



C.S. (Comm. Div.) No.22 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

C.S. (Comm. Div.) No.22 of 2023

TTK Prestige Limited

Having its registered office at;

Plot No.38, SIPCOT Industrial Complex

Bosur, Tamil Nadu - 635 126, India

And also at

No.91, Santhome High Road

Karpagam Avenue, Raja Annamalai Puram

Chennai - 600 028

Represented by its Power Agent, Mr.G.Ramesh Babu

... Plaintiff

Vs.

Butterfly Gandhimathi Appliances Limited

Having its registered office at;

143, Pudupakkam Village,

Kelambakkam - Vandalur Road

Kancheepuram District - 603 103

Tamil Nadu, India

Also at

No.34, (2nd Floor), Rajiv Gandhi Salai,

Egattur Village, Chennai - 600 130



Tamil Nadu, India

... Defendant

Prayer: The plaint is filed under Order IV Rule 1 of O.S. Rules read with Order VII Rule 1 of C.P.C. and Section 22 of the Designs Act, 2000, praying to pass a judgment and decree against the defendant as follows;

a) A decree for permanent injunction restraining the defendant, its directors, sister concerns, assigns in business, distributors, stockists, dealers and agents, from manufacturing, selling, offering for sale, exporting, advertising-whether online or offline-or directly or indirectly in any manner including through websites or other online shopping portals dealing in pressure cookers in any size or variation bearing the impugned design or any other design as may be fraudulent or obvious imitation of the plaintiff's Design Registration No.324727-001 amounting to infringement thereof;

b. A decree for delivery up of the infringing goods of the defendant including moulds, whether pre-form moulds, blow moulds or any other moulds, along with



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C.S. (Comm. Div.) No.22 of 2023

mould drawings, CAD/CAM drawings, part drawings or any graphical representations thereto and engraving printed materials such as label, brochures, packaging or other promotional material or any other material bearing the impugned design or depicting the infringing designs including but not limited to advertisements and promotional videos uploaded online or published on any manner of print media, to an authorized representative of the plaintiff for destruction;

c. directing the defendant to render an account of profits made by them by the use of the impugned product on the service and decree the suit for the profits found to have been made by the defendant, after the defendant has rendered accounts; and

d. cost of the proceedings.

For Plaintiff : Mr.Gladys Daniel

Sole Defendant : Set Ex-parte on 26.06.2024



C.S. (Comm. Div.) No.22 of 2023

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JUDGMENT

This suit is filed by the plaintiff seeking (a) a decree for permanent injunction restraining the defendant, its directors, sister concerns, assigns in business, distributors, stockists, dealers and agents, from manufacturing, selling, offering for sale, exporting, advertising-whether online or offline- or directly or indirectly in any manner including through websites or other online shopping portals dealing in pressure cookers in any size or variation bearing the impugned design or any other design as may be fraudulent or obvious imitation of the plaintiff's Design Registration No.324727-001 amounting to infringement thereof; (b) a decree for delivery up of the infringing goods of the defendant including moulds, whether pre-form moulds, blow moulds or any other moulds, along with mould drawings, CAD/CAM drawings, part drawings or any graphical representations thereto and engraving printed materials such as label, brochures, packaging or other promotional material or any other material bearing the impugned



C.S. (Comm. Div.) No.22 of 2023

design or depicting the infringing designs including but not limited to advertisements and promotional videos uploaded online or published on any manner of print media, to an authorized representative of the plaintiff for destruction; (c). directing the defendant to render an account of profits made by them by the use of the impugned product on the service and decree the suit for the profits found to have been made by the defendant, after the defendant has rendered accounts; and (d) cost of the proceedings.

2. The brief averments of the plaint;

2.1. The plaintiff belongs to the TTK Group of companies and is engaged in the business of manufacturing, marketing and sale of kitchen home appliances including pressure cookers both electric and nonelectric, non-stick cookware, induction cook-tops, mixer grinders, chimneys etc., under the brand/trade mark PRESTIGE since 1995 which is a house mark as well as a well-known trade mark. The products of the plaintiff are known for their quality.



C.S. (Comm. Div.) No.22 of 2023

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2.2. The daily struggle of a housewife in the kitchen to make healthy food inspired the plaintiff to get Denis Papin's invention, the pressure cooker, to India in the year 1959. At that time, safety during cooking was a big challenge for Indian Women and the plaintiff was determined to provide safety to these women. The pressure release valve and other such innovations made the PRESTIGE pressure cooker stand out. The first iconic advertisement with the slogan "Jo Biwi se kare pyar, woh Prestige se kaise kare inkaar" accentuated the efforts of the plaintiff in making the PRESTIGE pressure cooker a part of Indian kitchen.

2.3. The kitchen home appliances of the plaintiff are known for their unique and novel designs. The novelty in design is the hallmark of the plaintiff's products and the plaintiff has invested money, labour and skill in order to create novel and original designs, moulds and drawings to keep its products attractive and modern. Further, by virtue of sturdiness and long durable quality, coupled with new original, unique and aesthetic eye



C.S. (Comm. Div.) No.22 of 2023

appeal, the plaintiff's products are consumer's first choice, worldwide including in India. Several products of the plaintiff are identified by their respective distinctive designs. The products of the plaintiff are quality products designed to be used repeatedly and have been synonymous with safety and quality for generations.

2.4. The plaintiff has won various awards in design innovation which include International Design Excellence Award for Hobtop in 2016, India Design Mark for Hobtop and Clip-on in 2016 and IPSA-International Product and Service Award in 2016 as an identification of being India's Largest Kitchen Appliances Company. Presently, the plaintiff's products are sold in various countries around the world. The plaintiff has spent substantial amounts of money towards publicity by way of print as well as electronic media advertisement, issuing and circulating catalogues, point of sale materials and other promotional materials.

2.5. One of the most popular design created by the plaintiff is a



C.S. (Comm. Div.) No.22 of 2023

unique and novel pressure cooker series sold under the trade mark Svachh.

In 2019, the plaintiff launched a range of Svachh Pressure Cookers which had a mechanism to control spillage to ensure that the froth stays and evaporates on the lid while retaining the flavour and preserving nutrition thereby ensuring a safe and cleaner cooking experience. The plaintiff obtained Design registration for its various Svachh Pressure Cooker Designs prior to launch of such pressure cookers. Such design registrations belonging to the same proprietor being the plaintiff are entitled for protection under Section 6 of the Designs Act, 2000 (hereinafter referred to as "the Act"). One of such pressure cooker is Svachh Deluxe Alpha pressure Cooker which comprises novel and original shape and configuration and is subject matter of design registration No.324727-001 dated 13.12.2019. The said design registration is valid and subsisting.

2.6. The lid of the plaintiff's Svachh Deluxe Alpha pressure cooker is a circumferential depression from the centre outwardly with a peripheral



C.S. (Comm. Div.) No.22 of 2023

WEB COPY

upwards projection running around the circumference of the lid. The peripheral protrusion/projection created by a contour on the lid contains the froth leaking from within the pressure cooker through the pressure weight valve. Due to the novel and unique design of the lid, the froth is prevented from flowing/running down the lid by containing all such froth within the contour on account of peripheral projections along the circumference of the lid. This enables the collected froth to evaporate on the lid itself due to the high temperature of the pressure cooker. The lid of the plaintiff's Svachh Deluxe Alpha pressure cooker is shaped entirely different from the lid of ordinary pressure cookers in the market granting it instant recognition owing to the novelty and aesthetic eye appeal of the design.

2.7. The plaintiff's Svachh pressure cookers including the Svachh Deluxe Alpha pressure cooker registered design No.324727-001, on account of being unique in shape, design and having aesthetic eye appeal



C.S. (Comm. Div.) No.22 of 2023

have become extremely popular in the Indian Market and have acquired tremendous goodwill and reputation amongst the consumers at large. The said goodwill and reputation are on account of extensive promotion as the plaintiff has made huge financial investment in their sales promotion and awareness building exercise amongst consumers in India by way of digital and print media campaigns involving advertisements in leading national dailies from time to time. It is pertinent to mention that the plaintiff has spent a sum of INR 4476 lakhs as on 31.03.2021 and INR 4495 lakhs as on 31.3.2022 on the promotion of Svachh pressure cooker including Svachh Deluxe Alpha pressure cooker.

2.8. In the last week of October, 2022, through its field force, first came to know that the defendant herein is about to launch the pressure cooker under the impugned design being an imitation of the plaintiff's Svachh Pressure Cooker design subject matter of the design registration No.324727-001. The plaintiff being aggrieved by the same immediately



C.S. (Comm. Div.) No.22 of 2023

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issued a cease-and-desist notice to the defendant on 01.11.2022. The defendant vide its letter dated 11.11.2022, replied and conveyed that the defendant is deliberating over the issue and would revert with its response within 2 weeks. The defendant also requested not to initiate any legal action in the meantime. Considering that the defendant might come forward for amicable resolution of the dispute, the plaintiff did not initiate the suit. However, the plaintiff was shocked to receive the copy of the caveat petitions filed by the defendant and hence was preparing to file the suit when the plaintiff received the reply from the defendant on 13.12.2022, wherein the defendant denied all claims of the plaintiff and also challenged the validity of the design registration of the plaintiff, the subject matter of present suit. Hence, the present suit is filed.

2.9. The present suit pertains to the Design Registration No.324727-001 dated 13.12.2019 with respect to Svachh Deluxe Alpha Pressure Cookers which comprises novel and original shape and configuration. The



C.S. (Comm. Div.) No.22 of 2023

present suit is being filed for infringement of design Registration No.324727-001 by the defendant. The defendant has blatantly and fraudulently copied and imitated novel features of the plaintiff's registered design including the lid design for which plaintiff is the pioneer and inventor.

3. Since the defendant had not filed the proof affidavit despite giving sufficient opportunity, the sole defendant was set-exparte by this Court on 26.06.2024.

4. In order to substantiate their claim, one G.Ramesh Babu, the Senior Deputy General Manager-Legal of the plaintiff's company filed his proof affidavit reiterating the averments made in the plaint. He was examined himself as P.W.1 and also marked 22 documents as Ex.P1 to Ex.P22 in which, Ex.P.1 is the certified copy of the power of attorney in favour of Mr.G.Ramsh Babu dated 21.01.2015 which shows that the plaintiff Company has authorized the him to depose on behalf of the



C.S. (Comm. Div.) No.22 of 2023

company. Ex.P2 is the notarized copy of the affidavit under Order XI Rule 6 of Mr.G.Ramesh Babu, Ex.P3 is the printout from the Ministry of Corporate Affairs showing Master Data of plaintiff company, Ex.P4 is the original LPC of plaintiff's design registration No.324727-001 dated 13.10.2022, Ex.P5 is the printout of the images of the plaintiff's Svachh Deluxe Alpha Pressure Cooker, Ex.P6 is the sample sales invoices of the plaintiff's Svachh Deluxe Alpha Pressure Cookers from October, 2020, Ex.P7 is the printout of the Screenshots from various e-commerce portals and websites showing sale of plaintiff's Svachh Pressure Cooker, Ex.P8 is the printout of the screenshots from various e-commerce portals and websites showing sale of plaintiff's Svachh Deluxe Alpha Pressure Cooker, Ex.P9 is the printout of complete specification and drawings filed with patent application Nos.201941025068 dated 24.06.2019 and 201941051863 dated 13.02.2019 filed before Controller of Patents & Designs by the plaintiff along with relevant extracts from Patent Journal,



C.S. (Comm. Div.) No.22 of 2023

Ex.P10 is the printout of complete specification and drawings filed with patent Application Nos.201941051863 dated 13.12.2019 and 201941026890 dated 04.07.2019 filed before Controller of Patents & Designs by the plaintiff along with relevant extracts from Patent Journal, Ex.P11 is the printout from Ministry of Corporate Affairs showing Master data of defendant company, Ex.P12 is the office copy of the Cease and Desist Notice sent on behalf of the plaintiff to defendant along with photocopy of the courier receipts and tracking details, Ex.P13 is the photocopy of the letter sent on behalf of the defendant by their attorney dated 11.11.2022, Ex.P14 is the photocopy of the reply to legal notice sent on behalf of the defendant by their Attorney dated 06.12.2022, Ex.P15 is the purchase invoice evidencing the sale of the impugned product in the markets within the local jurisdiction of this Court, Ex.P16 is the printout of the images of the defendant's impugned product, Ex.P17 is the printout of the images showing side by side comparison of the plaintiff's Svachh



C.S. (Comm. Div.) No.22 of 2023

Deluxe Alpha Pressure Cooker and defendant's impugned Pressure Cooker, Ex.P18 is the printout of the chart showing various different designs adopted for pressure cookers available in the trade, Ex.P19 is the original of the design registration under No.319361-001 dated 05.07.2019, Ex.P.20 is the original design registration under No.318976-001 dated 21.06.2019, Ex.P21 is the original design registration under No.323930-001 dated 23.11.2019 and Ex.P.22 is the photocopy of the receipt dated 04.01.2023 and application for obtaining certified copy of the plaintiff's design registration No.324727-001. Besides 13 material objects have been marked as M.O.1 to M.O.13 in which, M.O.1 is the plaintiff's suit Design Pressure Cooker, M.O.2 is the defendant's impugned Pressure Cooker, M.O.3 is the defendant's compact pressure cooker, M.O.4 is the defendant's curve pressure cooker, M.O.5 is the defendant's orchid pressure cooker, M.O.6 is the defendant's blue line pressure cooker, M.O.7 is the third party's Handi Pressure Cooker, M.O.8 is the third party's Mithra smart cook ware



C.S. (Comm. Div.) No.22 of 2023

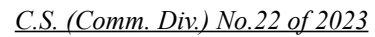
pressure cooker, M.O.9 is the third party's Nethraa Inner Lid Pressure Cooker, M.O.10 is the third party's Hawkins Ceramic coated Apple Green Pressure Cooker, M.O.11 is the third party's Miss Mary Pressure Cooker, M.O.12 is the plaintiff's Svachh Pressure Cooker and M.O.13 is the Pigeon's Deluxe Clean Cook Pressure Cooker.

5. Though the defendant had filed written statement, subsequently, they remained ex-parte and therefore, the proof affidavit of the plaintiff's witness is un-challenged and the documents and material objects marked on the side of the plaintiff are also un-disputed.

6. On a perusal of the averments made in the plaint and the proof affidavit filed by P.W.1 and also the documentary evidence and material objects marked on the side of the plaintiff, this Court finds that the plaintiff has proved its claim.

7. Therefore, the suit is decree as prayed for with costs.

08.07.2024
(1/2)



Mr.G.Ramesh Babu - P.W.1

S.No.	Exhibits	Description of documents
1	Ex.P.1	The certified copy of the power of attorney in favour of Mr.G.Ramsh Babu dated 21.01.2015
2	Ex.P.2	The notarized copy of the affidavit under Order XI Rule 6 of Mr.G.Ramesh Babu
3	Ex.P.3	The printout from the Ministry of Corporate Affairs showing Master Data of plaintiff company
4	Ex.P.4	The original LPC of plaintiff's design registration No.324727-001 dated 13.10.2022
5	Ex.P.5	The printout of the images of the plaintiff's Svachh Deluxe Alpha Pressure Cooker
6	Ex.P.6	The sample sales invoices of the plaintiff's Svachh Deluxe Alpha Pressure Cookers from October, 2020.
7	Ex.P.7	The printout of the Screenshots from various e-commerce portals and websites showing sale of plaintiff's Svachh Presure Cooker.
8	Ex.P.8	The printout of the screenshots from various e-commerce portals and websites showing sale of plaintiff's Svachh Deluxe Alpha Presure Cooker.
9	Ex.P.9	The printout of complete specification and drawings filed with patent application Nos.201941025068



C.S. (Comm. Div.) No.22 of 2023

S.No.	Exhibits	Description of documents
		dated 24.06.2019 and 201941051863 dated 13.02.2019 filed before Controller of Patents & Designs by the plaintiff along with relevant extracts from Patent Journal.
10	Ex.P10	The printout of complete specification and drawings filed with patent Application Nos.201941051863 dated 13.12.2019 and 201941026890 dated 04.07.2019 filed before Controller of Patents & Designs by the plaintiff along with relevant extracts from Patent Journal .
11	Ex.P11	The printout from Ministry of Corporate Affairs showing Master data of defendant company
12	Ex.P12	The office copy of the Cease and Desist Notice sent on behalf of the plaintiff to defendant along with photocopy of the courier receipts and tracking details
13	Ex.P13	The photocopy of the letter sent on behalf of the defendant by their attorney dated 11.11.2022
14	Ex.P14	The photocopy of the reply to legal notice sent on behalf of the defendant by their Attorney dated 06.12.2022
15	Ex.P15	The purchase invoice evidencing the sale of the impugned product in the markets within the local jurisdiction of this Court
16	Ex.P16	The printout of the images of the defendant's impugned product



C.S. (Comm. Div.) No.22 of 2023

S.No.	Exhibits	Description of documents
17	Ex.P17	The printout of the images showing side by side comparison of the plaintiff's Svachh Deluxe Alpha Pressure Cooker and defendant's impugned Pressure Cooker
18	Ex.P18	The printout of the chart showing various different designs adopted for pressure cookers available in the trade
19	Ex.P19	The original of the design registration under No.319361-001 dated 05.07.2019
20	Ex.P.20	The original design registration under No.318976-001 dated 21.06.2019
21	Ex.P21	The original design registration under No.323930-001 dated 23.11.2019
22	Ex.P.22	The photocopy of the receipt dated 04.01.2023 and application for obtaining certified copy of the plaintiff's design registration No.324727-001.

List of Material Objects:

S.No.	Material Objects	Description of Material Objects
1	M.O.1	Plaintiff's suit Design Pressure Cooker
2	M.O.2	Defendant's impugned Pressure Cooker
3	M.O.3	Defendant's compact pressure cooker
4	M.O.4	Defendant's curve pressure cooker



C.S. (Comm. Div.) No.22 of 2023

S.No.	Material Objects	Description of Material Objects
5	M.O.5	Defendant's orchid pressure cooker
6	M.O.6	Defendant's blue line pressure cooker
7	M.O.7	The third party's Handi Pressure Cooker
8	M.O.8	The third party's Mithra smart cook ware pressure cooker
9	M.O.9	The third party's Nethraa Inner Lid Pressure Cooker
10	M.O.10	The third party's Hawkins Ceramic coated Apple Green Pressure Cooker
11	M.O.11	The third party's Miss Mary Pressure Cooker
12	M.O.12	The plaintiff's Svachh Pressure Cooker
13	M.O.13	The Pigeon's Deluxe Clean Cook Pressure Cooker.

List of witnesses examined on the side of the defendant - **Nil**

List of exhibits marked on the side of the defendant - **Nil**

08.07.2024

(2/2)

Index : Yes / No

Speaking Order : Yes / No

Neutral Case Citation : Yes/No

Ksa-2



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C.S. (Comm. Div.) No.22 of 2023

P.VELMURUGAN. J.

Ksa-2

C.S. (Comm. Div.) No.22 of 2023

08.07.2024