

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2016

CORAM

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

C.S.No.593 of 2016
and
O.A.Nos.720 and 723 of 2016

Texmo Industries rep. By its
Constituted Attorney Palaniappan ... Plaintiff

Vs

1.Jawaharlalji Karwa

2.Pawan Karwa

3.Jawahar Agriculture Equipment
Agencies,
Opp. Vijay Vilas Road,
Mama Chowk, Jalna 431 203
Maharashtra. ... Defendants

Plaint filed under Order VII Rule 1 C.P.C. R/w Order
IV Rule 1 of the Original Side Rules of the Madras High
Court and Sections 11, 27, 29, 134, 135 of Trade Marks Act,
1999.

For Plaintiff : Mr.Bharath

For Defendants : Mr.Roshan Totla
for Mr.V.Ashok Kumar

JUDGMENT

By consent, the suit itself is taken up for

disposal.

2.The suit is filed for permanent injunction on the ground of infringement of registered trade mark.

3.Today, an affidavit of undertaking has been filed by the defendants, wherein it is stated as under:

"1.It is respectfully submitted that the defendants are not disputing plaintiff's right over trademark TEXMO. The defendants admit that trademark TEXMO is registered in the name of plaintiff.

2.It is respectfully submitted that actually the defendants were using trademarks SUPER TEXMO from 1993, for goods in Clause 7. Therefore, they had filed application No.2149552 in Clause 7 for registration of the trademark SUPER TEXMO. The mark was also advertised in Trademark Journal. However, defendants realised that their trade mark may be in conflict with plaintiff's trademark TEXMO. Therefore, they did not pursue the matter further. Defendants say and submit that they have stopped use of even SUPER TEXMO. However, due to oversight, some stationery of the defendants' firm containing logo SUPER TEXMO was lying in the shop. Now, the defendants have totally stopped use of trademark SUPER TEXMO on any goods, machine manufactured or marketed by

them in any manner. It is further submitted that the defendants undertake not to use trademark TEXMO or any other deceptively similar trademark resembling plaintiff's registered trademark TEXMO even in future.

3. In view of this fact, the defendants pray that suit of the plaintiff may be decreed in terms of prayer Clause - A and B. In view of stoppage of use by the defendants and undertaking given in this regard, the other prayers, including that of costs, may not be granted.

4. Therefore, it is respectfully prayed that this Hon'ble Court may be pleased to take into consideration of the aforesaid undertaking affidavit of the defendants 1 and 2 and thus render justice. "सत्यमेव जयते"

4. Learned counsel appearing for the plaintiff submits that in view of the said affidavit filed, the plaintiff is not pressing the other reliefs.

5. Considering the said submission made by the

learned counsel for the parties, the suit stands decreed in terms of the affidavit of undertaking filed by the defendants. The affidavit of undertaking shall form part of the decree. No costs. Consequently, connected applications are closed.

Sd/.M.M.S.J

23.09.2016

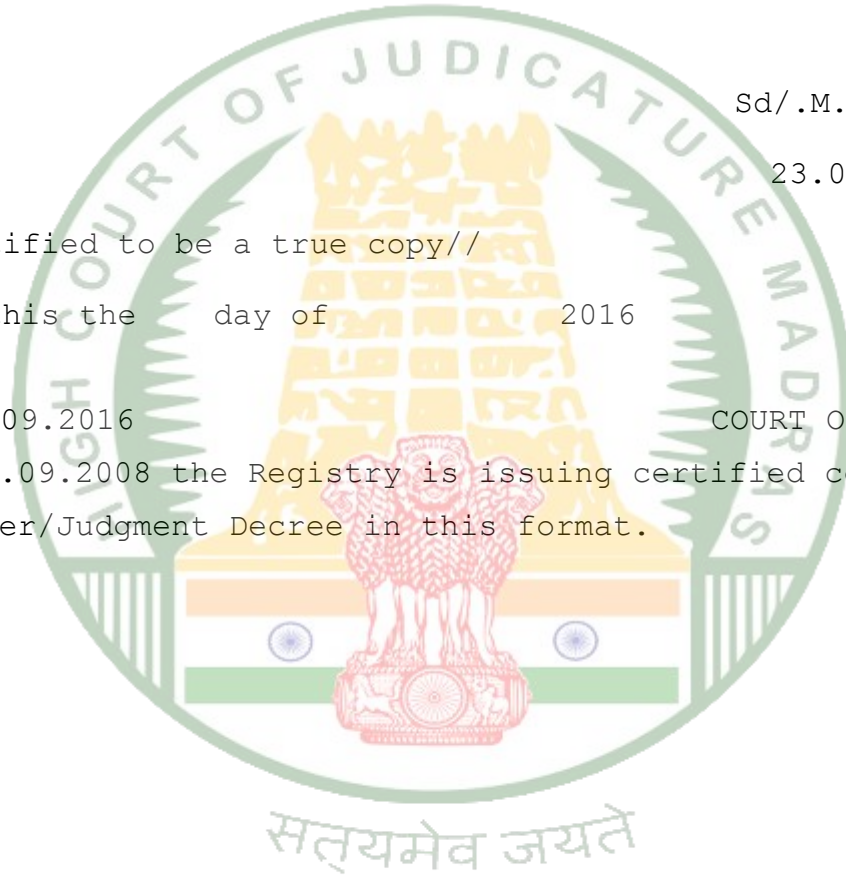
//Certified to be a true copy//

Dated this the day of 2016

S.s/30.09.2016

COURT OFFICER

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



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