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Civil Suit No.72 of 2019 and A.Nos.74, 75 and 76 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2023

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

Civil Suit No.72 of 2019
and A.Nos.74, 75 and 76 of 2019

M/s.Matrimony.com Limited,
No.94, TVH Beliciaa Towers,
Tower-2, 10th Floor,
MRC Nagar, Mandaveli,
Chennai – 600 028
Rep. by its General Manager – Legal & Regulatory,
Mr.S.Ravichandran

..Plaintiff

.Vs.

Alltelugumatrimony
House No:3-8/475
Suryodaya Colony,
Road No.1, Beside Kamineni Hospital,
L.B.Nagar, Hyderabad – 500 074.

..Defendant

Prayer: Civil Suit has been filed under Order IV, Rule 1 of the Original Side Rules read with Order VII Rule 1 CPC, Sections 27, 28, 29, 134 & 135 of the Trade Marks Act, 1999 and Section 7 of the Commercial Courts, Commercial Division and Commercial Appellate division of High Courts Act No.4 of 2016, praying to pass a judgment and decree for:-



(a) a permanent injunction restraining the defendant, by themselves, their directors, partners, men, servants, agents, broadcasters, representatives, advertisers, franchisees, licensees and/or all other persons acting on their behalf from in any manner infringing and/or enabling others to infringe plaintiff's registered trademark, "TELUGUMATRIMONY" and/or its variants by including them jointly or severally as domain name, Keyword Suggestion Tool, for Search Engine Optimization, keyword in the internet search or as meta tag in any other manner whatsoever;

(b) a permanent injunction restraining the defendant, by themselves, their directors, partners, men, servants, agents, broadcasters, representatives, advertisers, franchisees, licensees and/or all their persons acting on their behalf from in any manner diverting the plaintiff's business to themselves by using the plaintiff's trademarks and domain names "TELUGUMATRIMONY" and/or its variants, for Search Engine Optimization, Keyword Suggestion Tool, as a keyword for the internet search and/or as meta tags and thereby passing off and enabling others to pass off the business and services of the defendant as that of the plaintiff or in any other manner whatsoever;



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(c) a permanent injunction restraining the defendant, themselves, their partners, successors-in-business, servants, agents, representatives, assigns and all other persons claiming under them and through them to delete the domain www.alltelugumatrimony.com or any other domain name that is identical and/or deceptively similar to that of the plaintiff's domain name www.telugumatrimony.com in any manner whatsoever;

(d) the defendants be directed to surrender to the plaintiff for destruction all compact discs, master copy, advertising materials, pamphlets, brochures, etc, which bears the plaintiff's registered trademarks and/or any other variants which is phonetically and/or deceptively identical and/or similar to the plaintiff's registered trademarks or in any other form whatsoever;

(e) award damages of Rs.10,00,000/- for infringing and/or for passing off and/or for enabling others to infringe and/or pass off the plaintiff's trademarks and domain names;

(f) a preliminary decree be passed in favour of the plaintiff directing the Defendant to render account of profits made by use of the plaintiff's trademarks and final decree be passed in favour of the plaintiff for the amount of profits



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thus found to have been made by the defendant, after the latter have rendered
accounts;

(g) for costs of the suit.

For Plaintiff : M/s.Arun C. Mohan

For Defendant : Set exparte

J U D G M E N T

This suit has been filed for infringement, passing off and also for damages. Insofar as the damage claim is concerned, the learned counsel for the plaintiff at the outset would submit on instructions, that the plaintiff is not pressing for the same. The damage claim pertains to prayer (d) to (f) of the plaint prayers.

2.The plaintiff is aggrieved by the usage of the domain name www.alltelugumatrimony.com by the defendant. The plaintiff is the registered proprietor of the trademark "TELUGUMATRIMONY" having obtained registration in the year 2004 under Classes 9, 16, 35 and 45. The plaintiff came to know in the month of April 2018, about the misuse of their trademark "TELUGUMATRIMONY" by the defendant by using the deceptively similar



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mark ALL TELUGU MATRIMONY for their domain name. In such circumstances, they have filed the suit seeking for the reliefs as sought for in the plaint.

3.The defendant has been set ex-parte in this suit. The plaintiff has let in both oral and documentary evidence before the learned Additional Master III. The plaintiff's witness is Mr.S.Ravichandran who was examined as PW1. He has filed a proof affidavit in support of the plaint averments and has reiterated the same before the learned Additional Master III. The following documents were marked as Exhibits on the side of the plaintiff through PW1.

<i>Sl.No</i>	<i>Date</i>	<i>Description and nature of documents</i>
1.	04.06.2016	Board resolution (Photocopy)
2.	02.01.2015	Fresh Incorporation Certificate (Photocopy)
3.	01.09.2004	Certified copy of registration for trademark "TELUGUMATRIMONY" under No.1306420 in Class-16 (photocopy)
4.	11.08.2010	Copy of trademark registration certificate and advertisement in Trademarks Journal for trademark "TELUGUMATRIMONY" under no.2007944 in classes 9, 16, 35 & 45 (photocopy).



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<i>Sl.No</i>	<i>Date</i>	<i>Description and nature of documents</i>
5.	2010-2018	Invoices raised by advertising agency proving publication of ads for the mark "TELUGUMATRIMONY" (printout)
6.	-----	Website printout from the plaintiff's website listing awards and accolades (printout)
7.	02.11.2005	Cover page of <i>India Today</i> Tamil magazine felicitating the CEO of plaintiff company as one among 'Nallaya Nayagargall' receiving Sigaram-15 award (photocopy)
8.	10.11.2006	News Article published in <i>The Hindu Business Line</i> English daily regarding plaintiff's business expansion (photocopy)
9.	19.02.2007	Extract from <i>India Today</i> magazine accolading the CEO of plaintiff company as 'Youth Special Achiever' (photocopy)
10.	May 2007	Matrimony Website award granted by PC WORLD to plaintiff (photocopy)
11.	26.09.2009	News Article published in Business Standard newspaper showing plaintiff as top online advertiser (photocopy)
12.	-	Webpage extract narrating the India Today Sigaram-15 Business Icon Award awarded to the CEO of the plaintiff (printout)
13.	-	Webpage extract narrating the success of the plaintiff in being one among the top 100 Silicon India technology companies (printout)



<i>Sl.No</i>	<i>Date</i>	<i>Description and nature of documents</i>
14.	-	Webpage extract narrating the Prakruti Ratna Award conferred on the CEO of the plaintiff by His Excellency the Governor of Tamil Nadu (printout)
15.	-	Webpage extract showing the CEO of the plaintiff company being honoured with the Top 5 Under 35 South Asians' by The Asian Indian Chamber of Commerce, USA (printout)
16.	-	Webpage extract showing the plaintiff company being awarded with Silicon India si 100 2006 award (printout)
17.	-	Webpage extracts of godaddy.com showing the proprietorship for domain names of the plaintiff www.telugumatrimony.com (printout)
18.	-	Screenshot of Google's webpage showing search results for the plaintiff's trademark "TELUGUMATRIMONY" (printout)
19.	-	Webpage extracts of plaintiff's website www.telugumatrimony.com (printout)
20.	-	Webpage extracts of www.whois.net showing the proprietorship for domain name of the defendant www.alltelugumatrimony.com (printout)
21.	-	Screen shots of Google's webpage showing organic search results with the plaintiff's registered trademark "TELUGUMATRIMONY" as the head line of the defendant's web link www.alltelugumatrimony.com (printout)



<i>Sl.No</i>	<i>Date</i>	<i>Description and nature of documents</i>
22.	-	Screenshot of Defendant's website www.alltelugumatrimony.com (printout)
23.	09.04.2018 24.04.2018 29.10.2018	Notice issued by plaintiff to defendant by e-mail (print out)
24.	22.11.2018	Notice issued by plaintiff's counsel to defendant (office copy)

4.As seen from the aforementioned exhibits, it is clear that the plaintiff is the registered proprietor of the trademark "TELUGUMATRIMONY" as evidenced by the Trademark Registration Certificate (Ex.P4) and the photocopy of the advertisement in the Trademark Journal for the trademark "TELUGUMATRIMONY" in Classes 9, 16, 35 and 45. It also proves that the plaintiff has been utilizing the mark ever since the date of registration of the trademark. The plaintiff has also filed copies of invoices raised by the advertising agency (Ex.P5) to prove the huge advertisement expenditure incurred by them for marketing their trademark "TELUGUMATRIMONY". The screen shot of the Google's webpage which has been marked as Ex.P9 also confirms the reputation of the plaintiff's trademark "TELUGUMATRIMONY".



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The printout of web page extracts of plaintiff's website

WEB COPY www.telugumatrimony.com filed along with section 65 B Certificate under the Indian Evidence Act which has been marked as Ex.P10 also proves the reputation of the plaintiff's trademark "TELUGUMATRIMONY" in the matrimonial segment. The plaintiff has also proved through Ex.P11 which is the printout of webpage extract of the defendant's domain name www.alltelugumatrimony.com and Ex.P12 which is the printout of screen shot of defendant's website www.alltelugumatrimony.com that the defendant has blatantly copied the plaintiff's domain name www.Telugumatrimony.com for its domain name www.alltelugumatrimony.com. Ex.P13 is the print out of the Screen shots of Google's web page showing organic search results for the plaintiff's registered trademark "TELUGUMATRIMONY". In the screen shot, as a headline, the defendant's web link www.alltelugumatrimony.com is revealed which will prove the infringement committed by the defendant who has illegally used the plaintiff's registered trademark "TELUGUMATRIMONY" in its website www.alltelugumatrimony.com.

5.The plaintiff had also issued Cease and Desist Notices on 09.04.2018, 24.04.2018 and 29.10.2018 which have been marked as Ex.P14 series and as evidenced by the said notices, the plaintiff has cautioned the defendant not to



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infringe their trademark "TELUGUMATRIMONY". Despite the same, the defendant has continued to use the plaintiff's trademark as seen from the plaintiff's averments. EX.P15 is the legal notice issued by the plaintiff dated 22.11.2018, once again calling upon the defendant to cease and desist from using the trademark www.alltelugumatrimony.com in its domain name which is deceptively similar to the plaintiff's registered trademark www.alltelugumatrimony.com. The plaintiff has also filed the proper authorization in favour of its representative who has deposed as a witness on behalf of the plaintiff (PW1) as seen from the Board resolution which has been marked as Ex.P17.

6.The defendant can claim protection only in case of standalone common names. "Alltelugumatrimony.com" is not a standalone common name. The trademark of the plaintiff "TELUGUMATRIMONY" is a registered trademark and has gained distinctiveness through its long usage. The defendant cannot ride over the plaintiff's trademark "TELUGUMATRIMONY" by adding the prefix "all" to "TELUGUMATRIMONY". As seen from the documents, which have been marked as exhibits and as also seen from the plaintiff's averments, the plaintiff's trademarks including the trademark "TELUGUMATRIMONY" have earned a reputation for themselves. The plaintiff is a successful established



company, carrying on business in the field of securing matrimonial alliances for

prospective brides/bridegrooms, belonging to different classes, religions and

speaking languages. As seen from the plaint averments and as well as from the

exhibits marked on the side of the plaintiff, "Telugumatrimony.com" is

associated only with the plaintiff in India. The defendant cannot ride on the crest

of successfully established companies like that of the plaintiff and compete in an

identical business using a deceptively similar trademark as that of the plaintiff.

"Alltelugumatrimony.com" is certainly deceptively similar to that of the

plaintiff's registered trademark "TELUGUMATRIMONY" and its domain name

"www.telugumatrimony.com". Adding the prefix "all" to "Telugumatrimony"

will not protect the defendant in the infringement action initiated by the plaintiff

in this suit against them. Trademark dilution also happens when a mark is

blurred or tarnished. It also involves the activity of free riding on the goodwill or

reputation gained by the well known mark. The plaintiff has gained goodwill

and reputation for its trademark in the matrimonial segment, which includes the

trademark "TELUGUMATRIMONY". The sales turnover, advertisement costs

and the various registrations obtained under the Trademarks Act as well as the

profits and the awards received by them will prove that the plaintiff has gained

tremendous goodwill and reputation in the matrimonial segment. The usage of

"alltelugumatrimony" by the defendant will certainly cause confusion in the



minds of the public, having average intelligence that "alltelugumatrimony" is also a trademark belonging to the plaintiff. The term "alltelugumatrimony" is also phonetically similar to the distinctive trademark of the plaintiff, namely, "TELUGUMATRIMONY".

7.After giving due consideration to the plaint averments and the oral and documentary evidence placed on record by the plaintiff, this Court is of the considered view that the relief of permanent injunction sought for in the suit has to be granted. In view of the fact that the learned counsel for the plaintiff is not pressing the damage claim as sought for in prayer (d) to (f) of the suit, those claims are to be dismissed as not pressed.

8.For the foregoing reasons, this suit is partly decreed by granting the following reliefs in favour of the plaintiff:

(a) a permanent injunction restraining the defendant, by themselves, their directors, partners, men, servants, agents, broadcasters, representatives, advertisers, franchisees, licensees and/or all other persons acting on their behalf from in any manner infringing and/or enabling others to infringe plaintiff's registered trademark, "TELUGUMATRIMONY" and/or its variants by including



them jointly or severally as domain name, Keyword Suggestion Tool, for Search Engine Optimization, keyword in the internet search or as meta tag in any other manner whatsoever;

(b) a permanent injunction restraining the defendant, by themselves, their directors, partners, men, servants, agents, broadcasters, representatives, advertisers, franchisees, licensees and/or all their persons acting on their behalf from in any manner diverting the plaintiff's business to themselves by using the plaintiff's trademarks and domain names "TELUGUMATRIMONY" and/or its variants, for Search Engine Optimization, Keyword Suggestion Tool, as a keyword for the internet search and/or as meta tags and thereby passing off and enabling others to pass off the business and services of the defendant as that of the plaintiff or in any other manner whatsoever;

(c) a permanent injunction restraining the defendant, themselves, their partners, successors-in-business, servants, agents, representatives, assigns and all other persons claiming under them and through them to delete the domain www.alltelugumatrimony.com or any other domain name that is identical and/or deceptively similar to that of the plaintiff's domain name www.telugumatrimony.com in any manner whatsoever;



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9.Insofar as prayer (d), (e) and (f) sought for in the plaint are concerned,
the same is dismissed as not pressed.

10.The defendant is directed to pay the cost of the suit to the plaintiff.

Consequently, connected applications are closed.

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Index: Yes/No

Speaking / Non speaking

ssr



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List of Witness examined on the side of the Plaintiffs:-

Mr.S.Ravichandran (PW1) – Examined in Chief.

List of Witness examined on the side of the Defendant :- Nil

List of the Exhibits marked on the side of the Plaintiff:-

S.No.	Exhibits	Description of Documents
1.	Ex.P1	Attested photocopy of the Board resolution dated 04/06/2016.
2.	Ex.P2	Attested photocopy of the Fresh Incorporation certificate dated 02/01/2015.
3.	Ex.P3	Printout of www.godaddy.com webpage extracts of godaddy.com showing the proprietorship for domain names of the plaintiff www.Telugumatrimony.com filed along with section 65 B of the Indian Evidence Act
4.	Ex.P4	Attested photocopy of the registration for trademark "TELUGUMATRIMONY" under No.1306420 in class 16.
5.	Ex.P5	Attested photocopy of the trademark registration



S.No.	Exhibits	Description of Documents
		certificate and advertisement in Trademarks Journal for trademark "TELUGUMATRIMONY" under no.2007944 in classes 9,16,35 & 45.
6.	Ex.P6	Print out and the Attested photocopy of the News papers articles published in various newspapers and magazines regarding the plaintiff company filed along with section 65 B of the Indian Evidence Act.
7.	Ex.P7	Printout of webpage extracts reflecting the various awards, accolades, achievements and acknowledgments conferred to the plaintiff company filed along with section 65 B of the Indian Evidence Act.
8.	Ex.P8	The Attested photocopy of Invoices raised by advertising agency proving publication of ads for the mark "TELUGUMATRIMONY".
9.	Ex.P9	The printout of screenshot of Google's webpage showing search results for the plaintiff's trademark "TELUGUMATRIMONY" filed along with section 65 B of the Indian Evidence Act.
10.	Ex.P10	The printout of webpage extracts of plaintiff's website



S.No.	Exhibits	Dscription of Documents
		www.telugumatrimony.com filed along with section 65 B of the Indian Evidence Act.
11.	Ex.P11	The printout of webpage extracts of www.whois.net showing the proprietorship for domain name of the defendant www.alltelugumatrimony.com. filed along with section 65 B of the Indian Evidence Act.
12.	Ex.P12	The printout of screen shot of defendant's website www.alltelugumatrimony.com filed along with section 65 B of the Indian Evidence Act.
13.	Ex.P13	The printout of screen shots of Google's webpage showing organic search results with the plaintiff's registered trademark "TELUGUMATRIMONY" as the headline of the defendant's web link www.alltelugumatrimony.com filed along with section 65 B of the Indian Evidence Act.
14.	Ex.P14	The printouts of notices dated 09/04/2018, 24/04/2018, 29/102018 issued by plaintiff to the defendant by e-mail filed along with section 65 B of the Indian Evidence Act.
15.	Ex.P15	Office copy of the Notice dated 22/11/2018 issued by



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S.No.	Exhibits	Dscription of Documents
		the plaintiff's counsel to the defendant.
16.	Ex.P16	Affidavit under section 65B of the Indian Evidence Act 1872.
17.	Ex.P17	The Board resolution dated 08/11/2019 Authorizing PW1 to deal with the suit.
18.	Ex.P18	Online Original Incorporation certificate dated 02/01/2015 duly certified by company Secretary.

List of the Exhibits marked on the side of the Defendants:- Nil



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ABDUL QUDDHOSE, J.,

SSR

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