

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2017

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

O.P.No.616 of 2016

Sundarsanam

.. Petitioner

Vs

.. Respondent

P.Radha

Petition filed under Sections 54 & 55 of the Mental Health Act, 1987 for an inquisition order upon Mr.P.Prasana Kumar, who is totally incapable of managing his properties and other affairs due to his 100% disability including mental ill; b) Appoint the petitioner as a manager of the person (Mr.P.Prasana Kumar) and properties of his mentally ill son namely Mr.P.Prasana Kumar, who is totally incapable of managing his properties and other affairs due to his 100% disability; c) Permit the petitioner to handle the properties of Mr.P.PRasana Kumar, who is totally incapable of managing his properties and other affairs due to his properties and other affairs due to his 100% disability.

For Petitioner : Mr.S.Srinivasu

For Respondent : Mr.S.Thiruvencatasamy

ORDER

When the matter is taken up for hearing, placing reliance upon the memorandum of compromise dated 27.12.2016, filed as early as 17.03.2017 duly signed by the parties and attested by their counsel, it is submitted by the learned counsel for both sides that the suit may be decreed in terms of the said memorandum of compromise. The terms and conditions of the said memorandum of compromise read as under:

i) The defendants admit and acknowledge that the plaintiff is the prior adopter and registered proprietor of the Trademark EVERGLORY registered under nos.1480795 and 1661199 in respect of goods registered by the plaintiff in classes 16 and 8 respectively and undertake not to at any time to resort to any proceeding in relation thereto including applying for rectification thereto before the appropriate forum.

ii) The defendants state that they had erroneously under a mistaken impression falsely used the trademark "K-GLORY" having similar and identical layout, design, artwork, colour scheme such as that of the plaintiff's "EVERGLORY" .

iii) The defendants undertake that they shall neither use the label “K-GLORY as complained of by the plaintiffs nor use the trademark “K-GLORY” in respect of blades, paper cutters, replacement blades, scissors, knives and other items falling in class 16/8. The defendants also undertake not to use any other label similar to that of the plaintiffs label “EVERGLORY” and shall cease to use to expression “GLORY” in any of their marks.

iv) The defendants further undertake not to use any trademark label identical or deceptively similar to the registered trademark of the plaintiff carrying the trademark EVERGLORY having GLORY as the essential feature.

v) The defendants concede that the plaintiff's trademark “EVERGLORY” is a well-known trademark and is solely identified by trade and public as the plaintiff's mark.

vi) The defendants undertake not to advertise the offending “K-GLORY” label or advertise any other mark deceptively similar thereof or use the mark/label or any other visual variation of the label in their pamphlets, catalogues, websites, promotional material, labels, cartons, packing materials or in any other manner whatsoever.

vii) The defendants undertake and do hereby

withdraw the trademark application “K-GLORY” under no.3190942 class 16 filed before the Registrar of Trademarks and furnish duly acknowledged copy thereof as Annexure A.

viii) The defendants undertake to rectify and amend their mark and label “K-GLORY” to “K-GLOBE” and cease to use the expression “GLORY” in any of their marks. Copy of the amended “K-GLOBE” label over which the plaintiffs have no objection, is appended as Annexure B.

ix) The defendants undertake to forthwith put in circulation the revised/rectified label as per Annexure B and confirm that they do not have any stock of labels, advertisements, bills, cartons, dyes, blocks, moulds, screen prints, promotional materials, packaging material carrying the offending “K-GLORY” label as complained of by the plaintiff.

x) That the suit may be decreed as prayed for in para 32 of the plaint in favour of the plaintiff and against the defendant.

xi) That subject to the foregoing covenants, the plaintiff gives up all other reliefs sought for in the plaint.

xii) That this Memo of compromise will be binding on the parties hereto as also their successors in

interest, partners, proprietors, men, servants, agents, distributors, stockists, representatives or any of them claiming there under.

Xiii) It is therefore prayed that this Memorandum of Compromise may be recorded and decree may be passed in favour of the plaintiff and against the defendant by this Court.

3. Accordingly, the petition stands ordered in terms of the memorandum of compromise dated 17.03.2017 and the memorandum of compromise shall form part of the order. No costs.

20.03.2017

sm/kkd

Note: Issue Order copy on 21.03.2017.

To

The Sub Assistant Registrar,
Original Side, High Court,
Madras.

K.KALYANASUNDARAM, J.

sm/kkd

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