

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2016

CORAM:

THE HONOURABLE MR. **JUSTICE M.M. SUNDRESH**

C.S.No.723 of 2014

Apollo Hospitals Enterprise Ltd.,
Regd. Office at No.19, Bishop Gardens,
Raja Annamalaipuram, Chennai-600 028.
Rep. by its authorised signatory ... Plaintiff

Vs.

Praja Apollo Pharmacy,
No.4-854, Greams Pet,
Chitoor. Rep. by its Director A.Pradhesh ... Defendant

Civil Suit is filed under Order VII Rule 1 C.P.C., read with Order IV Rule 1 of the Original Side Rules read with Sections 27 to 29, 134 and 135 of Trade Marks Act, 1999, to grant judgment and decree against the defendant (a) Permanent injunction restraining the defendant, its men, agents, servant and all other persons acting on defendant behalf from in any manner infringing the plaintiff 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 trade mark 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 plaintiff's by either using the plaintiff's Trade Mark Apollo, Apollo

Pharmacy and Apollo Hospital or by using any structurally, visually, phonetically or deceptively similar mark to the plaintiff's trade mark 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, 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 trade mark Apollo, Apollo Pharmacy and Apollo Hospital; (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 trade mark Apollo and 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 damaged of Rs.25,00,000/- (Rupees twenty five lakhs only); and for costs.

For plaintiff : Mr.Vineet Subamani

For defendant : Mr.D.Kulasekaran

JUDGMENT

The suit is laid for the following reliefs:

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

(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 trade mark Apollo and 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 damaged of Rs.25,00,000/- (Rupees twenty five lakhs only); and
(g)An order for costs of the proceedings.

2. After several adjournments, at the instance of the defendants, the suit is taken up today. The leaned counsel appearing for the defendant submits that the defendant has closed the business and his licence was also cancelled.

3. In view of the statement made, there cannot be any difficulty in decreeing the suit. Accordingly, the suit stands decreed in the following terms.

(a) There shall be an order of permanent injunction restraining the defendant, its men, agents, servant and all other persons acting on defendant behalf from in any manner infringing the plaintiff 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 trade mark Apollo, Apollo Pharmacy and Apollo Hospital;

(b) There shall be an order of 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 plaintiff's by either

using the plaintiff's Trade Mark Apollo, Apollo Pharmacy and Apollo Hospital or by using any structurally, visually, phonetically or deceptively similar mark to the plaintiff's trade mark Apollo, Apollo Pharmacy and Apollo Hospital;

(c) There shall be an order of 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, 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.

Insofar as the reliefs (d) to (g) are concerned, the suit stands dismissed, in view of the statement made by the learned counsel for the plaintiff that they are not pressing. No costs. सत्यमेव जयते

Sd/.M.M.S.J

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09.11.2016

//Certified to be a true copy//

Dated this the day of 2017

R.s/18.01.2017

COURT OFFICER

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