

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

DATED, THE 19TH DAY OF SEPTEMBER 2016

THE HON'BLE MR.JUSTICE M.M.SUNDRESH

O.A.Nos.678 to 680 of 2016

in

C.S. No.561 of 2016

ITC Limited
69 (Old No.40)
Chamiers Road,
Chennai 600 018
rep by its Constituted Attorney
V.M.Rajasekharan ...Applicant/Plaintiff
(in all original applications)

Vs

- 1 Shree Devi Match Industries
Jettapalli Village,
Sempalli Post, Gudiyatta Taluk
Pin Code 632 601
- 2 Subhulakshmi Match Box
No.29/13, Pavodum Thoppu,
Nellorepet,
Gudiyattam Taluk 632 602
and also at No.32/18, 1st Street,
Sannadhi Street, Nellorepet,
Gudiyattam Taluk
Pin Code-632 602.
- 3 VG Dhanapal Match Works
Melmutukoor Road Kakka Thoppu,
Karthigapuram Chetikuppam Post
Gudiyattam,
Pin Code -635 806.
- 4 Damodharan Match Works
Sannath Thoppu, (Behind Govt School)
Nellorepet, Gudiyattam Taluk,
Pin Code -632 602.
- 5 M/s.Devi Shree General Stores
(also known as Devi General Stores)
6-3-142, Pedda Bazaar,
Kothagudem Khammam District 507 101.
State of Telangana

- 6 M/s.Sri Sha Traders
6-3-150 Pedda Bazaar,
Kothagudem Khammam,
District 507 101
State of Telangana
- 7 M/s.Vijaya Kiranam
6-3-161 Pedda Bazaar,
Kothagudem Khammam
District 507 101.
State of Telangana
- 8 M/s.Suresh Traders
6-3-170, Pedda Bazaar,
Kothagudem Khammam
District 507 101,
State of Telangana
- 9 Mr.Balakrishna
MIG II, No.23 APHB,
Kothagudem,
Khammam District,
State of Telangana 507 101. ..Respondents/Defendants
(in all original applications)

O.A.No.678 of 2016:-

Original Application praying that this Hon'ble Court be pleased to grant an interim injunction restraining the Respondents themselves their respective proprietors / directors/partners as the case may be successors-in-business servants agents distributors dealers stockists shop keepers wholesalers retailers representatives assigns and all other persons claiming through or under them from infringing the registered trademark/label THREE MANGOES of the Applicant by manufacturing selling and/or distributing matches under the almost identical marks THE MANGOES and/or GREEN MANGOES or any other similar or identical mark to the Applicant's trademark/label THREE MANGOES and artistic work and in any other manner whatsoever pending disposal of the suit;

O.A.No.679 of 2016:-

Original Application praying that this Hon'ble Court be pleased to grant a temporary interim injunction restraining the Respondents themselves their respective proprietors/directors/partners as the case may be successors-in-business servants agents distributors dealers stockists shop keepers wholesalers retailers representatives assigns and all other persons claiming through or under them from manufacturing selling offering for sale and/or distributing matches from committing acts of copyright infringement by making substantial reproduction of the Applicant's copyright in the artistic work THREE MANGOES label by use of identical colour scheme or any other label similar or identical thereto and in any other manner whatsoever pending disposal of the suit;

O.A.No.680 of 2016

Original Application praying that this Hon'ble Court be pleased to grant an interim injunction restraining the Respondents themselves their respective proprietors / directors/partners as the case may be successors-in-business servants agents distributors dealers stockists shop keepers wholesalers retailers representatives assigns and all other persons claiming through or under them from manufacturing selling offering for sale and/or distributing matches which would amount to passing off their goods as and for the goods of the Applicant or as being in some way connected with the Applicant by using the marks THE MANGOES and/or GREEN MANGOES or any other similar or identical mark and artistic work and in any other manner whatsoever pending disposal of the suit;

These Original Applications coming on this day before this court for hearing the court made the following order:

The captioned suit is filed for permanent injunction, on the ground of infringement of trade mark and copyright apart from passing off.

2. Pending the suit, by order, dated 18.08.2016, this Court, having satisfied that the applicant has made out a *prima facie* case, was pleased to grant the interim injunction as prayed for, in these applications. The relevant portion is extracted hereunder:

"3. A perusal of the registered mark of the applicant and that of the unregistered one belonging to the respondents would show that verbatim the same mark is used by the respondents including the colour scheme and the picture showing three mangoes. They are absolutely identical in all ways.

4. Considering the same, this Court is of the view that a *prima facie* case is made out with regard to infringement of registered trade mark, copy right and passing off. There is no dispute on the reputation of the applicant and the volume of transaction. The learned senior counsel also submits that under those circumstances, these applications will have to be allowed.

5. Considering the submissions made by the learned senior counsel for the applicant, there

shall be an order of interim injunction as prayed for, for a period of four weeks. The applicant/plaintiff shall comply with Order 39 Rule 3(a) C.P.C. within a period of one week from the date of receipt of a copy of this order.

Notice returnable in four weeks. Private notice is also permitted.

3. The learned counsel appearing for the applicant would submit that the respondents/defendants have been duly served and to demonstrate the same, he has also filed an affidavit of service.

4. Despite service, there is no appearance on behalf of the respondents/defendants.

In view of the above, these applications are allowed and the interim order granted on 18.8.2016, is hereby made absolute.

sd/.M.M.S.J

19.09.2016

//Certified to be a true copy//

Dated this the day of 2017

R.s/24.01.2017

COURT OFFICER

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