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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 24/11/2025

+ **C.O.(COMM.IPD-CR) 16/2024 & I.A. 37850/2024**

RAJANI PRODUCTSPetitioner

versus

**MADHUKAR VARANDANI, PROPRIETOR OF M/S
NATURALINDIA OILS AND PROTEINS & ANR.**

....Respondents

Advocates who appeared in this case

For the Petitioner : Mr. Ajay Amitabh Suman, Mr. Shравan Kumar Bansal, Mr. Rishi Bansal, Mr. Pankaj Kumar, Mr. Deepak Srivastava, Mr. Risabh Gupta, Ms. Shruti Manchanda & Ms. Deasha Mehta, Advocates.

For the Respondents : Proxy Advocate appeared for Respondent No.1 (through VC). (Appearance not given). Ms. Nidhi Raman, CGSC along with Mr. Om Ram & Mr. Mayank Sansanwal, Advocates for Respondent No.2.

**CORAM:
HON'BLE MR. JUSTICE TEJAS KARIA**

JUDGMENT

TEJAS KARIA, J

1. The present Petition has been filed under Section 50 of the Copyright Act, 1957 ('Act') seeking removal of the Copyright registration bearing No.




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A-128046/2019 of the artistic work titled as 'NIOP NIWAI IN ENGLISH AND HINDI WITH DEVICE OF SWASTIK' ('**Impugned Artistic Work**') from the Register of Copyright.

FACTUAL BACKGROUND



2. The Petitioner is a partnership firm engaged in the business of manufacturing and marketing of edible oil and other allied / cognate goods. The Petitioner claims that through its predecessors, it adopted the Trade Mark / Label SWASTIK, SWASTIK NO. 1 and the SWASTIK Logo in respect of the said goods since the year 1975. The word 'SWASTIK' forms an essential part of the Petitioner's said Trade Mark / Label. The details of the registration of some of the Petitioner's Trade Marks are as under:

Sr. No	Trademark	Application No.	Goods/services - Class	Status
1.	SWASTIK NO. 1	411334	Mustard Oil, Til Oil (edible) - 29	Registered and valid up to 29/09/2034
2.		1055218	Edible oil, Til oil, Mustard Oil, Ground Nut Oil and soybean Refined Oil - 29	Registered and valid up to 30/10/2031



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3.		2146301	Edible oil, Mustard Oil, - 29	Pending
4.		4838086	Edible Oil, Mustard oil - 29	Pending

3. The Artistic Works involved in the Petitioner's said Trade Mark / Label are original Artistic Works of the Petitioner, who is the owner and proprietor of the same. The Petitioner has obtained copyright registrations for the said artistic works ('Petitioner's Artistic Works'), the details of which are as under:

Sr. No	Copyright Label	Registration No.
1.	 / SWASTIK LABEL	A-45417/1984
2.	 / SWASTIK LABEL	A-46097/1984



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4. Respondent No. 1 is engaged in the business of manufacturing, marketing and sale of edible oil and goods of allied / cognate nature. Respondent No. 1 adopted and started using the Trade Mark / Label / Artistic Work ‘SHUBHARAMBH’ with the Device of SWASTIK, and



‘NIWAI’ with the Device of SWASTIK -



and in relation to their goods. While the Petitioner has no objection to the usage of the words ‘SHUBHARAMBH’ and ‘NIWAI’, the Petitioner is aggrieved by the usage of the Device of SWASTIK.

5. Respondent No. 1 has adopted and started using the SWASTIK



Device in the Impugned Artistic Work represented as , wherein the SWASTIK Device forms the essential part of the Trade Mark.

6. The Petitioner filed a Suit being CS(COMM) No. 84/2021 (“**Suit**”) against Respondent No. 1 for the adoption of the Trade Marks / Labels



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‘SHUBHARAMBH’ with the Device of SWASTIK and ‘NIWAI’ with the Device of SWASTIK, wherein the learned District Judge (Commercial Court-02), South, Saket Court, New Delhi, *vide* order dated 19.02.2021 granted interim injunction in favour of the Petitioner restraining Respondent No.1 from dealing in or using the said Trade Marks / Labels.

7. It is the Petitioner’s case that it became aware of the Copyright registration of Respondent No. 1’s Impugned Artistic Work from the Written Statement filed by Respondent No. 1 to the Suit. The details of the said Copyright registration are as under:

Copyright Name	Copyright Label	Registration No.
NIOP NIWAI IN ENGLISH AND HINDI WITH DEVICE OF SWASTIK		A-128046/2019

8. Being aggrieved by the said Copyright registration of the Impugned Artistic Work, the Petitioner has filed the present Petition seeking cancellation of the same. Notice was issued in the present case *vide* order dated 30.08.2024, which was accepted by the learned Counsel appearing for the Respondents, and the Respondents were granted four weeks’ time to file their Reply. In the order dated 13.12.2024, it was noted that no Reply had been filed by the Respondents and a further period of six weeks was granted to file the Reply. *Vide* order dated 29.04.2025, Respondent No. 1 was given the last opportunity to file its Reply within a period of four weeks subject to



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deposition of cost of ₹10,000/-, and the Parties were also directed to file their respective Written Synopsis in the present case within a period of four weeks. However, despite the last opportunity, no Reply was filed by Respondent No. 1 and, therefore, its right to file the Reply was closed *vide* Order dated 08.09.2025.

SUBMISSIONS ON BEHALF OF THE PETITIONER

9. The learned Counsel for the Petitioner submitted that the Petitioner is the prior adopter and the registered proprietor of the Petitioner's Artistic Works. It is further submitted that Respondent No. 1's Impugned Artistic Work bearing Registration No. A-128046/2019 is a substantial reproduction of the Petitioner's Artistic Works.

10. The learned Counsel for the Petitioner submitted that the Impugned Artistic Work is a slavish copy of, identical with and deceptively similar to the Petitioner's Artistic Works, in each and every respect, including their essential elements, placement of objects and artistic features.

11. The learned Counsel for the Petitioner submitted that Respondent No. 1's Impugned Artistic Work substantially imitates the Petitioner's Artistic Works as the use of the SWASTIK Device is in the same background colour scheme as that of Petitioner's SWASTIK Device.

12. The learned Counsel for the Petitioner submitted that the Petitioner has acquired substantial goodwill and reputation for its products sold under the SWASTIK Label bearing the Petitioner's Artistic Works, such that the members of the trade and public associate the said Label with the Petitioner. It is further submitted that the adoption of the Impugned Artistic Work by Respondent No. 1 is dishonest and *mala fide*, and is likely to cause dilution of the Petitioner's goodwill and reputation garnered over the years.



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13. In view of the foregoing submissions, it is prayed that the present Petition be allowed and the registration of the Impugned Artistic Work be cancelled from the Register of Copyright.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS

14. Despite being granted multiple opportunities to file the Reply, Respondent No.1 did not file Reply. Therefore, *vide* Order dated 08.09.2025, Respondent No.1's right to file the Reply was closed. Learned CGSC for Respondent No. 2 opposed the grant of relief in the Petition.

ANALYSIS AND FINDINGS

15. At the outset, it is noted that in the absence of any Reply filed by Respondent No.1, the pleadings made in the present Petition remain uncontroverted.

16. Under Section 50 of the Act, an entry that has been made wrongly and continues to remain on the Register of Copyright, can be expunged by filing a rectification petition. Such a rectification petition can be filed by a any 'person aggrieved' by the registration of the said entry.

17. In the present case, the Petitioner is clearly a person aggrieved as - *firstly*, the Petitioner is the registered owner of the Petitioner's Artistic Works; and *secondly*, the Petitioner and Respondent No.1 are operating in the same trade, i.e., edible oil and other allied / cognate goods. Therefore, the Petitioner is a person aggrieved as the usage of the Impugned Artistic Work would dilute the Petitioner's goodwill in the Petitioner's Artistic Works / Label SWASTIK, which forms an integral part of the Impugned Artistic Work.

18. In *Marico Ltd. v. Jagit Kaur*, 2018 SCC OnLine Del 8488, this Court held that when two labels or artistic works are compared to determine if they



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are original, the broad features of both the labels / artistic works are to be compared. It was further held that the colour scheme and the objects used in the labels / artistic works should also be considered for determining substantial reproduction / similarity between them. The relevant extract of the said judgment is as under:

“6. A perusal of the labels extracted hereinabove shows that the comparative features of the two labels are so similar that “NIHAL UTTAM” label can safely be termed as colourful imitation or substantive reproduction. Colour scheme between the two labels is the same. The manner in which the coconut tree is arranged is the same, the arrangement of two broken coconuts is similar. Due to the long user in the market, the Appellant's label was quite extensively used and hence the Respondent had access to the Appellant's label. It is the settled position in law that when two labels or artistic works are compared, the broad features are to be compared and not by putting the two labels side by side. The Supreme Court in Parle Products P. Ltd. v. J.P. & Co., Mysore, (1972) 1 SCC 618 observed as under:

“9. It is therefore clear that in order to come to the conclusion whether one mark is deceptively similar to another, the broad and essential features of the two are to be considered. They should not be placed side by side to find out if there are any differences in the design and if so, whether they are of such character as to prevent one design from being mistaken for the other. It would be enough if the impugned mark bears such an overall similarity to the registered mark as would be likely to mislead a person usually dealing with one, to accept the other if offered to him. In this case we find that the packets are practically of the same size, the colour scheme of the two wrappers is almost the same; the design on both though not identical bears such a close resemblance that one can easily be mistaken for the other. The essential features of both are that there is a girl with one arm raised and carrying something in the other with



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a cow or cows near her and hens or chickens in the foreground. In the background there is a farm house with a fence. The word “Glucose Biscuits” in one and “Glucose Biscuits” on the other occupy a prominent place at the top with a good deal of similarity between the two writings. Anyone in our opinion who has a look at one of the packets to-day may easily mistake the other if shown on another day as being the same article which he had seen before. If one was not careful enough to note the peculiar features of the wrapper on the plaintiffs' goods, he might easily mistake the defendants' wrapper for the plaintiffs' if shown to him some time after he had seen the plaintiffs'. After all, an ordinary purchaser is not gifted with the powers of observation of a Sherlock Holmes. We have therefore no doubt that the defendants' wrapper is deceptively similar to the plaintiffs' which was registered. We do not think it necessary, to refer to the decisions referred to at the Bar as in our view each case will have to be judged on its own features and it would be of no use to note on how many points there was similarity and in how many others there was absence of it.”

7. Though the above observation has been rendered in the context of comparison of label marks in a passing off action, the tests for comparison of labels which are artistic works, would be the same.”

[Emphasis Supplied]

19. A comparison of the Petitioner’s Artistic Works and the Impugned Artistic Work is as under:



Petitioner's Artistic Works	Impugned Artistic Work
 <p data-bbox="512 853 721 891">(A-46097/84)</p>	 <p data-bbox="1098 853 1326 891">(A-128046/19)</p>
 <p data-bbox="512 1518 721 1556">(A-45417/84)</p>	

20. It is well-settled in law that Copyright protection is granted to an artistic work under the Act, only if the said work meets the threshold of originality.

21. From the above comparison, it is clear that the Impugned Artistic Work is substantially similar to Petitioner's Artistic Works. The Impugned



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Artistic Work reproduces the SWASTIK device, which forms an essential part of the Petitioner's Artistic Works. Further, the similar background colour scheme of the competing artistic works of the Petitioner and Respondent No.1 as is evident from the table above, in addition to the placement of the objects such as the SWASTIK device which is contained in a circle in the Petitioner's Artistic Work bearing Registration No. A-46097/84, suggest that the Impugned Artistic Work is a substantial imitation / reproduction of the Petitioner's Artistic Works.

22. Considering the above, the Impugned Artistic Work lacks originality and is liable to be expunged from the Register of Copyright. Accordingly, the present Petition is hereby allowed and the Copyright registration bearing No. A-128046/2019 is expunged and cancelled from the Register of Copyright.

23. The Registry is directed to supply a copy of this Order to the Office of the Controller General of Patents, Designs and Trade Marks of India at the E-Mail Address – llc-ipo@gov.in for compliance of this Order. Let this Order be reflected on the website of the Controller General of Patents, Designs and Trade Marks of India within four weeks.

24. The present Petition and the pending Application stand disposed of.

TEJAS KARIA, J

NOVEMBER 24, 2025

ap/st