



C.S.No.63 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2023

CORAM:

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

C.S(Comm. Div.)No.63 of 2023
and O.A.Nos.213 to 216 of 2023
and A.No.1610 of 2023

Phonepe Private Limited

Having its Registered office at Unit No.001,

Ground Floor, Boston House, Suren Road,

Off Andheri-Kurla, Andheri (East)

Mumbai – 400 093

Also having its branch office at

#51 / 117, Nelson Tower, Nelson Manickam Road,

Aminjikarai, Chennai- 600 029.

Represented by its Authorised Signatory

Mr.Vijay Arora

...Plaintiff

Vs.

1.RentPe Financial Technologies Private Limited,

No.39, 2nd Floor, NGEF Lane,

Indira Nagar, First Stage,

Bangalore – 560 038.

2.NeduveliyilSurendranSayanth

Director-RentPe Financial Technologies Private Limited,



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Eranchicode Po, Edvanna,
Malappuram, Kerala -676 541
Email : sayanth824@gmail.com

3.Muhsin Mohammed MattuThodi,
Director-RentPe Financial Technologies Private Limited,
No.39, 2nd Floor, NGEF Lane,
Indira Nagar, First Stage,
Bangalore – 560 038.

... Defendants

PRAYER: This Civil Suit is filed under Order IV Rule 1 of the Madras High Court Original Side Rules read with Order VII Rule 1 of C.P.C., Sections 27, 28, 29, 134 and 135 of the Trade Marks Act, 1999 and Section 7 of the Commercial Courts Act; praying to pass the judgment and decree:-

a.Declare the 'PhonePe' Mark as WELL-KNOWN Trade Mark under Section 2 (1) (zg) read with Section 11 of the Trade Marks Act, 1999 and issue consequently directions to appropriate authorities;

b.Permanent injunction restraining the Defendants, its proprietor/directors/partners, officers, dealers, distributors, successors-in-business, servants, agents, employees, representatives and all others persons claiming through or under them from infringing the registered trademarks PhonePe of the Plaintiff by using the Rentpe Marks viz. 'rentpe'; and/or any other mark identical and/or deceptively similar mark including the Apps Rentpe Tenant ([https:// play.google.com/ store/ apps/](https://play.google.com/store/apps/)



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detials?id=app.rentpe.tenant and Rentpe Partner ([https:// play.google.com/store/ apps/ detials?id=app.rentpe.partner](https://play.google.com/store/apps/details?id=app.rentpe.partner) available on Google Play store platform in any manner whatsoever;

c. Permanent injunction restraining the Defendants, its proprietor/directors/partners, officers, dealers, distributors, successors-in-business, servants, agents, employees, representatives and all others persons claiming through or under them from in any manner from passing off and/or enabling others to pass off the Plaintiff's trademarks PhonePe by using the Rentpe Marks viz 'rentpe' and/or any other mark identical and/or deceptively similar mark including the Apps Rentpe Tenant ([https:// play.google.com/store/ apps/ detials?id=app.rentpe.tenant](https://play.google.com/store/apps/details?id=app.rentpe.tenant) and Rentpe Partner ([https:// play.google.com/store/ apps/ detials?id=app.rentpe.partner](https://play.google.com/store/apps/details?id=app.rentpe.partner) available on Google Play store platform in any manner whatsoever;

d. Permanent injunction restraining the Defendants its proprietor/directors/partner, officers, dealers, distributors, successors-in-business, servants, agents, employees, representatives and all others persons claiming through or under them from diluting the distinctive character of Plaintiff's registered Trademarks PhonePe or indulging in any activity which takes unfair advantage of Plaintiff's goodwill and reputation in Plaintiff's registered trademarks or by any activity amounting to unfair trade practice;

e. Permanent injunction restraining the Defendants, its proprietor/directors/partners, officers, dealers, distributors, successors-in-



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business, servants, agents, employees, representatives and all others persons claiming through or under them from using and/or continuing to use the domain names namely <https://rentpe.app/or> any other domain names which is similar to that of the Plaintiff's registered trademarks and domain names of PhonePe.in in any manner whatsoever;

f. Permanent Injunction restraining the Defendants, its proprietor/directors/partners, officers, dealers, distributors, successors-in-business, servants, agents, employees, representatives and all others persons claiming through or under them from passing off the trade dress and/or copying the contents from the Plaintiff's domain names/website on the domain names <https://rentpe.app/> and or any other domain names belonging to Defendants 1 to 3.

g. Defendant No.1 to 3 be ordered and decreed to pay the Plaintiff a sum of Rs.1,00,00,000/- as punitive and compensatory damages for committing acts of infringement of trademark and passing off or such other sum as may be found due and payable by this Court after an account of the profits made by the Defendants is rendered.

h. Pass a Preliminary decree in favour of the Plaintiff directing the Defendant Nos. 1 to 3 for rendition of accounts of sales and profits under the mark Rentpe and a final decree be passed in favour of the Plaintiff or the amount of profit found to have been made by Defendant Nos.1 to 3 after such accounts are rendered;



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i. An order as to costs of the proceedings;

For Plaintiff : Mr.P.Giridharan
Mr.H.Siddarth
For Defendants : Mr.Prasanth Rajagopal

JUDGMENT

The learned counsel for the plaintiff and the defendants filed the Joint Compromise Memo dated 06.04.2023 along with the letter of undertaking signed by the first defendant.

2. As per the terms of Joint Compromise Memo and the letter of undertaking, the defendants agreed to give up the use of infringing suffix 'Pe' in its mark and consequently agreed to cease and desist from using the mark 'rentpe'.



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3. The Compromise Memo signed by the plaintiff and the Managing Director of the first defendant, who himself is arrayed as third defendant in the suit is recorded. The undertaking letter dated 06.04.2023 signed by the Director of the first defendant is also annexed with the Joint Compromise Memo.

4. The learned counsel for the plaintiff seeks refund of the Court fee paid by him in the plaint by relying on the judgement of the Hon'ble Apex Court in ***High Court of Judicature at Madras vs. M.C.Subramaniam and others*** reported in ***(2021) 3 SCC 560*** for the proposition that even in case the matter is settled out of Court by private negotiation of parties, they are entitled to refund of the Court fee. In the said decision, the Hon'ble Apex Court said that parties who have agreed to settle their dispute without requiring judicial intervention are entitled to get refund of the Court fee. The relevant observation of the Hon'ble Apex Court is as follows:

“23. We find ourselves in agreement with the approach taken by the High Courts in the decisions



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stated supra. The purpose of Section 69-A is to reward parties who chosen to withdraw their litigations in favour of more conciliatory dispute settlement mechanisms, thus saving the time and resources of the Court, by enabling them to claim refund of the Court fees deposited by them. Such refund of Court, though it may not be connected to the substance of the dispute between the parties, is certainly an ancillary economic incentive for pushing them towards exploring alternative methods of dispute settlement. As the Karnataka High Court has rightly observed in Kamalamma the parties who have agreed to settled their disputes without requiring judicial intervention under Section 89 CPC are even more deserving of this benefit. This is because by choosing to resolve their claims themselves, they have saved the state of the logistical hassle of arranging for a third-party institution to settle the dispute. Though arbitration and mediation are certainly salutary dispute resolution mechanisms, we also find that the importance of private amicable negotiation between the parties cannot be understated. In our view, there is no justifiable reason



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why Section 69-A should only incentivise the methods of out-of-Court settlement stated in Section 89 CPC and afford step-brotherly treatment to other methods availed by the parties. ”

In view of the law laid down by the Hon'ble Apex Court in the above said decision, the plaintiff is entitled to refund of the Court fee affixed by him in the plaint.

5. Recording the Joint Compromise Memo dated 06.04.2023 and the affidavit of undertaking filed herein, the suit is disposed of in terms of Joint Compromise Memo. The Joint Compromise Memo shall part of the decree. Consequently, connected applications are closed.

12.04.2023

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Index:Yes/No

Speaking Order: Yes/No

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