

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2016

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

C.S.No.722 of 2014
and A.No.7090 of 2014
and O.A.No.893 of 2014

Apollo Hospitals Enterprises Ltd.,
Regd. Office at No.19, Bishop Gardens,
Raja Annamalaipuram, Chennai - 600 028.
Rep.by its Authorised Signatory. ... Plaintiff

Versus

GP Apollo Pharmacy ... Defendant

Plaint filed under Order VII Rule 1 of CPC, Order
IV Rule 1 of OS Rules r/w Sections 27,28,29,134 and 135 of
the Trade Marks Act, 1999 for the following reliefs:

(a) Permanent injunction restraining the defendant,
its men, agents, partner, associate, officer,
representative, servant and all other persons acting on
defendant's behalf from in any manner infringing the
plaintiff's registered Trade Mark "Apollo", "Apollo
Pharmacy" and "Apollo Hospital" either directly or by using
any structurally, visually, phonetically or deceptively
similar mark to the plaintiff's trademark "Apollo", Apollo
Pharmacy"and "Apollo Hospital",

(b) Permanent injunction restraining the defendant, its men, agents, partner, associate, officer, representative, servant and all other persons acting on defendant's behalf from in any manner passing off goods and services as that of the plaintiff's by either using the plaintiff's trademark "Apollo", "Apollo Pharmacy" and "Apollo Hospital" or any structurally, visually, phonetically or deceptively similar mark to the plaintiff's trademark "Apollo", "Apollo Pharmacy" and "Apollo Hospital";

(c) Permanent injunction restraining the defendant, its men, agents, partner, associate, officer, representative, servant and all other persons acting on defendant's behalf from in any manner using the name/mark "Apollo" and "Apollo Pharmacy" by themselves or in combination with other characters or words in connection with any pharmaceutical establishment operated, or pharmaceutical services, rendered by the defendant;

(d) The Defendant be directed to surrender to the plaintiff all materials, media, etc., whether for invoicing, advertising or any other purpose which contain or bear the plaintiff's registered trademark or any structurally, visually, phonetically or deceptively similar mark to the plaintiff's trademark "Apollo" and "Apollo Pharmacy";

(e) The defendant be directed to render accounts of profits of the defendant in favour of the plaintiff to examine and ascertain the profits made by the defendant, and thereafter on enquiry final decree be passed and or an

order for rendition of accounts of profits made by the defendant by using the mark "Apollo" and "Apollo Pharmacy" or any structurally, visually, phonetically or deceptively similar mark to the plaintiff's trademark "Apollo", Apollo Pharmacy" towards damages as and when ascertained to be awarded to the plaintiff and against the defendant on account of use of the offending trade mark;

(f) Award damages of Rs.25,00,000/- (Rupees Twenty Five Lakhs only); and

(g) An order for costs of the proceedings

For Plaintiff : Mr.Vineet Subramani

For Defendant : Mr.S.Mohan

JUDGMENT

Heard the learned counsel appearing for the plaintiff and the learned counsel appearing for the defendant. Both parties had filed a joint memo of compromise in D.No.15163 of 2016 dated 13.04.2016 and pray that the suit may be decreed in terms of the memo of compromise.

2. This Court has also gone through the terms of the joint memo of compromise.

3. In the light of the plea made by the parties, the suit is decreed in terms of the memo of compromise dated 13.04.2016. The joint memo of compromise shall form part of the decree. No costs. Consequently, connected miscellaneous applications are closed. Refund of Court fee, if any, as per entitlement.

sd/.M.S.N.J

28.04.2016

//Certified to be a true copy//
Dated this the day of 2016.

S.s/14.07.2016

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.

सत्यमेव जयते

WEB COPY