



2026:AHC:40409-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

COMMERCIAL APPEAL No. - 2 of 2026

Nawab Singh Yadav Trading as M/S Akash
Electricals and another

.....Appellant(s)

Versus

Punjab and Bengal Engineering Corporation

.....Respondent(s)

Counsel for Appellant(s) : Utkarsh Singh

Counsel for Respondent(s) : Abhishek Kumar Shukla

Chief Justice's Court

HON'BLE ARUN BHANSALI, CHIEF JUSTICE
HON'BLE KSHITIJ SHAILENDRA, J.

1. This appeal is directed against order dated 08.12.2025 passed by the Commercial Court, Kanpur Nagar, whereby the application filed by the respondent under Order XXXIX Rules 1 and 2 read with Section 151 CPC and Section 135 of the Trade Marks Act has been accepted and injunction has been issued against the appellants from using the Logo 'Jagrani' on the electrical appliances and not to deal with the same.
2. The suit was filed by the respondent seeking injunction against the appellant *inter alia* on the ground that it was owner of trade mark 'Jagrati' and the appellants by using the trade mark 'Jagrani' was seeking to pass off goods. Along with the suit, an application seeking temporary injunction was also filed. The appellants filed reply contesting the application. Written statement to the suit was also filed.
3. The Commercial Court, in its order sheet dated 30.07.2025, also noticed the filing of written statement and objection to the application filed under Order XXXIX Rules 1 and 2 CPC, however, while passing the order impugned dated 08.12.2025, it was observed that in relation to the application under Order XXXIX Rules 1 and 2 CPC, no written objection has been filed, only oral arguments have been made. As a consequence, none of the pleas raised in the objections was noticed and the Commercial Court went on to decide the application on the parameters of *prima facie*

case, balance of convenience and irreparable injury and granted the injunction.

4. Learned counsel for the appellants made submissions that once the written objections as well as written statement were already on record, indication made in the order and non consideration of the objections, vitiates the order impugned and on the said count alone, the order impugned deserves to be quashed and set aside.

5. Submissions on the merit of injunction was also made *inter alia* on account of the acquiescence on the part of the respondents and that only finding recorded pertains to prima facie case, the aspect pertaining to balance of convenience and irreparable injury has been cursorily dealt with. It was prayed that the order impugned deserves to be set aside.

6. Counsel for the respondent attempted to justify the grant of injunction based on the merit of the application, however, the fact that objection to the application under Order XXXIX Rules 1 and 2 CPC and written statement along with other documents were filed, has not been disputed.

7. In view of the above fact-situation, wherein the Commercial Court has clearly noticed in para 6 of its impugned order that no written objections have been filed and only the oral submissions have been made and has neither noticed the objections raised nor has dealt with the same, the order impugned passed by the Commercial Court on the said count alone deserves to be quashed and set aside.

8. Consequently, the appeal is allowed. The order dated 08.12.2025 passed by the Commercial Court is set aside.

9. The matter is remanded back to the Commercial Court to hear and decide the application under Order XXXIX Rules 1 and 2 CPC taking into consideration the objections filed by the appellants.

10. Looking to the nature of the case, it is expected of the Commercial Court to decide the matter with utmost expedition.

11. We make it clear that the order impugned has been set aside only on account of non-consideration of the objections and the material produced

and the same may not be taken as expression of opinion on the merit of the case.

February 23, 2026
Sandeep/AHA

(Kshitij Shailendra, J) (Arun Bhansali, CJ)