

IPR NEWSLETTER

INTELLECTUAL PROPERTY RIGHTS NEWS & VIEWS

Knowledge contribution : **H K ACHARYA & COMPANY**

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Dr. Acharya's Message



India's Intellectual Property Rights (IPR) landscape is witnessing significant updates across artificial intelligence regulation, personality rights, and trademark disputes. The Government and Judiciary are taking strict stances to protect creators, brands, and individuals from digital infringement.

This issue talks about this new trend, fast paced changes with details on a judgment relating to personality rights and an interesting Trademarks Composite mark dispute.

Dr. Rajesh Acharya

Key Developments and Landmark Rulings

- **AI & Content Royalties:** The Indian government has explored frameworks under copyright law to require AI companies to pay royalties to creators for utilizing their works for training data. This includes proposals for a centralized royalty authority and is being closely monitored alongside lawsuits filed by news agencies against AI platforms in the Delhi High Court.
- **Personality Rights Protection:** The Delhi High Court has increasingly safeguarded celebrities against the unauthorized use of their name, image, and voice via Artificial Intelligence and deepfakes. High-profile rulings have extended permanent injunctions against commercial misuse by unauthorized websites, social media accounts, and merchandise sellers.
- **Trademark and Keyword Advertising:** In a major ruling impacting search and e-commerce, the Delhi High Court restrained Google from allowing rival brands to bid on specific registered trademarks (such as "Hindware") as sponsored search keywords.
- **Copyright in the Entertainment Sector:** The courts continue to tighten the screws on digital platforms and media sharing. The Delhi High Court recently dismissed legendary composer Ilaiyaraaja's review petition, declaring he has no copyright over the lyrics and sound recordings of specific vintage songs, while also penalizing streaming platforms for unauthorized use of popular hooklines.

IP Law in protection of Personality Rights: The recent Delhi High Court interim order in *Allu Arjun v. Frankly Retail Pvt. Ltd.* raises important questions regarding use of IP law principles for protection of personality rights in the age of AI, deepfakes, cloned voices, and unauthorised merchandising. It is noteworthy that the present matter is only the latest in a continuing line of decisions where Indian High Courts have recognised and enforced personality rights in favour of well-known public figures. Similar protective relief has previously been granted in matters concerning Arijit Singh, Amitabh Bachchan, Anil Kapoor, Jackie Shroff, Aishwarya Rai, Karan Johar and Ajay Devgn, reflecting an increasing judicial willingness to restrain unauthorised commercial



exploitation of celebrity persona, likeness, voice, and associated indicia.

Protecting public figures from misuse is necessary, but the legal principles used matter equally. A few observations from the above-mentioned latest order, from a copyright law perspective, are as follows: The unique and distinctive attributes of the plaintiff are exclusive to the plaintiff and are source identifiers of the plaintiff. The attributes such as name, appearance, voice, manner of delivery dialogues, gestures, attires, speech, signature, likeness would clearly constitute copyrights of the plaintiff over which none other than the plaintiff would have exclusive rights of exploitation."

This is where the order invites debate. This observation collapses distinct forms of intellectual properties into a single proprietary right. Under Section 13 of the Copyright Act, 1957, copyright subsists only in specified categories of original works such as literary, dramatic, musical and artistic works, cinematograph films and sound recordings. Copyright protects expression rather than identity, style, reputation, voice or physical traits. A person's name, likeness, gestures, gait or public persona do not ordinarily constitute "works" capable of copyright protection. On the other hand, describing such attributes as "source identifiers" invokes a trade mark law doctrine, since under the Trade Marks Act, 1999 a trade mark functions to distinguish the goods or services of one person from another, not to confer ownership over human identity itself. While a celebrity's name or signature may be registrable and enforceable as a mark in specific commercial classes, personality attributes as a whole are not automatically trade marks.

Another potential conflict arises from the Court's apparent conflation of the Plaintiff's personality rights with the popularity of the fictional character portrayed by him in a film. Traditionally, copyright

in a fictional character or other film-based expression vests in the producer or other underlying rights-holders, rather than in the performer alone. However, in the present case, the Court has repeatedly relied upon the commercial and cultural success of the character to substantiate the Plaintiff's proprietary claims. The Court specifically records that the Plaintiff's pan-India prominence arose from the film character "Pushpa Raj", and notes that the role was recognised for its distinct characterisation, persona, dialogues, gestures, gait, and dance style. The Court relies on the success of Pushpa and the popularity of its dialogues and attributes as evidence of the Plaintiff's iconic status. Most significantly, the Court concludes that such attributes are exclusive to the Plaintiff and constitute his copyrights. The difficulty, however, is that many of these elements emanate from a cinematograph film and a fictional role developed through a collaborative creative process involving writers, directors, costume designers, choreographers, and producers. To that extent, the reasoning risks blurring the distinction between the actor's personality/publicity rights in his own identity and copyright interests that would ordinarily vest in the producer or other underlying rights-holders.

Another point to note is that the order grant broad restraints against use of the Plaintiff's name, image, likeness, and "any other attributes" across all mediums, including AI-generated formats. While misuse may justify relief under personality rights, passing off, trade mark, or performer's rights, such wide language can blur the boundary between copyright in works and proprietary control over persona. After all has been said and done, the larger problem remains. An individual's right to his or her personhood/ likelihood, and protection of the same in the age of AI impersonation, fake calls, explicit fake content, and false endorsements, is imperative. However, the tools and methodologies being used by the Courts and the existing jurisprudence are not



enough to tackle these problems. By way of comparative perspective, several jurisdictions have begun responding to these issues through targeted legislation rather than relying solely on incremental judicial development. India, continues to address comparable disputes largely through judge-made principles derived from existing IP and common law doctrines. The result is patchwork jurisprudence where judges are frequently required to stretch existing doctrines to fill legislative gaps. This is likely to create more hurdles than clarity. The need of the hour is a dedicated legislation which is technology-neutral, carefully balanced, and capable of protecting legitimate personality rights while preserving free speech, creativity, parody, news reporting, and fair commercial use in the digital age. This case is therefore likely to become an important talking point not only on the boundaries of copyright and trade mark laws, but also on the urgent need for a coherent personality rights framework in India.

Trademark Infringement Case

Summary

Chacha Saree Bazar Pvt. Ltd. ("CSB"), a registered proprietor of several CHACHA and CHACHE DI HATTI marks for textiles and garments, sued Chacha Cloth House for trademark infringement. The Commercial Court dismissed CSB's interim injunction application, holding that "Chacha" is a generic and commonplace expression incapable of monopolisation. The Delhi High Court's Division Bench reversed that order, holding that distinctiveness must be assessed with reference to the goods in question, not in the abstract, and that a common word with no etymological connection to the relevant goods is capable of being distinctive. The ruling reinforces foundational principles on the anti-dissection rule, the dominant feature test, and the statutory

presumption of validity under Section 31(1) of the Trade Marks Act, making it a useful reference point for composite mark disputes across industry sectors.

Background

A single word separating two textile traders in different cities has produced one of the sharpest recent statements from the Delhi High Court on the foundational question of what makes a trademark distinctive.

Chacha Saree Bazar Pvt. Ltd. ("CSB") is the registered proprietor of several trademarks built around the "CHACHA" formulation, including CHACHA SAREE BAZAR PVT. LTD. and CHACHE DI HATTI, registered as both word and device marks under Section 23 of the Trade Marks Act, 1999 ("the Act") in Classes 24 and 25, covering textiles, clothing, and garments. CSB's registration dates as far back as December 1988, and its sole retail outlet operates out of Sarojni Nagar Market, New Delhi.

Chacha Cloth House ("CCH"), an unregistered proprietor, operates a single outlet in Yamuna Nagar, Haryana, trading in an identical range of goods: suits, sarees, lehengas, and apparel. CCH had applied for registration of the CHACHA CLOTH HOUSE mark but, as on the date of the proceedings, held no registered trademark under Section 23 of the Act.

CSB filed a suit alleging that CCH's use of the marks CHACHA and CHACHA CLOTH HOUSE, including associated logos, infringed its registered marks and created a likelihood of confusion among consumers.

On 30 January 2025, the Commercial Court (District Judge, Commercial Court-01) initially granted an ex parte ad interim injunction in CSB's favour. However, on 30 July 2025, it reversed course and dismissed the interim injunction application entirely, simultaneously vacating the



earlier ad interim order. The Commercial Court's central reasoning was that "Chacha," being a generic and commonplace vernacular expression meaning "uncle," was incapable of being monopolised by any single trader absent proof of secondary meaning. CSB appealed to the Delhi High Court.

Issues before the Court

- Whether trademark distinctiveness under the Act must be assessed in relation to the specific goods or services for which a mark is used, or whether a word's generic character in common parlance is sufficient to deny distinctiveness.
- Whether the dominant feature of the rival composite marks, namely "CHACHA," being identical, gives rise to a prima facie case of infringement under Section 29(2)(b) read with Section 17(2)(b) of the Act.
- Whether the "common to trade" defence under Section 17(2)(b) was made out on the facts.
- Whether visual dissimilarity between the rival logos could neutralise the infringement arising from phonetic and structural identity of the dominant textual element.

CSB's Arguments

- The question of whether a mark is generic is not to be decided in the abstract but with reference to the goods or services for which it is used. "CHACHA" has no etymological or conceptual connection with sarees or garments and therefore cannot be treated as lacking distinctiveness in that context.
- The Commercial Court's approach of extracting "CHACHA" from the composite marks and assessing it in isolation was contrary to the anti-dissection rule under Section 17 of the Act

- CCH had itself applied for registration of CHACHA CLOTH HOUSE, and was therefore estopped from simultaneously contending that "CHACHA" was generic and incapable of monopolisation
- Geographic separation between CSB's Delhi outlet and CCH's Haryana outlet was irrelevant to infringement, as a party may always choose to expand its business.
- The Commercial Court had failed entirely to address the actual issues of mark similarity and likelihood of confusion, on which CSB had a clear prima facie case.

CCH's Arguments

- Infringement and passing off must be assessed by comparing marks as composite wholes, not by isolating a common element. Comparing CHACHA SAREE BAZAR PVT. LTD. and CHACHA CLOTH HOUSE as whole marks reveals no meaningful similarity and no likelihood of confusion.
- "Chacha" is a commonplace vernacular word used by multiple traders, and the Trade Marks Registry had granted CSB's word mark with the condition that all labels must be used together, signalling limits on CSB's exclusivity.
- Monopoly over "CHACHA" could only be permissible if it had acquired secondary meaning exclusively associated with CSB, a factual question that could only be resolved at trial.
- CSB had itself invoked the dominant feature test by asserting "CHACHA" was the dominant element, and could not simultaneously invoke the anti-dissection rule: the two arguments were inconsistent.
- There was no territorial overlap between the parties' respective businesses, and therefore



no practical likelihood of confusion.

Court's Observations and Analysis

Distinctiveness is always Goods-Relative

The court observed that the Commercial Court had committed a foundational error by assessing “Chacha” as generic in the abstract, without reference to the goods for which it was being used. The court noted that distinctiveness under Section 17(2)(b) of the Act is not a quality that inheres in a word in isolation: it must be evaluated against the goods or services in respect of which the mark is employed. The court further observed that a word of everyday common parlance, which would ordinarily be labelled generic, can be fully distinctive when used in connection with goods to which it bears no etymological or conceptual relationship. Since “CHACHA” has no connection whatsoever with sarees or garments, the court found that there was no principled basis on which it could be held non-distinctive for that category of goods.

Section 31(1) and the Presumption of Validity

The Anti-Dissection Rule and the Dominant Feature Test

The court set out the governing framework for comparing composite marks in considerable detail, drawing on *South India Beverages Pvt. Ltd. v. General Mills Marketing Inc.*, (2015) 61 PTC 231, and the Supreme Court's recent articulation in *Pernod Ricard India (P) Ltd. v. Karanveer Singh Chhabra*, 2025 SCC OnLine SC 1701. The court observed that the anti-dissection rule, as codified in Section 17 of the Act, requires rival marks to be compared as whole marks rather than by breaking them into component parts. However, the court noted that the anti-dissection rule and the dominant feature test are not in conflict: identifying the dominant element of a composite mark is a legitimate analytical step on the way to an overall holistic

assessment, not a violation of the whole-mark comparison principle.

The court reasoned that where one element of a composite mark so significantly dominates the remaining components that an average consumer of ordinary intelligence and imperfect recollection would recall the mark primarily through that element, the overall commercial impression of the two marks will be shaped by whether their dominant features are identical or deceptively similar. Applying this to the facts, the court found that the dominant feature of both CSB's marks (CHACHA SAREE BAZAR PVT. LTD., CHACHE DI HATTI) and CCH's mark (CHACHA CLOTH HOUSE) was unmistakably “CHACHA.” The remaining elements of both marks, “SAREE BAZAR” and “CLOTH HOUSE” respectively, merely described the nature of goods or the type of trading establishment, and carried no independent trademark significance. The court held that, since the dominant features were identical and the goods were identical, a prima facie case of infringement under Section 29(2)(b) read with Section 17(2)(b) of the Act was made out.

The “Common to Trade” Defence Rejected

The court examined CCH's contention that “CHACHA” was common to the trade, with multiple third-party marks incorporating the term. Relying on the Division Bench ruling in *Pankaj Goel v. Dabur India Ltd.*, 2008 (38) PTC 49 (DB), the court observed that the “common to trade” bar under Section 17(2)(b) requires that the term be commonly used in the specific trade in which the parties are engaged, not merely across commerce in general. The court noted that “the trade” in the statutory text refers to the particular trade under consideration: here, the trade in sarees and garments. CCH had produced no evidence of the scale of any third-party use of “CHACHA” in the garments trade, when such use commenced, or whether it post-dated CSB's own



registrations. The court held that merely pointing to other marks on the register, without establishing the commercial significance of such use in the relevant trade, was insufficient to make out the common-to-trade defence.

Visual Dissimilarity between logos does not assist CCH

The court addressed CCH's argument that the parties' logos were visually distinct, making confusion unlikely. Applying the Supreme Court's ruling in *K.R. Chinna Krishna Chettiar v. Shri Ambal & Co.*, (1969) 2 SCC 131, the court observed that even where overall label marks are visually dissimilar, infringement can be established if the dominant textual element of the rival marks is phonetically or structurally similar. The court further noted that CSB held word mark registrations, which entitled it to restrain not merely identical or similar word marks but also device marks whose prominent feature is a textual element that infringes CSB's registered word mark. Visual dissimilarity between the logos therefore afforded CCH no protection.

Findings

In view of the observations and the arguments presented by both the parties, the Delhi High Court Division Bench held that:

- The Commercial Court had proceeded on an erroneous principle by treating "CHACHA" as generic in the abstract, without assessing its distinctiveness in relation to sarees and garments, the goods for which it was registered.
- The word "CHACHA" is not devoid of distinctiveness when used in connection with sarees, clothing, and garments, as it bears no etymological or conceptual relationship to those goods.

- By virtue of Section 31(1) read with Section 9(1)(a) of the Act, CSB's registered marks carry a prima facie presumption of validity and distinctiveness at the interim stage, without requiring additional evidentiary proof.
- The dominant feature of both parties' marks is "CHACHA," and that the remaining elements of each mark merely describe the goods or trading format, carrying no independent trademark significance.
- Since the dominant features are identical and the goods are identical, a prima facie case of infringement under Section 29(2)(b) of the Act was established.
- CCH had not made out a "common to trade" defence under Section 17(2)(b), as it had produced no evidence of the commercial significance or timing of third-party use of "CHACHA" in the specific trade of sarees and garments.
- Visual dissimilarity between the parties' logos does not negate infringement where the dominant textual element of the rival marks is identical

Case Citation: *Chacha Saree Bazar Pvt. Ltd. & Anr. v. Chacha Cloth House*, FAO (COMM) 217/2025 & CM APPL. 49543/2025, High Court of Delhi, decided on 12 February 2026. Available on: <https://indiankanoon.org/doc/111562892/>

Authored by Gaurav Mishra, IP Attorney, BananaIP Counsels

Gaurav Mishra is an intellectual property attorney, coffee entrepreneur, and passionate educator. As an Associate Partner at BananaIP Counsels, he specializes in patents, trademarks, copyrights, and designs, working with global tech and innovation-driven clients.