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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO(OS) (COMM) 179/2025 & CAV 414/2025, CM APPL. 67449/2025, CM APPL. 67450/2025, CM APPL. 67451/2025**

A RANGE GOWDAAppellant
Through: Mr. J. Sai Deepak, Sr. Adv.
with Mr. Paritosh Dhawan, Adv.

versus

BIMA SUGAM INDIA FEDERATION & ORS.....Respondents
Through: Mr. Akhil Sibal, Sr Adv. with
Ms. Riddhie Bajaj, Ms. Swati Sharma, Mr.
Rohin Koolwal and Mr. Pundreek Dwivedi,
Advs.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

% **ORDER**
30.10.2025

CM APPL. 67450/2025, CM APPL. 67451/2025

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

CAV 414/2025

3. Since learned Counsel for the respondents/caveators has entered appearance, the caveat stands discharged.

FAO(OS) (COMM) 179/2025

4. By order dated 16 October 2025, a learned Single Judge of this



Court has, adjudicating IA 14214/2025 in CS (Comm) 577/2025¹, made the interim order of injunction, passed on 29 May 2025, final pending disposal of the suit, and has further transferred domain names www.bimasugam.com and www.bimasugam.in to the respondent-plaintiff, subject to the respondent undertaking that, if the appellant-defendant were to succeed in the suit, the said domain names would be retransferred back to the appellant and monetary compensation would follow.

5. The appellant/defendant challenges the aforesaid order of the learned Single Judge to the limited extent of transfer of the domain names www.bimasugam.com and www.bimasugam.in to the respondent.

6. Issue notice. Notice is accepted on behalf of the respondents by Mr. Rohin Koolwal.

7. As this is a statutory appeal against an interim order, we dispense with the requirement of exchange of pleadings. However, both sides are directed to place on record short notes of their written submissions not exceeding four pages each after exchanging copies with each other at least a week in advance of the next date of hearing. Learned Counsel would also place on record duly indexed compilations of any judicial authorities on which they may seek to place reliance, with relevant paragraph numbers indicated in the index.

8. In view of the urgency expressed by Mr. Sibal, we direct that

¹ **Bima Sugam India Federation v A Range Gowda**



the appeal be set down for final hearing immediately on expiry of eight weeks from today i.e. on 12 January 2026.

9. No extension of time for filing of written submissions would be granted. The matter would be argued and decided on the said date.

CM APPL. 67449/2025 (stay)

10. Issue notice.

11. Notice is accepted on behalf of the respondents by Mr. Rohin Koolwal.

12. Reply may be filed within four weeks with advance copy to learned Counsel for the appellant who may file rejoinder thereto, if any, within four weeks thereof.

13. By this application, the appellant/defendant prays for stay of the operation of the impugned order, to the extent it transfers the domain names www.bimasugam.com and www.bimasugam.in to the respondents.

14. Having heard Mr. J Sai Deepak, learned Senior Counsel for the appellant and Mr. Akhil Sibal, learned Counsel for the respondents at considerable length, we are inclined to grant *ad interim* stay as sought for, pending disposal of the appeal, for the following reasons:

(i) The respondent is not the owner of the domain names



www.bimasugam.com and www.bimasugam.in. The said domain names undisputedly stand registered in favour of the appellant since October 2022, since which time the appellant has been using the said domain names. As such, what the impugned order does, is effectively allow the respondent, even at interim stage when the suit is pending, to exploit the domain names which stands registered in favour of the appellant. The registration of the domain names in the appellant's name has, therefore, been effectively effaced at an interim stage.

(ii) To clarify this position, we posed a query to Mr. Sibal, learned Senior Counsel for the respondent as to what the respondent proposes to do with the transferred domain names. Mr. Sibal candidly acknowledges that the respondent intends to launch an e-marketplace using the said domain names. To our mind, the respondent cannot be permitted to exploit the domain names, registered in the appellant's favour, for commercial profit, at an interim stage, even when the suit is pending.

(iii) The entire suit is predicated on the mark BIMA SUGAM, over which the respondent claimed common law proprietary rights. *The respondent does not have any registration under the Trade Marks Act, 1999, for the said mark. The case is, therefore, solely one of passing off.*

(iv) The Supreme Court has, in ***Toyota Jidosha Kabushiki***



Kaisha v Prius Auto Industries Ltd², held that, in order for a plaintiff to be able to make out a case of passing off, by the defendant, of its goods as those of the plaintiff, the plaintiff would have to demonstrate the accumulation of sufficient goodwill, in its asserted mark, *prior to user of the mark by the defendant*. Admittedly, the respondent announced its intent to use the mark BIMA SUGAM only in August 2022. Again, admittedly, the appellant's domain names stood registered in October 2022 since which time the appellant has been using the said domain names. Applying the principles laid down by the Supreme Court in ***Toyota***, therefore, in order to sustain the claim of passing off, the respondent would have to establish accumulation of goodwill between August 2022 and October 2022 as would justify interdicting the appellant from using the domain names which stands registered in its favour.

(v) *We find, from the impugned order, that there is no finding on goodwill earned by the respondent, by user of the BIMA SUGAM mark, returned by the learned Single Judge even though the learned Single Judge has recorded the contention of the respondent that, by continuous user since August 2022, goodwill has been generated. The period of “continuous user”, prior to registration of the allegedly infringing domain names in the appellant's favour, we may reiterate, was a mere 3 months, from August to October 2022. This fact stands acknowledged by learned Counsel, and also stands recorded, thus, in para 17 of the impugned order:*

² (2018) 2 SCC 1



“17. In light of the admission of Defendant No. 1 that he has adopted the ‘BIMA SUGAM’ mark only on 01st October 2022, this Court is of the considered opinion that the Plaintiff is the prior user of the ‘BIMA SUGAM’ mark on account of the public announcement made by the IRDAI Chairperson on 25th August 2022 and the continuous use of the second mark by IRDAI for the benefit of the Plaintiff thereafter.”

(vi) Thus, it is an admitted position that the user by respondent, of the mark BIMA SUGAM, prior to the commencement of user of the allegedly infringing domain names by the appellant was only of three months. *There is no finding, by the learned Single Judge that, during this period of three months, goodwill had been accumulated of the respondent's in the mark BIMA SUGAM as would justify interdicting the use, by the use, of the domain names www.bimasugam.com and www.bimasugam.in which stands registered in its favour.*

(vii) *It is fundamental to passing off law that a finding of goodwill has to be returned, before passing an order of injunction.* This is the very first of the three ingredients of passing off, which constitute goodwill, misleading user of the mark by the defendant and damages suffered by the plaintiff as a result thereof. Absent a specific finding of goodwill by the learned Single Judge, at this *prima facie* stage, we are of the opinion that the learned Single Judge could not have passed an interim order of injunction. However, as the appellant has restricted its challenge only to the extent of transfer of the domain names to the respondent, we express no opinion



regarding the conformation of the *ad interim* order of injunction by the learned Single Judge.

(viii) Mr. Sibal, learned Senior Counsel for the respondent, has assiduously contended that the grant of a mandatory injunction at an interim stage is permissible as has been held in a catena of authorities, including, most notably, ***Dorab Cawasji Warden v Coomi Sorab Warden***³. We are aware of the principle. There can be no gainsaying that, in an appropriate case, mandatory injunction can be granted at *ad interim* stage. What has been done in the present case, however, according to us, travels beyond grant of a mere mandatory injunction. The learned Single Judge has without returning even a *prima facie* finding of accumulation of goodwill by the respondent, created a situation in which the respondent would be able to exploit the domain names which stand registered in favour of the appellant, even when the suit between the two is pending. This, according to us, goes even beyond the perimeters of the decision in ***Dorab Cawasji Warden***, and is *prima facie* impermissible.

(ix) It is significant to note that, even while passing the impugned order, the learned Single Judge has sought an undertaking from the respondent to the effect that, if the appellant ultimately succeeds in the plaint, and the respondent fails, the domain names would be transferred back to the appellant and monetary compensation would follow. This indicates that the very aspect of passing off is still looming large

³ (1990) 2 SCC 117



even before the learned Single Judge. In such circumstances, even the principles of balance of convenience and irreparable loss, in our view, would not justify transfer of the domain names to the respondent, thereby permitting the respondent to exploit the domain names, which stands registered in favour of the appellant, by way of an e-marketplace even while the suit is pending.

(x) We may note, in this context, that prayer (c) in the plaint, which is specifically for a direction to transfer the allegedly infringing domain names www.bimasugam.com and www.bimasugam.in to the respondent. Effectively, therefore, order of the learned Single Judge at an interim stage grants prayer (c) in the plaint.

(xi) Even assuming the respondent has a good *prima facie* case, its interests stand sufficiently protected by confirmation of the pre-existing *ad interim* order dated 29 May 2025 final, pending disposal of the suit. This would effectively foreclose any user or exploitation, by the appellant-defendant, of the allegedly infringing domain names. That this would suffice to protect the respondent's interests is apparent from the fact that, from May to October 2025, the respondent was content with the user of the said domain names by the appellant remaining suspended, without any further order transferring the said domain names to itself.

(xii) A reading of the impugned order reveals that the learned



Single Judge has taken critical note of the fact that the appellant was claiming ₹ 50 crores for transferring the domain name for the respondent. Mr. Sai Deepak submits that the appellant was justified in its demand, given the fact that the respondent was trying to unseat user of the mark by the appellant, which it had in fact been using since October 2022. We are not required to return any *prima facie* observation on this aspect, as, even if the demand by the appellant were to be treated as unjustified, that could not constitute a legitimate basis to transfer the allegedly infringing domain names to the respondent, thereby permitting its commercial exploitation by the respondent, even while the controversy in the suit looms large.

15. For all the aforesaid reasons, we are of the opinion that a *prima facie* case has been made out by the appellant for stay of operation of the impugned order of the learned Single Judge, insofar as it directs transfer of the domain names www.bimasugam.com and www.bimasugam.in to the respondent pending disposal of the suit. In case the stay as sought is not granted and the domain names are directed to be transferred to the respondent, the present appeal would itself be rendered infructuous. As such, the principle of balance of convenience and irreparable loss, insofar as they apply to the appeal on hand, would also be in favour of grant the stay of operation of the direction of the learned Single Judge to transfer the domain names www.bimasugam.com and www.bimasugam.in to the respondent, pending further orders in the appeal.

16. As a result, we direct that, till the next date of hearing, there



shall be a stay of operation of the impugned order dated 16 October 2025 passed by the learned Single Judge in IA 14214/2025 in CS (Comm) 577/2025 insofar as it directs transfer of the domain names www.bimasugam.com and www.bimasugam.in to the respondent.

17. Needless to say, this order shall abide by the final outcome of the present appeal.

18. Re-notify on 12 January 2026.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

OCTOBER 30, 2025
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