

Late Professor Vijay A. Chavan Memorial Moot Court Competition 2018-2019

(Third Edition)

Chen Park v. Shekhar Rao

Hotel Byul is a famous Korean Cuisine restaurant situated in Kothrud area in Pune, Maharashtra. It was opened in the year 2015 and has garnered much attention for its unique concept. The ambiance of the hotel is such that it shows development of South Korea from its historic period (Joseon Dynasty) till this era. There are huts and royal set-ups resembling to that of the Joseon period and the menu involves reference to many K-pop artists and famous Korean dramas. The waiters and staff are all dressed in traditional Korean Costumes called Hanbok. One can have a wholesome experience of Korean culture at Hotel Byul. Because of this unique concept it is often referred to as “mini South Korea” by the customers.

Amma’s Kitchen is a restaurant situated on FC road in Pune, Maharashtra. It is a multi-cuisine restaurant serving Korean, Chinese and Japanese food and is known for authentic taste of food ever since it opened. It was a small set-up restaurant opened in the year 2012 but underwent renovation in the year 2017 and increased the space of working. After renovation the ambience as well as the manner of working and menu cards were changed. The hotel give itself a historic touch and developed set inside the hotel where people can eat while enjoying the historic culture. The waiters and staff wore traditional costumes and menu cards were changed to give reference to entertainment culture all three countries. The hotel observed significant increase in the number customers after the renovation.

Mr. Chen Park, owner of Hotel Byul filed a suit for passing off of trademark against Mr. Shekhar Rao, owner of Amma’s Kitchen. It was contented by Mr. Chen that the ambiance of their hotel is a major factor of identification of their hotel and therefore represents their trade which was completely copied by Mr. Shekhar at Amma’s Kitchen. Both District court and Bombay High Court passed the order against Mr. Chen holding that there is no passing off of a trademark in the matter. The case is now placed to be heard before Hon’ble Supreme Court.