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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2015

CORAM

THE HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
THE HON'BLE MR. JUSTICE M.M.SUNDRESH

O.S.A.Nos.28 and 29 of 2014
and
M.P.Nos.1 & 2 of 2014 in O.S.A.No.28 of 2014
and
M.P.No.1 of 2014 in O.S.A.No.29 of 2014

M/s.NICO QUALITY PRODUCTS,
rep. by its Partner K.C.Vijay,
1st Floor, No.4/1, Kandaswamy street,
Mylapore,
Chennai-600 004

...Appellant in both the appeals

Vs.

1. M/s.N.C.Arya Snuff & Cigar Company,
rep. by its Partners
S.Chandrasekaran, S.Thara, V.Anuradha,
No.19, Davidson street,
Chennai-600 001.
2. M/s.Sakthi Snuff Company,
Manufacturer for
M/s.N.C.Arya Snuff & Cigar Company,
Thuraiyur Road, Nochiyam,
Trichy-621 216.
3. M/s.Adinayagan Agencies,
20A, Tennur High Road,
Tennur, Trichy-17.
4. V.Shankar Amarnath,
M/s.Vijayanth Trading Company,
Marketing agent for
M/s.N.C.Arya Snuff & Cigar Company,
P 51/1, CIT Road,
Kolkatta-700 014.



5. V.Sreenivasan,
M/s.Indai Model Production,
Marketing Agent for
M/s.N.C.Arya Snuff & Cigar Company,
P 51/1, CIT Road,
Kolkatta-700 014.

...Respondents in both the appeals

Appeals filed under Clause 15 of the Letters Patent read with Order XXXVI, Rule 9 of Original Side Rules against the common order made in O.A.Nos.667 and 668 of 2013 in C.S.No.605 of 2013, dated 03.12.2013.

O.A.No.667 of 2013:

Original Application praying that this Hon'ble Court be pleased to grant an interim, injunction restraining the Respondent, its men, agents, servants or persons acting on its behalf from infringing the Applicant's registered trademark bearing numbers 454103, 454106, 454109, 592763, 180448, 180449, 559308, 178484, 179074 nad 194656 in Class 34, in any manner either by using the Applicant's work mark and/or logo or otherwise in relation with the products manufactured and marketed by the Respondents, pending disposal of the suit.

O.A.No.668 of 2013:

Original Application praying that this Hon'ble Court be pleased to grant and interim injunction restraining the Respondent, its men, agents, servants or persons acting on its behalf from passing-off the products manufactured and marked by them using the Applicant's trademark or any other mark deceptively similar or closely resembling the Applicant's mark, in any manner either by using the Applicant's word mark and/or logo described in the Schedule to the Judge's summons or otherwise in relation with the products manufactured and marketed by the Respondents, pending disposal of the suit.

For Appellant : Mr.P.S.Raman
Senior Counsel
for
M/s.P.R.Raman

For Respondents : Mr.G.Rajan



COMMON JUDGMENT

(Judgment of the Court was delivered by The Hon'ble Chief Justice)

There are two counter suits now pending before this Court being C.S.No.605 of 2013 filed by the appellant, from which these appeals arise and C.S.No.882 of 2013 filed by the respondents herein.

2. After some arguments, it is agreed that both the appeals be disposed of in the following terms:-

- (i) The appellant does not press the appeals, but it is made clear that any opinion expressed in the impugned order is only prima facie in character and will not prejudice the appellant at the stage of trial.
- (ii) The respondents do not press the interim application in their suit.
- (iii) Written statement filed by the respondents in C.S.No.605 of 2013 be permitted to taken on record with the delay being condoned.
- (iv) The appellant will file written statement in C.S.No.882 of 2013 within two weeks.
- (v) Parties will file their respective documents relied upon within the same period of two weeks.
- (vi) Suits be consolidated for trial and posted before the learned single Judge on for framing of Issues on 15.04.2015.
- (vii) Parties will proceed for trial before the Master and will ensure that no unnecessary dates are taken and an endeavour be made to conclude the trial within one year from the first date fixed before the Master.

3. Both the appeals, accordingly, stand disposed of. No costs. Consequently, all the miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

bbr



To

The Sub - Assistant Registrar,
Original Side,
High Court, Madras.

+1cc to Mr.P.R.Raman, Advocate, S.R.No.15911
+1cc to Mr.G.Rajan, Advocate, S.R.No.15313

O.S.A.Nos.28 & 29 of 2014

KM(CO)
CA(06/04/2015)