

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2016

CORAM

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

C.S.No.886 of 2015

and

OA.Nos.1180 to 1183 of 2015 and

A.No.7379 of 2015

Hatsun Agro Product Ltd.
having registered office at
No.1/20-A, Rajiv Gandhi Salai (OMR)
Karapakkam, Chennai - 600 097
and also carrying on its business at
Old No.AD-83/New No.AD13,
Anna Nagar, Opp. IOB Towers Branch,
Chennai 600 040. ... Plaintiff

vs.

The IBake Cake Shop
No.187, Grand Southern Trunk Road,
Guduvanchery,
Chengalpattu 603 202. ... Defendant

Civil Suit is filed under Order VII Rule 1 of the Civil Procedure Code r/w Order IV Rule 1 of Original Side Rules and Sections 27, 28, 29, 134 and 135 of the Trade Marks Act 1999 and Sections 51, 55 and 62 of the Copyright Act, 1957.

For Plaintiff : Mr.A.Prabhakara Reddy for
M/s.APR Associates

For Defendant : Mr.Ramesh Ganapathy for
M/s.Mission Legal Advocates

JUDGMENT

This suit is filed for the following reliefs:

(a) permanent injunction restraining the defendant by itself, its agents, servants or any one claiming through it from in any manner infringing the plaintiff's registered trade mark IBACO as described in the Schedule A hereunder by using the offending trade mark IBAKE or any other mark, label or device, which is identical and/or deceptively similar to or a colourable imitation of the plaintiff's trade mark IBACO;

(b) permanent injunction restraining the defendant by itself, its agents, servants or any one claiming through it from in any manner infringing the plaintiff's copyright in the artistic work IBACO with its distinctive colour scheme, get-up, layout, manner of writing and font as described in the Schedule B hereunder by colourable imitation thereof through the artistic work IBAKE or any other work/label/device, which is identical and/or deceptively similar to or a colourable imitation of the artistic work IBACO of the plaintiff;

(c) permanent injunction restraining the defendant by itself, its agents, servants or any one claiming through it from in any manner infringing the plaintiff's registering trademark IBACO as described in the Schedule A hereunder by using IBAKE or any other mark, label or device which is deceptively similar to the plaintiff's registered trademark IBACO as part of defendant's trade name, business name, trading style or in any other manner whatsoever;

(d) permanent injunction restraining the defendant, by itself, its servants or agents or anyone claiming through it from in

any manner passing off its products as that of the plaintiff by using the offending trademark, business name and trade name IBAKE or any other trademark, trade name, business name, which is identical to and or deceptively similar to that of the plaintiff's trade mark IBACO either by using or manufacturing or selling or offering for sale or in any way advertising the same;

(e)directing the defendant to surrender to the plaintiff, all the infringing articles, including the name boards, sign boards, hoardings, labels, cartons, bags, blocks and dyes, stationery, promotional materials etc. for destruction;

(f)directing the defendant to render true and faithful account of the profits earned by it using the offending trademark IBAKE and pay such profits to the plaintiff as damages;

(g)directing the defendant to pay to the plaintiff the cost of the suit; and

(h)grant such further orders.

2. Learned counsel appearing for both sides submitted that during the pendency of the suit, both the parties have agreed to settle the dispute and they have reached the compromise. Accordingly, a memorandum of compromise dated 13.06.2016 duly signed by the parties and attested by their respective learned counsel, has been filed before the learned Master. Therefore, the learned counsel prayed that the suit may be decreed in terms of the said compromise memo.

3. This Court perused the memorandum of compromise entered into between the parties, as per which, both the parties have reached the compromise as under:

"1.The defendant agree and consent for passing decree in terms of prayer a, b, c and d of paragraph 29 of the plaint and the suit may be decreed accordingly.

2.The plaintiff is not pressing for other reliefs in paragraph e, f and g.

3.The plaintiff has no objection for the defendant to use the trademark, trade name and sign board as per the Annexure D-2 to this Memorandum of compromise.

4.The defendant shall effect to this Memorandum of compromise within 7 days from this date.

5.The trademark and trade name of the plaintiff as used is filed as Annexure P-1.

6.The trademark and trade name as was used by the defendant is filed as Annexure D-1.

7.The trademark label and trade name agreed to be used by the defendant from this date is filed as Annexure D-2."

4. Considering the submission made by the learned counsel appearing for both sides and also taking into account the compromise memo filed by the parties, the suit is decreed in terms of

the compromise memo dated 13.06.2016 and the memorandum of compromise shall form part of the decree. Consequently, A.No.7379/2015 is allowed and O.A.Nos.1180 to 1183 of 2015 are closed. No order as to costs.

sd/.M.M.S.J

20.06.2016

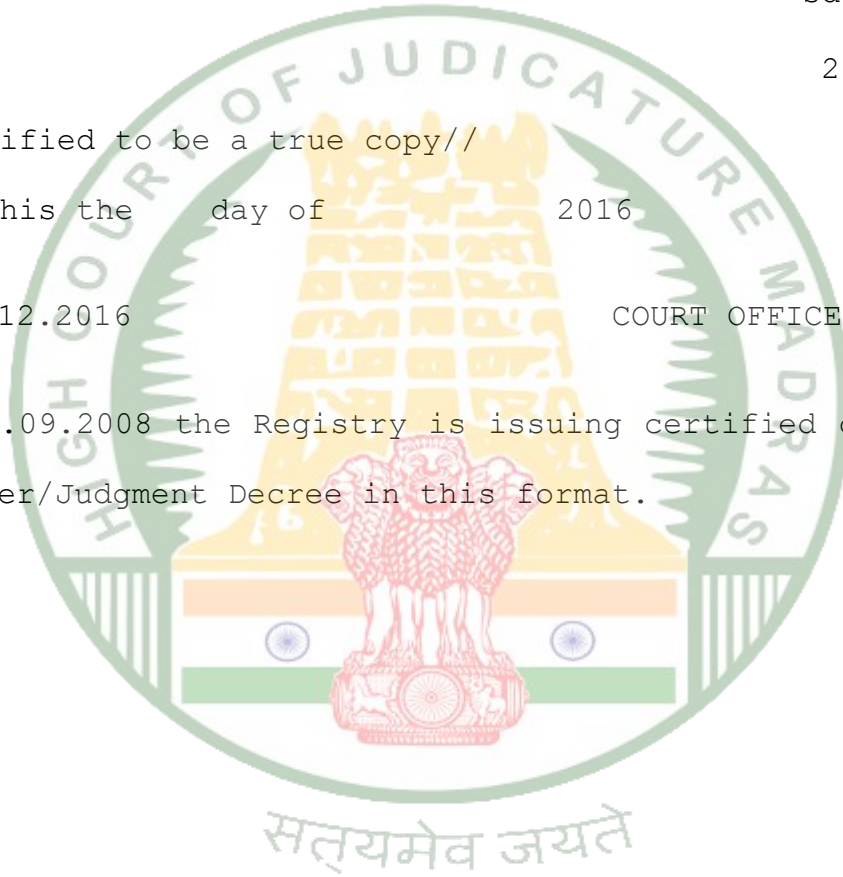
//Certified to be a true copy//

Dated this the day of 2016

R.s/07.12.2016

COURT OFFICER

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



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