

Delhi High Court denies interim relief to Royal Challengers Sports in disparagement and trademark infringement suit against Uber

17 July 2025

Introduction

Deciding an application for interim injunction in *Royal Challengers Sports Private Limited v Uber India Systems Private Limited and Ors.* [CS(COMM) 345/2025], the Delhi High Court (Court) in a judgment dated 5 May 2025, has declined to injunct an audio-visual advertisement (impugned advertisement) released by Uber India Systems Private Limited and its holding company, featuring Travis Head (Defendants). The Court held that a holistic viewing of the advertisement released by the Defendants in the backdrop of the ongoing Indian Premier League (IPL), 2025 gives a general perception of “healthy banter and good-natured light-hearted humour without any elements of disparagement and/ or *infringement*” under Section 29(4) of the Trade Marks Act, 1999 (Act) in relation to the ‘Royal Challengers Bengaluru’ (RCB) trademarks/ RCB Cricket team. In its judgement, the Court also discusses various pre-requisites to be fulfilled for grant of reliefs, including interim reliefs, in an action for disparagement and trade mark infringement in the form of comparative advertising, taking special note of the additional considerations involved in the context of advertisements which are a humorous take on sports rivalries. The judgement of the Court serves as a reminder that light-hearted parody, particularly in the world of sports, deserves to be appreciated—not silenced.

Background

The Plaintiff is the owner of the RCB cricket team which participates in the IPL. The Plaintiff holds several trade mark registrations for the word mark ‘Royal Challengers Bengaluru’ as well as device marks featuring the said name of the team. Defendants No. 1 and 2 offer ride hailing, freight services, etc. through a mobile application-Uber. Defendant No. 3 is Travis Head, an Australian cricketer who is currently engaged by and plays for the IPL team Sun Risers Hyderabad (SRH).

The impugned advertisement that prompted the Plaintiff to institute a suit released on 5 April 2025, depicts Mr. Head and an accomplice, who refer to themselves as the ‘HYDERABADDIES’, clandestinely entering a Bengaluru stadium at night and graffitiing the words ‘ROYALLY CHALLENGED’ onto the existing ‘BENGALURU v HYDERABAD’ banner, thereby altering it to read ‘ROYALLY CHALLENGED BENGALURU v HYDERABAD’. The advertisement then shows Mr. Head and the accomplice escaping the stadium’s security personnel using an Uber Moto motorcycle which has arrived in the promised three minutes. Additionally, posters bearing the words ‘EE SALA CUP NAMDE’ (“slogan”), which is a popular Kannada slogan used by RCB fans, roughly translating to ‘this year the cup is ours’, is visible in the background in the scenes shot at the stadium.

Rival Contentions

Plaintiff argued that the usage of a ‘deprecatory’ version of the ‘well-known’ RCB Trade Mark i.e. ROYALLY CHALLENGED BENGALURU as well as depiction of the posters with the said slogan (which it claimed is commonly associated with the RCB team), amounted to disparagement and infringement of the RCB Trade Mark. Particularly, the Plaintiff contended that the impugned advertisement was ‘poking fun’ at the Plaintiff in a manner that was not compatible with the permissible use of trade marks in comparative advertising, and that the same did not amount to fair use, having regard to three factors viz. (i) the intent; (ii) the

manner of representation and (iii) the message sought to be conveyed in the impugned advertisement. As per the Plaintiff, the Defendants had sought to exploit the goodwill of the RCB Trade Mark by showing it in a derogatory light. The Plaintiff also claimed that the reference to the term '**Hyderbaddies**' in the impugned advertisement and the tagline "**reading** 'Uber Moto- Office ride of the Hyderabaddies'", indicated that Sunrisers Hyderabad, a rival team in the IPL, was the hidden second advertiser behind the impugned advertisement. The Plaintiff argued that the term "Challenged" in the phrase "Royally Challenged" can be interpreted as a pointed allusion to the anticipated outcome of the upcoming IPL 2025 match between RCB and SRH. By employing a phrase that closely resembles the RCB trademark, it was argued, that the advertisement implies that the RCB team is destined to be defeated, portraying it as underperforming or unreliable, thereby casting the team and its trade marks in a disparaging light. Further, the Plaintiff contended that the Defendants are infringing the RCB trademark and diluting its positive association in the minds of the general public by giving it a derogatory spin. The Plaintiff also relied on public comments made in response to the impugned advertisement on the YouTube channel of Defendant No. 2, to submit that the advertisement has already garnered substantial attention and viewership and any continued circulation thereof is causing, and will continue to cause, irreparable harm to the reputation and goodwill associated with the RCB trademark and the RCB cricket team.

Conversely, the Defendants indicated that the advertisement was not in the nature of a comparative advertisement relating to the two IPL teams in question but was an advertisement for the services of Defendants 1 and 2. The advertisement was merely a humorous use of the rivalry in sports. The use of the altered banner depicted in the impugned advertisement, even if construed as a reference to the RCB Trade Mark was in the nature of an intentional, denominational use as a parody or comical tease, which is a widely accepted practice embraced by fans and is firmly rooted in the cricket culture of the country. In support of this contention, the Defendants cited several other campaigns based on sporting rivalries which were of a similar light-hearted and cheeky nature, such as the '**Mauka Mauka**' campaign mocking the Pakistani Cricket team's inability to win the Men's Cricket World Cup.

The Defendants submitted that the impugned advertisement did not constitute disparagement even as per the parameters set forth by the Plaintiff since its intent and message was to depict the efficiency and timeliness of the motorbike ride services offered by the Defendants and its manner of depiction was merely a wordplay indicating that RCB was about to be '**royally challenged**' by the Sunrisers Hyderabad in their upcoming match i.e., there will be a '**tough fight**' between the teams. Hence, they submitted that the impugned advertisement did not bear any negative connotations towards RCB. In fact, the Defendants pointed out that RCB had been referred to as '**Royally Challenged**' in previous and unrelated news coverage as well much prior to the advertisement in question. As for the usage of posters with the said slogan, the Defendants submitted that the same were only a passing/background presence in the impugned advertisement and in any event referred to the passion of the fans, and hence did not amount to disparagement. The Defendants also pointed out that they per se did not deal in similar or competing goods/services and that the Plaintiff had itself recognised that the impugned advertisement was merely '**poking fun**' at them.

In response to the Plaintiff's allegation that SRH, a rival and competing team, was the '**hidden**' advertiser behind the impugned advertisement, the Defendants submitted that their promotional campaign involved collaborations with multiple IPL teams, including Sunrisers Hyderabad. They contended that such association, in itself, does not establish that the said team had a direct commercial interest or involvement in the creation or dissemination of the impugned advertisement. Further, the Defendants argued that their right to advertise was enshrined in the fundamental right to free speech guaranteed by Article 19(1)(a) of the Constitution of India. In support of its submission, the Defendants cited various decisions of the Supreme Court as well as the Delhi High Court's including the decision in *Tata Sons Private Limited and Ors. v Puro Wellness Private Limited & Ors.*¹ wherein the Court had inter alia held that where temporary injunction restraining commercial speech was sought, the same must be balanced against the right of free speech. The Court in the Puro judgement (supra) had also held that when evaluating whether advertisements are disparaging, it is not an absolute rule to adopt the most adverse interpretation where multiple reasonable interpretations were possible. Rather, advertisements must be assessed in their entirety and viewed as a whole.

In respect of the Plaintiff's argument regarding trade mark infringement under Section 29(4) of the Act, the Defendant submitted that denominative use of a trade mark in order to refer to the same did not constitute infringement. Further, the Defendant contended that the comments posted on the YouTube video of the impugned advertisement also did not reflect any confusion amongst the viewers and that there were also positive comments that reflected that the advertisement was perceived as light-hearted banter.

¹ 2023 SCC OnLine Del 6338.

The Defendants argued that since the impugned banner and poster in the advertisement are unlikely to influence the general perception or the views of the RCB cricket team's fans and followers, the Plaintiff is not suffering any reputational harm.

Findings and Decision

In its judgement, the Court traced the jurisprudence with respect to disparagement and recognised that to constitute disparagement, the advertisement per se ought to be defaming, condemning, belittling, etc. so as to cause injury or harm to the target. The Court also noted that whether or not an advertisement amounts to disparagement must be determined in light of the circumstances involved, and that the advertisement must be viewed as a whole and not in fragments, so as to not attribute any new interpretation or dimension to it.

The Court held "All throughout the impugned advertisement, there is no (in)direct imputation/ insinuation/ comparison/ exaggeration/ sensationalism/ distortion of matters of fact of any kind by any of the defendants against the RCB trademark/ RCB Cricket team. That being so, there is no element of demeaning/ criticism/ condemning/ ridiculing/ denigrating/ defaming/ disgracing/ belittling/ scorning/ mocking/ falsity with a view to injure or harm the RCB trademark/ RCB Cricket team". With respect to the Plaintiff's allegation that the term '**royally challenged**' was used in this context to portray the RCB team as the loser/underperformer, the Court held that such an argument is prima facie unacceptable, since the match in question was yet to be played at the time of the release of the advertisement.

The Court opined that the intent, manner and message of the impugned advertisement, when viewed as a whole, was to convey that the ride services offered by the Defendants were fast and reliable and the sheer presence of a reference similar to the RCB Trade Mark and the said slogan could not be held to be the tort of disparagement or infringement under Section 29(4) of the Act. The Court further observed that the Defendants had not made any comments on the quality or performance of the RCB team or sought to draw a comparison between the two teams.

As for the public comments under the YouTube video of the impugned advertisement, the Court held that the views of a few members of the public could not be used as a metric to determine whether the impugned advertisement was disparaging or whether it amounted to infringement under Section 29(4), since there are always multiple perspectives.

Further, the Court held that no connection could be attributed between the impugned advertisement and SRH team since the impugned advertisement did not refer to the said team at all, and did not even feature any character wearing a jersey of the said team.

The Court also examined the issue in light of Article 19(1)(a) of the Constitution of India, and reiterated the Supreme Court's decision in *Tata Press Ltd. v MTNL & Ors.*² wherein it was held that commercial advertisements were also protected by the right to freedom of speech enshrined in Article 19(1)(a), although subject to reasonable restrictions. The Court observed that even exaggeration may be used as long as no serious qualitative or quantitative claims were being made in an advertisement; and that if such claims were not present, the content need not even be tested for truth, unless superiority of any aspect of the rival product is being claimed.

Upon consideration of all the above factors, the Court ruled that in the present case, the Plaintiff had not made out a prima facie case for a restraint on the impugned advertisement and that no irreparable harm, loss or injury would be incurred by the Plaintiff if the advertisement was not enjoined, especially at the interim stage. The Court also held that the balance of convenience is in favour of the Defendants since no inconvenience of a magnitude that would outweigh the rights of the Defendants, was being caused to the Plaintiff. Notably, the Court also took into consideration the context in which the impugned advertisement was created, and that light-hearted and humorous banter was a common feature of rivalries in cricket, which is a game of sportsmanship. The Plaintiff's application was thus dismissed.

Comment

In a country such as India, where sporting rivalries, especially in cricket are an inseparable part of the cultural zeitgeist, advertisements leveraging the same are bound to be rife. However, the use of trade marks to

² 25(1995) 5 SCC 139.

make humorous jibes in such advertisements remains relatively uncommon, and hence the present case invites a re-look and maybe even a fresh perspective in the context of comparative advertising. It is pertinent to consider whether mockery of this nature would ultimately erode the brand's image and reputation or whether it would be taken with a pinch of salt by the viewers. The use of RCB's mark or its variant to suggest weakness, that too by a rival team or its affiliate, begs the question of when such conduct crosses the line into actionable disparagement, prompting judicial intervention. Pertinently, in the present judgment, the Court specifically rendered a finding that the purpose of the advertisement was not to promote one team over another but was to promote the services of the Defendant after considering the context and overall spirit in which the advertisement was released viz. sporting rivalries. In doing so the court applied the established three-pronged test and examined its intent, manner, and message for determining if there was any disparagement.

Whilst the Court in the present judgement emphasized that "there is no falsity/ misrepresentation/ undue and unfair advantage/ deprecation/ derogation/ defamation on part of the defendants qua the RCB trademark/ RCB Cricket team...", it is interesting that some public comments on the advertisement seemed to suggest people's perception that the Plaintiff's cricket team was attempted to be depicted as 'crippled' or 'disadvantaged' in some manner. Whilst in certain judgements it has been held that even one such comment may be indicative of special damage being an element of disparagement i.e. the tort of injurious falsehood/ slander of goods, the Court, given the peculiar facts of this case, has observed that the opinions of a 'few viewers' cannot be a factor in determining disparagement.

- Nishad Nadkarni (Partner); Khushboo Jhunjunwala (Senior Associate) and Riya Karkera (Associate)



About Khaitan & Co

Khaitan & Co is a top tier and full-service law firm with over 1200 legal professionals, including 300+ leaders and presence in India and Singapore. With more than a century of experience in practicing law, we offer end-to-end legal solutions in diverse practice areas to our clients across the world. We have a team of highly motivated and dynamic professionals delivering outstanding client service and expert legal advice across a wide gamut of sectors and industries.

To know more, visit www.khaitanco.com



This document has been created for informational purposes only. Neither Khaitan & Co nor any of its partners, associates or allied professionals shall be liable for any interpretation or accuracy of the information contained herein, including any errors or incompleteness. This document is intended for non-commercial use and for the general consumption of the reader, and should not be considered as legal advice or legal opinion of any form and may not be relied upon by any person for such purpose. It may not be quoted or referred to in any public document, or shown to, or filed with any government authority, agency or other official body.

www.khaitanco.com | © Khaitan & Co 2025 | All Rights Reserved.

Ahmedabad · Bengaluru · Chennai · Delhi-NCR · Kolkata · Mumbai · Pune · Singapore