

If the plaintiff is the prior adopter and user of a registered trademark which has acquired substantial reputation, and the defendant adopts a mark that retains the dominant and essential features of that registered mark with only a minor insertion, such alteration does not dispel deceptive similarity

The **Delhi High Court** in the case of **Capital Foods Private Limited vs Kishan Rameshbhai Kaswala Trading [CS(COMM) 562/2026]** dated **May 22, 2026**, has held that where the plaintiff is the prior adopter and user of a registered trademark which has acquired substantial reputation, and the defendant adopts a mark that retains the dominant and essential features of that registered mark with only a minor insertion such as the word “DIPPING”, such alteration does not dispel deceptive similarity. If the overall commercial impression remains such as to cause confusion to an unwary consumer of average intelligence and imperfect recollection, the use is not honest or bona fide, and a prima facie case for injunction in an infringement and passing off action is made out.

The Court observed that since the suit was founded on infringement and passing off of the plaintiff’s registered trademark, comparison of the rival marks was necessary. On such comparison, the Court found that the emphasis on the words “Schezwan” and “Chutney” on a white background in the defendant’s products appeared similar to that of the plaintiff, and that merely using the word “dipping” between those words did not create such a distinction as would enable an unwary consumer of average intelligence and imperfect recollection to differentiate between the two products.

The Court observed that the defendant had been using the mark “Schezwan Chutney” openly on e-commerce platforms, and that such use was bound to create confusion in the minds of the public as to whether the defendant’s products were those of the plaintiff or were associated with it. It noted that the presence of brand names such as “K Masala”, “Green Piece” or “Fruvanta” at the top would not sufficiently alert the public that the products belonged to the defendant and not the plaintiff.

The Court also held that the defendant’s products shown on e-commerce websites were deceptively similar to the plaintiff’s products bearing the registered trademark “SCHEZWAN CHUTNEY”, and that adoption of the mark “SCHEZWAN CHUTNEY”, with or without the word “DIPPING” in between, did not appear honest or bona fide. The Court thus recorded that the plaintiff’s registered mark had garnered substantial reputation and goodwill over the years, as reflected from the sales figures and promotional expenditure, and that the defendant appeared to be riding on the coattails of the plaintiff’s immense reputation and goodwill, which was bound to dilute the plaintiff’s trademark.

Accordingly, the Court granted an ex parte ad interim injunction restraining the defendant, its agents, suppliers, distributors, directors, employees and all others acting on its behalf from directly or indirectly dealing in the impugned products “K3 MASALA SCHEZWAN DIPPING CHUTNEY”, “GREEN PIECE SCHEZWAN DIPPING CHUTNEY”, and “FRUVATA SCHEZWAN DIPPING CHUTNEY”, and/or any products or services bearing the mark “SCHEZWAN CHUTNEY” and/or “SCHEZWAN DIPPING CHUTNEY”, and/or

from using any other mark deceptively similar to the plaintiff's registered trademark "SCHEZWAN CHUTNEY".

The Court further directed the defendant to place on record, in a sealed cover and within six weeks from the date of service, its books of account, invoices, sales memos and/or any other documents evidencing sale of the infringing products referred to in the injunction direction. Further, the matter was directed to be listed before the Joint Registrar (Judicial) on Aug 11, 2026 for completion of service and pleadings, and before the Court on Nov 17, 2026.