

**INTERNATIONAL JOURNAL OF LAW**  
**MANAGEMENT & HUMANITIES**

**[ISSN 2581-5369]**

---

**Volume 4 | Issue 3**

---

**2021**

© 2021 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com>)

---

This Article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in International Journal of Law Management & Humanities after due review.

In case of **any suggestion or complaint**, please contact [Gyan@vidhiaagaz.com](mailto:Gyan@vidhiaagaz.com).

---

**To submit your Manuscript** for Publication at **International Journal of Law Management & Humanities**, kindly email your Manuscript at [submission@ijlmh.com](mailto:submission@ijlmh.com).

---

# Case Brief: Nippon Steel & Sumitomo Metal Corporation v. Kishor D Jain & Anr.

---

TANYA GUPTA<sup>1</sup>

## ABSTRACT

*The present case is an example of trademark infringement wherein the defendants were found guilty of counterfeiting the plaintiff's goods and marks. Although the parties decided to settle the dispute, the Bombay High Court set an example by imposing a heavy penalty on the defendants in order to deter such immoral and unethical practices in the future.*

## I. INTRODUCTION

The Bombay High Court in the case of *Nippon Steel & Sumitomo Metal Corporation v. Kishor D Jain & Anr.* (Notice of Motion (L) No 810 of 2019 in COMIP (L) No 383 of 2019), while quoting Mahatma Gandhi, imposed an exceptional penalty of Rs. 5 crores on the defendants (Kishor D Jain and Anr.) for infringement of the trademark and for damage to the reputation and goodwill of the plaintiff (Nippon Steel), a global steel producer. The Court imposed such exemplary damages with an aim to set an example to deter such entities/persons from carrying out such fraudulent activities in the future.

## II. FACTUAL MATRIX

The plaintiff is a manufacturer of carbon seamless pipes. The present suit was filed by the plaintiff when it received a complaint from YANBU Steel Company in Saudi Arabia ("YANBU") regarding the low-quality of carbon seamless pipes supplied to them. YANBU informed the plaintiff that it bought the pipes from the defendants in the misconception that they were manufactured by the plaintiff. Upon conducting an enquiry, the plaintiff learnt that the pipes in question and various fabricated certificates bearing the plaintiff's trademarks were supplied by the defendants, misleading YANBU that it originated from the plaintiff.

On an application being filed by the plaintiff, the Court granted an ex-parte ad-interim order restraining the defendants from infringing the plaintiff's registered trademarks. Further, a Court Receiver was appointed to take a mirror copy of the entire electronic record of the defendants.

---

<sup>1</sup> Author is a LLM Candidate at O.P. Jindal Global University, India.

At the first hearing, the Court found one of the defendants (defendant no. 2) present, to have been knowingly making false statements regarding the sale and purchase of pipes and thus passed an order directing him to file an affidavit by the next day.

On the next day, the counsel for the defendants submitted that they were ready to come to a settlement. On the other hand, the counsel for the plaintiff submitted that the affidavit did not contain relevant details as to the sale and source of the pipes. The matter was thereafter adjourned.

Further, in the next hearing, defendant no. 2 admitted in the affidavit for having supplied two consignments of pipes to YANBU by procuring pipes and affixing plaintiff's trade mark onto it and finally, to have certificates fabricated to show that the pipes originated from the plaintiff. The counsel for the plaintiff submitted that the details as to who affixed the trade mark and fabricated the trademarks was still not clear and such details were important as to know whether any other persons/entities were also involved in these activities. Thereafter, the brother of defendant no. 2 informed the Court that one Mr. Babu Chaudhary was involved in supplying and fabricating of the certificates but the counsel for plaintiff pointed out that no such details were elaborated in the affidavit.

On the next date of hearing, defendant no. 1, defendant no.2 and his brother, all were present. The affidavit filed by defendant no. 2 stated that he was the one who affixed the logos on the pipes using paint and his brother fabricated the certificates. The counsel for plaintiff submitted that the defendants has admitted of having supplied fake pipes and fabricated certificates and also drew the attention of the Court to the fact that the pipes in question are specialized seamless pipes used in oil industry and could have disastrous repercussions if the same were not genuine. Later however, the parties agreed to settle the matter.

### **III. JUDGMENT**

The Court described the present case as a “quintessential illustration” of how some people can go to lengths in order to make fast money, without having any regard to morality and principles. The Court found the defendants guilty of infringing the plaintiff's trade mark and for fabricating certificates in their name and held that such actions of the defendants were serious and criminal in nature. Further, the Court was of the view that if such pipes did not meet the security standards, it could have grave consequences as they were usually installed in sensitive areas.

Additionally, the Court stated that although the parties were willing to settle the matter, an

example had to be set in order to deter entities/persons like the defendants in the present case, to refrain from doing such illegal activities. The Court was also of the view that a State Machinery would be fit to look into the affairs of the defendants' activities but granted liberty since they had disclosed all in the details in the affidavits. However, the Court imposed a heavy penalty of Rs. 5 crores on the defendants and to donate the same to "Tata Memorial Hospital". Further, the Court directed the defendants to give undertakings that they shall conduct their business in strict adherence of law, henceforth.

#### **IV. ANALYSIS**

The Court has rightly quoted Mahatma Gandhi in saying that man's greed can never be sufficient. The facts of this case aptly portray how humans indulge in any sort of illegal activities, even when the same could be dangerous and have ghastly consequences for the others. The Court is right to strongly condemn the actions of the defendants for violating principles and morality just for the sake of fast-money. Although the parties agreed to settle, it is commendable that the Court did not let the defendants get away scot-free and imposed an exceptional penalty. This judgement would strictly act as a deterrent for all those persons/entities engaged in illegal activities and give them a chance to mend their ways immediately.

\*\*\*\*\*