

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2015

CORAM

THE HON'BLE Mr. JUSTICE K.RAVICHANDRABAABU

C.S. No. 818 of 2015

M/s. Maya Appliances Private Limited,
Rep. by its Authorised Signatory
Mr.N.Balaji,
Office at: No. 10/5, Royal Enclave,
Besant Avenue, Adayar,
Chennai - 600 020. ...Plaintiff

Vs.

1. M/s. Minit Engineers Marketing
137/1, A1 Complex, Kandaampalayam Road,
Pudhupalayam Village,
Erode 636 107.
2. Mr. N.Ranganathan
Partner, Minit Engineers Marketing,
137/1, A1 Complex, Kandaampalayam Road,
Pudhupalayam Village,
Erode 636 107.
3. P.Ramalangam
Partner, Minit Engineers Marketing,
137/1, A1 Complex, Kandaampalayam Road,
Pudhupalayam Village,
Erode 636 107.
4. M/s. Minit Engineers India Pvt. Ltd.
Rep. by its Director
138/5, Nasiyanur Road,
Semampalayam,
Villarasampatty, Tamil Nadu - 638004.

...Defendants

Plaint under Sec. 22 of the Designs Act 2000, read with Order IV Rule 1 of the O.S.Rules and Order VII Rule 1 of the CPC seeking for permanent injunction and other reliefs against the defendants.

For Plaintiff : M/s.T.K.Bhaskar.
For Defendants : M/s.G.Ramji.

JUDGMENT

This suit is filed seeking for the following reliefs;

- a) Declare that the defendants are infringing upon the plaintiff's copyrighted design No. 261951 in respect of its VIDIEM ''JEWEL'' table top wet grinder by the manufacture and sale of the defendants' "AMRITHA LION HI-TECH wet grinder''.
- b) Grant a permanent injunction restraining the defendants, its men, agents, or persons acting on its behalf, from in any manner infringing the plaintiff's copyright in wet grinder Registered Design No. 261951 by manufacturing offering for sale and selling any wet grinder model similar to the plaintiff's design;
- c) Directing the defendants to pay the plaintiff a sum of Rs. 25,00,000/- as damages along with interest @ 18% per annum from the date of plaint till date of realization;
- d) Directing the defendants, its men, agents and persons acting on its behalf to deliver up for destruction all the infringing products of the defendant including all dies, moulds and other machinery that may be used in the manufacture of the infringing

products;

- e) Direct the defendants to pay the costs of the suit;

2. After notice, the defendants have entered appearance through their counsel. Today, an Affidavit of Undertaking dated 20.10.2015, is filed by the defendants wherein it is stated as follows;

'7. Further to the response the defendants' research had shown that plaintiff was the true and first developer of the unique Twin Wipers feature and that they have sought for various Patent and Design protection for the same.

8. Accordingly, the defendants have effectively stopped manufacturing of 'Amirthaa Lion Hi-Tech' wet grinder incorporating the unique Twin Wipers feature, with immediate effect.

9. The defendants hereby undertakes to this Hon'ble Court and to the plaintiff that it will not either by itself or through its directors, group company, associates, divisions, assigns in business, licensees, franchisees, agents, distributors and dealers use, manufacture, import, sell, offer for sale either through website or by any other means, export, directly or indirectly deal any products which may

amount to infringement of Indian Design No. 261951 of the plaintiff.

10. The defendants admits and accepts the rights of the plaintiff in Design No. 261951 and acknowledges the validity thereof.

11. The defendants hereby undertake to:

- a) Not to manufacture any product under the 'Amrithaa Lion Hi-Tech' or any other brands which incorporate the unique Twin Wipers feature.
- b) Destroy all dies and moulds which are used to manufacture the unique Twin Wipers feature.
- c) Not directly/indirectly make or cause to be made, or participate or assist in making any challenge to plaintiff's Intellectual property relating to the unique Twin Wipers feature.
- d) Defendant has notified all his distributors and dealers that their grinders will not come with twin wiper mechanism.
- e) Modify all existing products already manufactured so as to eliminate the Twin Wipers feature.

12. The defendants consents that a decree may be passed in the above suit recording this Affidavit of Undertaking.''

4. Accordingly, the above undertaking given by the defendants is recorded and consequently, the suit is decreed as prayed under Clause A, B, and D of the relief are concerned and however insofar as the relief sought for in claiming damages under Clause C of the relief is concerned, the suit is dismissed. There will be no order as to costs. Consequently, Original Application No. 1087 of 2015 is also closed.

29.10.2015

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S.s/25.07.2016

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