

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2016

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

C.S.No.418 of 2004

1.M/s.S.M.Moinuddin Mohamed Azam Beedi Factory,
H.No.11-5-148, Red Hills,
Hyderabad - 500 004.

2.Md.Basheeruddin
S/o.Late S.M.Moinuddin
H.No.11-5-148/1, Red Hills,
Hyderabad - 500 004.

3.Md.Muneeruddin
S/o.Late S.M.Moinuddin
H.No.11-5-148/1, Red Hills,
Hyderabad - 500 004.

4.Md.Zaheeruddin
S/o.Late S.M.Moinuddin
H.No.11-5-148/1, Red Hills,
Hyderabad - 500 004.

5.Md.Naseeruddin
S/o.Late S.M.Moinuddin
H.No.11-5-148/1, Red Hills,
Hyderabad - 500 004.

... Plaintiffs

Versus

1.Saleha Begum
H.No.19-2-203/K,
Ramnaspura, Hyderabad.

2.Yousufudin Mansoor
H.No.19-2-203/K,
Ramnaspura, Hyderabad.

... Defendants

Plaint filed under Order IV Rule 1 of O.S.Rules and

Order VII Rule 1 of the Civil Procedure Code r/w sections 134 & 135 of the Trade Marks Act, 1999 praying for a judgment and decree

- (a) granting permanent injunction restraining the defendant, by itself, its servants, agents, distributors, or anyone claiming through them from manufacturing, selling, advertising and offering for sale using the trade mark Azam Beedi as shown in Document Nos. 8 and 9 or any other trade mark which is in any way phonetically and deceptively similar to the plaintiffs registered trade marks as found in the Registered Trade Mark No.391045 in Class 34 or in any manner infringing the plaintiffs registered Trade Mark No.391045, 1125824, 1125825, 1125826, 1125827 and 1263719 in Class 34.
- (b) directing the defendants to surrender to the plaintiffs all the labels, wrappers, packing materials, cartons, advertisement materials beedi bundles with the impugned mark Azam Beedi used in respect of Beedi.
- (c) for a preliminary decree in favour of the plaintiffs directing the defendant to render an account of profits made by them by the use of the trade mark Azam Beedi and for a final decree in favour of the plaintiffs for the amount of the profits found to have been made by the defendants, after the defendants have rendered accounts and
- (d) directing the defendant to pay to the plaintiffs to the costs of the suit.

For Plaintiffs : Ms.S.Bhuvaneswari

for M/s.C.Daniel and Gladys Daniel

For Defendants : No appearance

JUDGMENT

The learned counsel appearing for the plaintiffs, on instructions, seeks permission of this Court to withdraw the suit with liberty to approach the competent forum to work out the remedy and has also made an endorsement to that effect.

2. Mr.K.V.Sundarrajan, the learned counsel appearing for the defendants, on instructions, would submit that he is no longer appearing for the defendants.

In the light of the endorsement made, the suit is dismissed as withdrawn and the plaintiffs are at liberty to work out the remedy before the competent forum subject to law of limitation and in accordance with law. The refund of Court fee, if any, is as per entitlement. No costs.

sd/.M.S.N.J
24.03.2016

//Certified to be a true copy//

Dated this the day of सत्यमेव जयते 2016.

R.s/26.12.2016

COURT OFFICER

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