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The **Delhi High Court** in the case of **TV Today Network vs Surashtra Aaj Tak [CM APPL. 80300/2025] dated July 30, 2026**, has held that a disclaimer-based mandatory injunction is an inadequate and erroneous remedy when the elements of passing off are fully satisfied. The prior user of a mark can maintain a passing off action irrespective of registration status, and registration merely recognises pre-existing common law rights. The Court also emphasised that an addition of a geographical prefix to an established and distinctive mark does not dispel confusion but may reinforce the likelihood of association. Further, the intent to deceive or proof of actual damage is not a necessary element in a passing off action, and Section 34 of the Trade Marks Act cannot be invoked by a subsequent user whose use postdates the prior user's adoption of the mark.

The High Court observed that the Trial Court had itself categorically held that the mark 'Aaj Tak' had acquired distinctiveness and secondary meaning due to long, continuous usage by the appellant in the field of news dissemination, and that the words had become synonymous with the appellant and a household name. The Trial Court had also held that the use of 'Saurashtra Aaj Tak' was likely to create confusion and likelihood of association in the minds of the general public, that both parties operated in the same field of news dissemination, and that any deficiency in the respondent's services was likely to injure the goodwill and reputation of the appellant. Despite these categorical findings, the Trial Court erred in not granting a complete permanent injunction.

The Court noted that the respondent was proceeded ex-parte and did not lead any evidence. No plea of bona fide use was taken under Section 35 of the Trade Marks Act, and no evidence was placed on record to establish any goodwill or reputation in the mark 'Saurashtra Aaj Tak'. The Trial Court's finding that the respondent may have developed goodwill was based on surmises and conjectures, entirely unsupported by evidence. On the question of locus standi, the Court held that the suit was for passing off and not infringement, and under Sections 27 and 28 of the Trade Marks Act, a prior user of a mark can maintain a passing off action even if not the registered proprietor. The appellant, having used the mark since 2000, was the prior user compared to the respondent who commenced use only in 2002.

On the element of goodwill and reputation, the Court relied on the earlier Delhi High Court judgment in *Living Media India Limited v. Jitender V. Jain* [2002 SCC OnLine Del 605], which had held that while the words 'Aaj' and 'Tak' may individually be descriptive and dictionary words, their combination enjoys protection as a trademark when subject to long, prior and continuous use by a particular party, and that any prefix or suffix would be irrelevant in a passing off action.

On misrepresentation and likelihood of confusion, the Court observed that the respondent had incorporated the entirety of the appellant's mark 'Aaj Tak' and merely prefixed a geographical identifier. The prefix 'Saurashtra' did not negate the association but rather reinforced it by suggesting a regional arm of the same business. The Court examined the respondent's newspaper and Advertisement Rate Card on record, noting that the words 'Aaj Tak' appeared in bold and in a larger font while 'Saurashtra' was in a smaller font, clearly indicating an attempt to pass off on the appellant's goodwill. The Court rejected the respondent's contention that circulation limited to Gujarati language in the Saurashtra region would negate confusion, since the appellant's nationwide television channel was accessible even in Saurashtra, and both parties operated in the allied and cognate field of news dissemination.

On likelihood of damage, the Court held that actual damage need not be proved in a passing off action, a probability of damage is sufficient. The absence of an intention to deceive is not a defence to a passing off action. The Court rejected the respondent's defence under Section 34 of the Trade Marks Act (prior user protection), holding that Section 34 applies only where the subsequent user's use predates the use of the first-mentioned trademark. Since the appellant had been using 'Aaj Tak' since 2000 and the respondent commenced use only in 2002, Section 34 offered no protection to the respondent. The Court also rejected the contention that RNI registration under the PRB Act afforded any defence, holding that the PRB Act and the Trade Marks Act serve entirely different purposes, and RNI approval has no overriding effect on trademark disputes.

Accordingly, the Court passed a decree of permanent and mandatory injunction in favour of TV Today Network (appellant), restraining the respondent/defendant, its directors, employees, servants, agents and anyone claiming under it, from using the name 'Saurashtra Aaj Tak' in any manner. The respondent was also directed to change the name of its newspaper from 'Saurashtra Aaj Tak' to any other name, style and title which is not similar or deceptively similar to the appellant's mark 'Aaj Tak'.