

Vadilal loses 'American Dry Fruits' brand

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Vadilal Industries Ltd, a leading ice-cream producer based out of Gujarat, will not be able to sell its 'American Dry Fruits' brand anymore, as a Ahmedabad civil court has asked the company not to produce, sell or advertise its products under this trade-name.

The court has restrained Vadilal from marketing 'American Dry Fruits' ice-cream after MH Food Pvt Ltd claimed that this name has been used by its founder Hariram Mevavala since 1932, and later this brand continued to exist as a partnership firm.

MH Food is selling dry fruits, sweetmeats, pickles etc under this brand from the shop - 'American Dry Fruits Store', which was licensed in 1967. The court has also asked Vadilal to pay Rs 5,000 to Mumbai based firm MH Food towards legal expenses.

MH Food's counsel Rashmin Jani contended that the trade name has caused immense good-will and reputation to the trademark of company's various products. This company was promoted and listed with BSE in 1982 and continued to advertise its products under the trade-name of 'American Dry Fruits'.

Jani claimed that Vadilal sells its product with this trade-name printed in big bold letters, bigger than 'Vadilal' with "obvious reason to pass off its goods dishonestly."

Vadilal forwarded an argument that they are selling ice cream, while MH Food deals in dry fruits and other things, hence it would not create conflicting impression in consumers' minds.

After prolonged debate on each of the words in the trade-name, the city civil judge AA Shaikh has held that the Mumbai-based firm has been using this trade name for more than 40 years, therefore it is entitled to get interim relief by restraining Vadilal from marketing its product under 'American Dry Fruits' till the final outcome of the civil suit.

The judge also rejected Vadilal's contention that MH Food has not obtained registration of trademark till date. On the contrary, the court observed that there is enough evidence to prove that the company has obtained proprietary rights to use trade-name and it cannot be termed as "pirator" of trade-name.

Earlier, when MH Food came to know about Vadilal selling its product as 'American Dry Fruits', it dashed off a legal notice in March last year. Vadilal Industries replied that it intended to settle the matter out of court by compromise and assured to withdraw the trademark within six months and let the stock be exhausted.

But when it didn't happen, the Mumbai firm communicated again demanding Rs 18 lakh towards compensation for benefiting from established brand and for causing damage to reputation. Vadilal then assured that it would adopt another trademark not similar to 'American Dry Fruits'.