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Court favours Emami in HUL case

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Calcutta: Calcutta High Court has granted an interim injunction in favour of Calcutta-based FMCG major Emami, restraining Hindustan Unilever Ltd (HUL) from using the 'Glow & Handsome' brand name.

The court has given one month to the Indian subsidiary of the British multinational to comply with the order, after being satisfied with the prima facie case made out by the petitioner Emami.

Emami had dragged HUL to court soon after the multinational launched the fairness cream for men in the market in 2020. After an exchange of voluminous affidavits and submissions before the court

by the respective counsel, the court passed the interim order on Tuesday.

"...the petitioner has been able to make out a strong prima facie case on merits insofar as the case of passing off is concerned. The balance of convenience is overwhelmingly in favour of the orders being passed as prayed for by the petitioner," Justice Ravi Krishan Kapur said in his judgment.

Emami did not comment on the judgment. However, counsel for the company, Shwetank Ginodia, partner of R. Ginodia & Co, said, "We are glad that the court has allowed Emami's application for interim injunction against HUL, and Emami's stand that HUL has indulged in passing off has

TO BE FAIR

- Court restrains HUL from using the 'Glow & Handsome' brand name.
- HUL has one month to comply with the order

been vindicated."

Responding to the judgment, a spokesperson for HUL commented: "The Calcutta High Court has issued an order of injunction for passing-off after almost four years in a suit filed by Emami. We are reviewing the order and will take appropriate action."

Launched in 2005, Fair & Handsome is the market leader in its category with a 65 per

cent share, clocking close to Rs 150 crore of business for Emami annually. The company alleged that HUL changed the name of its men's skin cream from 'Men's Fair & Lovely' to 'Glow and Handsome'. Emami immediately challenged HUL for the use of the mark and filed a suit for infringement and passing off.

Emami alleged that 'Glow and Handsome' is "deceptively similar" to the petitioner's registered mark.

However, HUL contested the claim saying that the mark 'Handsome' is "purely descriptive and incapable of any distinctiveness".

"A conscious and deliberate decision by a competitor in adopting a leading, promi-

nent and essential component of a trade rival while seeking to change the name of its existing brand is not something which can be disregarded. In choosing the word 'Glow and Handsome', there is also an element of taking unfair advantage of a leading, prominent and essential feature of the petitioner's mark which deceives or is likely to deceive," the judgment read.

Given that HUL's product is already in the market, Justice Kapur gave it a month to comply with the order.

While Ranjan Bachawat, senior advocate, appeared for Emami, HUL was represented by senior advocates S.N. Mookherjee, Ratnanko Banerjee and Arunabha Deb, among others.