

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :01.10.2015

CORAM

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

C.S.No.386 of 2004
and
A.No.2700 of 2015

1.Aqua Punmp Industries
Rep.by its Managing Partner
Ramaswamy Kumaravelu
2.Aquasub Engineering
rep.by its Managing Partner
Ramaswamy Kumaravelu

.. Plaintiffs

Vs.

P.Nemichand Bafna

.. Defendant

PRAYER: This Civil Suit filed under Order VII Rule 1 of O.S.Rules read with order VII Rule 1 of C.P.C.r/w Sec.27, 134 & 135 of the Trade Marks Act 1999, praying for the following reliefs:

(a) granting a permanent injunction, restraining the defendant, by itself, its servants, agents, distributors, or anyone claiming through them from manufacturing, selling, advertising and offering for sale using the trade mark TAXMO QUARTX upon the goods or in any media and use the same in invoices, letter heads and visiting cards or by using any other trade mark which is in any way visually, phonetically or deceptively similar to the plaintiffs registered trade marks TEXMO or any manner infringing the plaintiffs registered Mark Nos.315050(SP-I), (SP-II) & 315-5- (SP-I), (SP-II) b)

restraining the respondent by themselves, their servants, agents, men or anyone claiming through them from manufacturing, marketing, distributing, offering or advertising for sale of Watches, Clicks and Time Pieces using the mark TAXMO QUARTXZ or similar sounding names in the course of their business and pass off their Watches, Clocks and Time Pieces using the trade mark TAXMO QUARTZ as and for the TEXMO goods of the applicant or enable others to pass off, c) directing the defendant to surrender to the plaintiffs all the Watches, Clocks and Time Pieces packing material, cartons, advertisement materials and hoardings, letter-heads, visiting cards, office stationery and all other materials containing/deceptively similar Trade marks in respect of goods referred in paragraphs 4 & 5, d) for a preliminary decree in favour of the plaintiffs, directing the defendant to render an account of profits made by them by the use of the trade mark TAXMO QUARTZ on the good referred and for a final decree in favour of the plaintiffs for the amount of the profits found to have been made by the defendants, after the defendants have rendered accounts and directing the defendant to pay to the plaintiff for the costs of the suit.

For Plaintiffs : M/S.Danial & Gladys Danial

For defendant : Mr. Ashok Kumar

JUDGMENT

Both the learned counsel for the plaintiffs and defendant are present. The defendant has entered into a compromise with the plaintiffs and they have also filed a compromise memo. The said compromise memo

is recorded.

2. The joint memo of compromise filed by the plaintiffs and the defendant reads as follows:

“1.The terms plaintiffs and defendant shall man and included their heirs, executors, administrators, successors and assignees of each party.

2.The defendant submits to a Jugement and Decree for

(a) granting a permanent injunction, restraining the defendant, by itself, its servants, agents, distributors, or anyone claiming through them from manufacturing, selling, advertising and offering for sale using the trade mark TAXMO QUARTX upon the goods or in any media and use the same in invoices, letter heads and visiting cards or by using any other trade mark which is in any way visually, phonetically or deceptively similar to the plaintiffs registered trade marks TEXMO or any manner infringing the plaintiffs registered Mark Nos.315050(SP-I), (SP-II) & 315-5- (SP-I), (SP-II) in respect of all goods other than watches.

b)granting a permanent injunction, restraining the

respondent by themselves, their servants, agents, men or anyone claiming through them from manufacturing, marketing, distributing, offering or advertising for sale of Watches, Clicks and Time Pieces using the mark TAXMO QUARTXZ or similar sounding names in the course of their business and pass off their Watches, Clocks and Time Pieces using the trade mark TAXMO QUARTZ as and for the TEXMO goods of the applicant or enable others to pass off, The defendant will withdraw the application filed registration of the Trademark TAXMO in respect of goods other than Watches.

4.The plaintiff will withdraw the opposition filed to Application No.1112070 dated 25.04.2004 for registration of the Trademark TAXMO QUARTZ provided the defendant files TM-16 to amend the goods in respect of Watches and restricts geographical region” to “States of Tamil nadu and Kerala without the District of Coimbatore”.

5.The defendant will not file any application in future for registration of the Trademark TAXMO in respect of goods other than watches.

6.The defendant will not use the
inverted triangle device.

In view of the decree for permanent
injunction the plaintiffs have given up the reliefs
contained in prayers c, d & e in para 14 of the suit
including cost of the suit.”

Accordingly, the suit is disposed of in terms of compromise memo
entered into between the defendant and the plaintiffs. The compromise
memo shall form part of the decree. Consequently, connected application
is closed. There shall be no order as to costs.

01.10.2015

Index : Yes / No.
Internet : Yes / No.
kkd

G.CHOCKALINGAM,J.,

kkd

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