

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2016

CORAM

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

C.S.No.881 of 2007

Hindustan Unilever Limited
165/166, Backbay Reclamation,
Mumbai 400 020 ... Plaintiff

Vs

1. M/s.Shreeji Enterprises,
Rep by its Partner Mrs.Girija Bala Baskar
No.6 (Old No.31), Khader Nawaz Khan Road,
Nungambakkan, Chennai 600 006.
2. Girija Bala Baskar
3. Vijayalakshmi Swaminathan
4. Arya Vaidya Pharmacy (Coimbatore) Limited
326, Perumal Koil Street,
Ramanathapuram,
Coimbatore 641 045...Defendants

Plaint filed under Order VII Rule 1 of C.P.C. read with Order IV Rule 1 of Original Side Rules of the Madras High Court praying to pass a judgment and decree (i) granting a perpetual injunction restraining defendants 1,2 and 3, their men, agents and representatives from carrying

on the business of Ayush Therapy Centre in the name of "Lever Ayush" or "Ayush Therapy Centre" at the premises at No.6 (Old No.31) Khader Nawaz Khan Road, Nungambakkam, Chennai 600 006 or at any other premises whatsoever; (ii) granting a perpetual injunction restraining defendants 1,2 and 3, their men, agents and representatives from using in any manner whatsoever for financial gain or otherwise the intellectual property rights of the plaintiff listed out in Clause 1(m) of the Franchise Agreement dated 01.08.2004 entered into between the plaintiff and the defendants; iii) granting a mandatory injunction directing defendants 1, 2 and 3 their men, agents and representatives to comply with Clause 10 (wrongly numbered as Clause 9) found in pages 31 and 32 of the Franchise Agreement dated 01.08.2004 entered into between the plaintiff and defendants which is a consequence of the termination and to return all the items morefully described in the schedule to the plaint, lying at No.6(Old No.31) Khader Nawaz Khan Road, Nungambakkam, Chennai 600 006 or at any other place where they may be found; iv) holding defendants 1,2 and 3 jointly and severally liable to account and pay to the plaintiff a sum of Rs.3,21,337/-(i.e) Rs.2,85,000/- towards continuing fees / royalty and Rs.36,337/- towards interest at the rate of

18% p.a. thereon from the time they fell due till the date of the plaint) together with interest at the rate of 18% p.a. on the said Rs.2,85,000/- from the date of the plaint till the date of realisation, as also the royalty / continuing fees (calculated at 10% of the gross turnover of the business) for all the months in which defendants 1-3 continue to carry on business after the filing of the plaint together with interest thereon at the rate of 18% p.a. from the date they fell due till the date of realisation; holding defendants 1, 2 and 3 jointly and severally liable to pay a sum of Rs.2,52,910/- (being Advertisement contribution of Rs.2,05,201/- for the months from May 2006 to November 2006, with interest thereon at 18% p.a. from the date they fell due till the date of the plaint amounting to Rs.47,709/-) together with future interest at the rate of 18% p.a. from the date of plaint till the date of realisation; vi) holding defendants 1, 2 and 3 jointly and severally liable to pay damages for breach of the contract to the tune of Rs.5,00,000/- together with future interest on Rs.5,00,000/- at the rate of 18% p.a. from the date of plaint till the date of realisation; and vii) holding the defendants 1, 2 and 3 jointly and severally liable to pay full costs of the

present proceeding to the plaintiff.

For Plaintiff : Mr.C.K.Lavanyavathi

For Defendants 1 and 2 : Mr.V.P.Raman

For Defendant 4 : Mr.G.Sumitra

JUDGMENT

The learned counsel for the plaintiff has submitted that the matter has been settled out of Court and he has also made an endorsement to that effect.

2. In view of the submission and endorsement made by the learned counsel for the plaintiff, this Civil Suit is dismissed as settled out of Court. Registry is directed to refund half of the Court fee to the plaintiff.

sd/.P.S.N.J

02.09.2016

//Certified to be a true copy//

Dated this the day of 2017

R.s/28.02.2017

COURT OFFICER

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