

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2016

CORAM

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

C.S.NO.349 OF 2009

M/s.Devi Crop Science Private Limited
29A, Workshop Road,
Madurai-625001
Having Office at
#3, Block A, III Floor,
Old No.3, New No.11, Vijayaranghava Road,
1st Street, T.Nagar,
Chennai-600 017.
Represented by its Manager
Mr.Murugan

... Plaintiff

Vs

M/s.Deva Pesticides Private Limited
Rep. By its Director Mr.U.K.Thakur
Opp.Indo German Tool Room
Sector 'H', Industrial Area,
Sanwer Road, Purana Ujjain Naka
Indore, Madhya Pradesh

... Defendant

Prayer: Complaint filed under Order VII Rule (1) of C.P.C. and Order IV Rule 1 of O.S. Rules read with Section 27,28,29,134 & 135 of the Trade Marks Act, 1999 read with Section 51, 55 & 62 of the Copy Rights Act 1957 with the following prayers:

(i) a perpetual injunction restraining the defendant by himself/themselves, their men servants, agents, distributors, stockists, representatives, partners, directors, or any of them from in any manner

infringing the plaintiffs registered trademark BOOM PLUS by use of the trademark BUM FLOWER-15G/and/or BUM FLOWER n or by use of any deceptively similar trade mark or in any other manner whatsoever.

(ii) a perpetual injunction restraining the defendant by himself/themselves, their men, servants, agents, distributors, stockists, representatives, partners, directors or any of them from in any manner infringing the copy right of the plaintiff by infringing the plaintiff's mark BOOM FLOWER 15G/BOOM FLOWER-n, by use of Defendant's mark BUM FLOWER-15G/and/or BUM FLOWER n or any other mark/label deceptively similar to the plaintiffs trademark label BOOM FLOWER-n/BOOM FLOWER 15G in identical colour scheme, art work, get up, layout or in any other manner whatsoever.

(iii) The defendant be ordered to surrender to the plaintiff for destruction all fertilizers/flowering stimulants labels, containers, dies, blocks, mould, screen, prints advertisement and promotional materials, packing materials and any other materials bearing the trademark BUM FLOWER-15G/and/or BUM FLOWER n or any other mark deceptively similar to the plaintiffs trademark BOOM FLOWER-n/BOOM FLOWER 15G.

(iv) Preliminary decree be passed favouring the plaintiff directing the defendant to render true account of profits made by the use of trademark BUM FLOWER-15G/and/or BUM FLOWER n and final decree be passed in favour of the plaintiffs for amount of profits said to have been made by the defendant after they have rendered accounts.

(v) For cost of the suit.

For Plaintiff : No Appearance

For Defendant : No Appearance

JUDGMENT

This suit has been posted today under the caption 'For Default Suit'. It is noted from the docket order, the Master on 17.08.2010 had noted that, since steps were not taken for serving process on the sole defendant, the suit has been dismissed for default. This Court has to confirm such an Order.

2. Since, the Master had dismissed the suit and steps were not taken for the first defendant, the suit is dismissed for default. No costs.

18.11.2016

Index :Yes/No
rm

C.V.KARTHIKEYAN.J.,

rm

C.S.No.349 OF 2009

22.11.2016

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