

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2015

CORAM

THE HONOURABLE MR. **JUSTICE R.SUBBIAH**

C.S.No.216 of 2014

and

O.A.Nos.254 and 255 of 2014

and

A.No.3015 of 2014

M/s.Shankar Industries,
rep. by its partner
K.R.Nagendra

.... Plaintiff

vs.

1.Sri Sathya Sai Baba Oil Mills,
rep. by M.S.Manjunatha Setty

2.M.S.Manjunatha Setty

.... Defendants

Plaint filed under Order IV Rule 1 of O.S.Rules
read with Order VII Rule 1 of C.P.C. read with Sections 27,
28, 29 and 134, 135 of Trade Marks Act, 1999.

For plaintiff :Mr.K.Rajasekaran

For defendants :Mr.R.Sathish Kumar,
for D.2

JUDGMENT

The present suit has been filed for the following
reliefs:-

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(i) A perpetual injunction restraining the

defendants by themselves or their men, partners, proprietors, stockists, dealers, servants, agents, franchises, successors and interest, licensees, assignees, representatives or any of them from in any manner infringing the plaintiff's registered trademark GANESHA BRAND by use of the trademark label GANAPATI BRAND / MRS.GANAPATI or any mark/label deceptively similar to that of the plaintiff's registered trademark or by use of identical or deceptively similar trading style or in any other manner whatsoever;

(ii) A perpetual injunction restraining the defendants by themselves or their men, partners, proprietors, stockists, dealers, servants, agents, franchises, successors and interest, licensees, assignees, representatives or any of them from in any manner passing off the plaintiff's registered trademark GANESHA BRAND by use of the trademark label GANAPATI BRAND / MRS.GANAPATI or any mark/label deceptively similar to that of the plaintiff's registered trademark or by use of identical or deceptively similar trading style or in any other manner whatsoever;

(iii) The defendants be ordered to surrender to plaintiff for destruction of all bags, name boards, packing materials, visiting cards, letterheads, printer bills, cartons, sachets and other packing materials bearing the trademark label GANAPATI BRAND / MRS GANAPATI or any mark deceptively similar to that of the plaintiff's registered trademark and artistic work GANESHA BRAND.

(iv) The defendants be ordered to produce an account of profits made by them by the unlawful use of the registered trade marks of the plaintiff and thereafter to pass a final decree upon ascertaining the accounts, in favour of the plaintiff and against the defendants;

(v) The defendants be ordered to pay punitive damages of Rs.20 lakhs to the plaintiff and for costs.

2. Earlier, the plaintiff filed an application in A.No.2008 of 2014 under Clause 12 of Letters Patent for grant of leave to sue the defendants, since the defendants are residing outside the jurisdiction of this Court and

this Court, by an order dated 19.3.2014, granted leave. Further, the plaintiff has also filed applications in O.A.Nos.254 and 255 of 2014 for interim injunction and this Court, by an order dated 27.3.2014, granted an order of interim injunction for a period of two weeks in O.A.No.255 of 2014. On appearance, the defendants have filed two applications viz., A.No.3015 of 2014 to revoke the leave already granted by this Court and A.No.3016 of 2014 to suspend the order of interim injunction already granted by this Court in O.A.No.255 of 2014 dated 27.3.2014 and this Court, by an order dated 30.4.2014, suspended the said order. Now, the plaintiff has filed a memo stating that they may be permitted to withdraw the suit with liberty to approach the jurisdictional Principal District Judge.

3. Considering the facts and circumstances of the case and in view of the memo filed by the plaintiff, the suit is dismissed as withdrawn, with liberty to the plaintiff to approach the jurisdictional Principal District Court, where they can make out their case on merits. No costs. Consequently, connected applications are closed.

sd/.R.P.S.J
26.03.2015

//Certified to be a true copy//
Dated this the day of 2015.

R.s/08.06.2015

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.
<https://hcservices.ecourts.gov.in/hcservices/>