legal restrictions through interactive websites which can be accessed all through out the country.

9. It is stated that Defendant is supplying its impugned goods to the dealers and distributors in the markets of South Delhi District areas of Hauz Khas, Malviya Nagar, INA, Saket, Sanam Vihar etc. It is stated that plaintiff’s proprietary rights in its trademark/label are affected in South Delhi due to defendant’s impugned activities and Plaintiff’s goodwill and reputation is tarnished by the impugned activities of defendant in the area of South Delhi, besides other parts of country.

10. On 10.11.2022, exparte interim injunction was granted in favour of plaintiff u/O XXXIX rule 1 & 2 CPC and Defendant by itself/themselves as also through his/their individual proprietors/partners, agents, representatives, distributors, assignees, heirs, successors, stockists and all other acting for and on their behalf were restrained till next date of hearing from

using, selling, soliciting, exporting, displaying, advertising (including in audio, print, visual/social media or otherwise) directly or indirectly or dealing in any other manner or mode in the impugned trademark/labels/trade name “LAKSHMI PLASTO” in relation to their impugned goods and business of Plastic Water Tanks, Storage tanks Made of Plastic, Water Storage Tanks (Non Metallic) [Containers] , Plastic Storage Drums, Water Tanks use Made of Plastic being goods and other allied and cognate goods or any other trademark/label/trade name which may be identical with and/or deceptively similar to the plaintiff’s registered trademark/label “PLASTO” in relation to their impugned goods and business or from doing any other acts or deeds amounting to infringement; passing off; diluting plaintiff’s goodwill and reputation to well known trademark/label/trade name “PLASTO”.

11. Summons were served upon the Defendant. On 16.03.2023 Ms.Vridhi Ld. Advocate appeared for Defendant. On 13.04.2023, Written statement alongwith statement of admission denial of documents and list of document were filed. It was stated by the defendant that the plaintiff has suppressed material facts. The defendant is using the trademark Lakshmai Plasto since 2020 on account of which the mark of defendant has become well recognized throughout India. The defendant has acquired its own distinct goodwill and reputation amongst the members and consumers of trade. It is stated that plaintiff cannot be permitted to have monopolistic rights over the term PLASTO. It is stated that the marks of the parties are not similar and have distinct font style, font size, color combination and stylized manner. It is

stated that the trademark of defendant needs to be taken as a whole and should not be dissected to take out a part from it. It is stated that the plaintiff has concealed the fact that one of its applications was refused on account of being objectionable under the provisions of Sections 9 and 11 of the Trade Marks Act.

Matter was referred to Mediation Center twice but settlement could not be arrived at. On 26.03.2024, application u/O VIII rule 1 r/w Section 151 CPC filed by defendant seeking condonation of delay in filing WS was allowed.

12. Following issues were framed on the pleadings of the parties:

- 1. Whether the defendant is prior user  of and has acquired distinct goodwill? OPD***
- 2. Whether the mark of plaintiff and mark of defendant are not similar in any manner? OPD***
- 3. Whether the trademark of plaintiff is incapable of registration being non-distinctive, common to trade and public juris? OPD***
- 4. Whether the plaintiff is entitled for decree of permanent injunction as mentioned in prayer clause (a) restraining defendant from using in any manner trademark Lakshmi Plasto in relation to goods and business of Plastic Water Tanks, Storage Tanks made of plastic, Water Storage Tanks (non-metallic containers), Plastic Storage Drums, Water Tanks use made of plastic? OPP***
- 5. Whether the plaintiff is entitled for an order of delivery of impugned finished or unfinished products bearing trademark Lakshmi Plasto including blocks, labels, display boards, sign boards, and trade literature to the plaintiff? OPP***
- 6. Whether the plaintiff is entitled for decree of***

rendition of accounts? OPP

*7. Whether the plaintiff is entitled for damages to the tune of Rs. 3,10,000/- or any other amount?
OPP*

8. Relief.

13. Matter was fixed for PE. PW-1 Mukesh Sureshji Gaidhane tendered the evidence. Ld. Counsel for defendant that stopped appearing from the next date. On 25.10.2024, Ld. Counsel for plaintiff submitted that an email was received from the office of defendant stating that counsel would be withdrawing his vakalatnama. No such information was available with the Court nor any such communication was received in the email of the Court. Since, no one appeared on behalf Defendant. Defendant matter was fixed for arguments.

14. To prove its case, Plaintiff examined Sh. Mukesh Sureshji Gaidhane, AR of plaintiff who placed on record- **Ex.PW1/1** is representation of the trademark/label of the plaintiff; **Ex.PW1/2** is representation of the defendant's impugned label on its impugned goods; **Ex.PW1/3** is Screenshots of the plaintiff's website www.plasto.in, www.replasto.in.; **Ex.PW1/4** is screenshot of the plaintiff's product on e-commerce website like www.indiamart.com, www.amazon.in.; **Ex.PW1/5** is Status page, Journal Copy of the plaintiff's Trademark Application no. 3611117; **Ex.PW1/6** is Status page, Journal Copy and Trademark certificate of the plaintiff's Trademark Application no.3611120; **Ex.PW1/7** is Status Page of the plaintiff's

Trademark Application No.3625654; **Ex.PW1/8** is Status Page, Journal Copy and Trademark certificate of the plaintiff's Trademark Application No.3625659; **Ex.PW1/9** is Status Page of the plaintiff's Trademark Application no. 3632609; **Ex.PW1/10** is Status page, Journal copy and Trademark certificate of the plaintiff's Trademark Application No.3632615; **Ex.PW1/11** is is Status page, Journal copy and Trademark certificate of the plaintiff's Trademark Application No.3637711; **Ex.PW1/12** is Status page, Journal copy and Trademark certificate of the plaintiff's Trademark Application No.3637716; **Ex.PW1/13** is Status page, Journal copy and Trademark certificate of the plaintiff's Trademark Application No.3637717; **Ex.PW1/14** is Status page, Journal copy and Trademark certificate of the plaintiff's Trademark Application No.3637712; **Ex.PW1/15** is Status page, Journal copy and Trademark certificate of the plaintiff's Trademark Application No.3632610; **Ex.PW1/16** is Status page, Journal copy and Trademark certificate of the plaintiff's Trademark Application No.3625655; **Ex.PW1/17** is Status page, Journal copy and Trademark certificate of the plaintiff's Trademark Application No.3611121; **Ex.PW1/18** is Status page, renewal certificate of the plaintiff's Trademark Application No.1631766; **Ex.PW1/19** is Status page, Journal copy of the plaintiff's Trademark Application No.2805188; **Ex.PW1/20** is Status page, Journal copy of the plaintiff's Trademark Application No.2805189; **Ex.PW1/21** is copy of Legal Proceedings Certificate issued by the Trademark Registry; **Ex.PW1/22** is Screenshot of the Plaintiff's presence on social media pages- www.facebook.com., www.instagram.in and www.youtube.com.; **Ex.PW1/23** is Copy of Copyright

Certificates issued in favour of the plaintiff; **Ex.PW1/24** is Copy of the Sales invoices of the plaintiff under the trademark/label of the plaintiff; **Ex.PW1/25** is Copies of sales figures and advertisement expenses of the plaintiff; **Ex.PW1/26** is Advertisement by the plaintiff under the Trademark/label; **Mark 'A' (written as Ex.PW1/27 in the evidence affidavit)** is Copies of Registration Certificate of Central Sales Tax, Small Scale Industries Certificate; **Ex.PW1/28** is incorporation certificate of the Plaintiff company and the deed of assignment of trademark of the plaintiff; **Ex.PW1/29** is Board Resolution dt. 04.04.2022 in favour of Mr. Mukesh Sureshji Gaidhane; **Mark 'B' (written as Ex.PW1/30 in the evidence affidavit)** is Copies of previous judicial orders in favour of the plaintiff; **Ex.PW1/31** is Screenshots of the defendant's website www.lakshmiplasto.com; **Ex.PW1/32** is Screenshot of the defendant's products on e-commerce websites like www.instagram.com, www.indiamart.com and www.facebook.com; **Ex.PW1/33** is Computer printout of Whois Report for the plaintiff's websites www.plasto.in and www.replasto.in; **Ex.PW1/34** is Computer printout of Whois Report for the defendant's websites <https://www.lakshmiplasto.com>.

15. On the basis of pleadings and evidence of plaintiff, issue wise findings are as under:

16. **Issues No. 1 - *Whether the defendant is prior user of and has acquired distinct goodwill.*** 

17. Onus to prove this issue was on the Defendant. The defendant pleaded in Written statement that it had started using trademark Laxmi Plasto since 2020. It was stated that above trademark has become distinctive and exclusively identified by public with defendant alone. In support of its contention, defendant filed tax invoices which were not tendered by defendant and not put to plaintiff's witness in examination. Defendant is claiming that its products became distinctive within a short span of two years.

Plaintiff on the other hand is relying upon Ex. PW1/15 whereby Plasto trademark was registered in favour of Plaintiff claiming user detail since 1981. Defendant has failed to prove that its trademark Lakshmi is a distinctive trademark as no evidence was led in this regard and also on the ground that the user of plaintiff is of much prior date as compared to defendant who has used the mark since 2020 only. **The issue no. 1 is decided against defendant.**

18. **Issue no. 2:- *Whether the mark of plaintiff and mark of defendant are not similar in any manner?***

19. Onus to prove this issue was on the Defendant. It is the case of defendant that trademark Lakshmi Plasto is not similar to the trademark Plasto of the Plaintiff. It would be relevant to note that though the trade design of defendant appears different from trade design Plasto of Plaintiff; the defendant is also using word mark  Lakshmi Plasto in which Plasto is clearly written alongside Lakshmi with a gap between the two words. In such depiction the trademark of defendant appears to be

deceptively similar to the trademark of plaintiff; Plasto being dominantly common in both the trademarks. **The issue no. 2 is decided in favour of the Plaintiff and against the Defendant.**

20. ***Issue no. 3 - Whether the trademark of plaintiff is incapable of registration being non-distinctive, common to trade and public juris?***

21. Onus to prove this issue was on Defendant. It was the claim of the defendant that word plasto originates from word plastic. It was stated that the trade mark of plaintiff is non-distinctive, common to trade, public juris and being used by numerous enterprises. It is stated that one of the trade mark of plaintiff was refused under class 20 on account for being objectionable under section 9 and 11 of the trade mark. Defendant says that plaintiff had approached defendant's factory around December, 2022 and in furtherance of its spirits to amicably settle the defendant had stated that it has changed its brand name from Laxmi Plasto to Reeva Enterprises and had informed about the same to the plaintiff. The defendant thus is accepting that it has changed its product name and although objections have been taken regarding maintainability of the case of plaintiff, in practice the defendant as it appears from WS had given up the use of trademark Laxmi Plasto, which appears to be its stand otherwise also since the defendant stopped appearing after a point.

In so far as objection taken by defendant regarding invalidity of trademark of plaintiff is concerned, the meaning of word Plasto given by defendant are not generic for the products

of the Plaintiff which are tanks, pipes etc. although plastic is an ingredient in the making of these products. Defendant has failed to lead any evidence to show that word Plasto can be considered as generic in this regard. In fact, defendant has relied upon some trade applications where word Plasto has been granted to USA based company for medicinal, pharmaceuticals and veterinary functions. The defendant itself applied for word mark Plasto alongwith word Laxmi.

22. In 2022 SCC Online Del 3275 titled **PEPS Industries Pvt Ltd Vs Kurlon Limited**, Hon'ble Court held that the mark "No turn" which was being contested for being descriptive of mattresses was *prima facie, not descriptive generally of the mattresses but can be called to be communicating peculiar quality or features of mattresses.*

Much like, word plasto has got nothing to do with water tanks etc, though it may be resembling word plastic, which is the material used for making tanks. To my understanding use of word plasto would not lead anybody into believing that it has any reference to water tanks.

Hon'ble High Court in Automatic Electric Ltd. Vs. R.K.Dhawan, 1999 SCC Online DEL 27, held as under:-

"16. The defendants got their trade mark "DIMMER DOT" registered in Australia. The fact that the defendant itself has sought to claim trade proprietary right and monopoly in "DIMMER DOT", it does not lie in their mouth to say that the word "DIMMER" is a generic expression. User of the word "DIMMER" by others cannot be a defence available to the

defendants, if it could be shown that the same is being used in violation of the statutory right of the plaintiff."

In view of the judgments cited hereinabove since defendant's own case is that it got word *plasto* registered, it cannot take a plea that the word is generic to the trade and therefore, cannot be registered. There are no doubt objections and one refusal/withdrawal of the trademarks of plaintiff, the plaintiff has some registered trademarks in its name and has right to protect these trademarks claiming a continuous user from 1981.

23. Issue no. 4:- Whether the plaintiff is entitled for decree of permanent injunction as mentioned in prayer clause (a) restraining defendant from using in any manner trademark *Lakshmi Plasto* in relation to goods and business of Plastic Water Tanks, Storage Tanks made of plastic, Water Storage Tanks (non-metallic containers), Plastic Storage Drums, Water Tanks use made of plastic?

24. Onus to prove this issue was on the Plaintiff. Plaintiff has shown that it has registration of word mark *Plasto* in its favour since 2017 on the application claiming user since 1981. Defendant had taken a plea that one of the trademarks of the plaintiff was refused by the Trademark Registry. The plaintiff was directed to file documents in this regard. The document was filed by the plaintiff, which shows that trademark was refused being objectionable under section 9/11 of Trademark Act vide order dt.08.05.2018. The plaintiff withdrew the said trademark. It is stated that the plaintiff still has registrations of word mark in

its favour. These registrations have been challenged by different entities in 2020, however, as per the submission of Ld. Counsel for Plaintiff they have not been taken off record till date and stand registered in favour of Plaintiff. Defendant has not cross examined Plaintiff and has not led any evidence to dispute the claim of Plaintiff or evidence led by the Plaintiff. Plaintiff has thus successfully proved that it has been using trademark Plasto since 1981 continuously and is thus entitled for injunction, as prayed. Another relevant fact is that the defendant itself has stated that it has stopped using the trademark Laxmi Plasto and started using brand name Reeva Enterprises.

25. In view of above **temporary injunction granted in favour of plaintiff vide order dated 10.11.2022 is confirmed**. Defendant by itself/themselves as also through his/their individual proprietors/partners, agents, representatives, distributors, assignees, heirs, successors, stockists and all other acting for and on their behalf **are restrained** from using, selling, soliciting, exporting, displaying, advertising (including in audio, print, visual/social media or otherwise) directly or indirectly or dealing in any other manner or mode in the impugned trademark/labels/trade name “LAKSHMI PLASTO” in relation to their impugned goods and business.

26. **Issue no. 5:- Whether the plaintiff is entitled for an order of delivery of impugned finished or unfinished products bearing trademark Lakshmi Plasto including blocks, labels, display boards, sign boards, and trade literature to the plaintiff?**

And

Issue no.6 *Whether the plaintiff is entitled for decree of rendition of accounts?*

And

Issue no. 7 - Whether the plaintiff is entitled for damages to the tune of Rs. 3,10,000/- or any other amount?

27. Onus to prove these issue is on the Plaintiff. Ld. Counsel for plaintiff did not press for delivery up and rendition of account and sought order for damages only.

It was argued by Ld. Counsel that defendant's continuous use of trademark Plasto has led to financial losses to the plaintiff. Report of Local Commissioner shows that defendant on the date of execution of commission was using products containing trademark Laxmi Plasto. Defendant through its WS claimed that it had stopped using the mark after the plaintiff visited its factory in December, 2022. The plaintiff has not brought on record any document to show that defendant continued the use subsequent to passing of order. The plaintiff, however, is entitled for damages that it suffered on account of use of trademark by the defendant from 2020 to 2022.

28. In *Jockey International Inc & Anr. Vs R. Chandra Mohan & Ors.* 2014 (59) PTC 437 (Del) in para 43, it was held that damages must be awarded even in such cases where defendants choose to stay away from the proceedings of the Court and that defendants should not be permitted to enjoy the benefits of evasion of Court proceedings. A party who chooses not to

participate in Court proceedings and stays away must suffer the consequences of damages as it cannot produce its account books. There is larger public purpose involved to discourage such parties indulging in such rights of deception and even if the same has a punitive element, it must be granted.

29. In the *Hero Honda Motors Ltd. vs Shree Assuramji Scooter's* 125 (2005) DLT 504 our High Court observed about the need of awarding damages against defendants who chose to stay away from the proceedings of the Court. It was further noted that every endeavour should be made to discourage such parties which indulge in acts of deception.

30. Having regard to the totality of the facts and circumstances noted above, this Court is of the considered view that plaintiff is entitled to lumpsum damages of Rs.2,00,000/- on account of economic and commercial advantage which the defendant tried to gain at the expenses of the enviable reputation created by the plaintiff apart from injunction.

31. In view of the aforementioned findings, the suit of the plaintiff is decreed. A decree of permanent injunction and damages in favour of plaintiff against the defendants is hereby passed. File be consigned to record room.

(Dictated and announced on

*30.10.2025)
(digitally signed and
uploaded on 31.10.2025)*

(ANURADHA SHUKLA)
District Judge
(Commercial Court-02)
South Distt., Saket, New Delhi.