

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.01.2017

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.S.No.80 of 2011

Sangeetha Mobiles Private Ltd.,
No.56, 2nd Avenue, Ashok Nagar,
Chennai – 600 083, rep. by its
Managing Director,
Mr.L.Subash Chandra

...Plaintiff

Versus

1. M/s. Xpress Wave
Shop No.34, No.129,
G.N.Chetty Road,
Nungambakkam,
Chennai – 600 006.

2. M/s. Wavetell Co.
No.131, Karikalan Street,
Near St. Thomas Mount
Railway station,
Adambakkam,
Chennai-600 088

...Defendants

The plaint is filed and numbered as Civil Suit under order VII Rule 1 of O.S. Rules and Order VII Rule 1 of CPC r/w Section 134 and 135 of the Trade Marks Act, 1999, praying for a judgment and decree:

(a) Granting a permanent injunction restraining the defendant, their servants or agents or anyone claiming through them from in any

manner infringing the plaintiffs' well established trade name "WAVE Communications and the trade "Wavetel" by using the word "wave" and/or "Wavetell" as part of their trading style and the offending trade mark "Wavetell co" or any other mark or marks which are identical and similar to or a colourable imitation of the plaintiff's well established trade name "Wave Communications; and the trade mark "Wavetel";

- (b) Granting permanent injunction restraining the defendant above named by themselves, their servants, agents or anyone claiming through them from in any manner passing off their products by using the word "wave" and/or "Wavetell" as part of their trading style and the offending trade mark "Wavetell co" as and for the celebrated products of the plaintiffs bearing the well established trade mark "Wavetel" and the trade name "WAVE Communication" either by manufacturing or selling or offering for sale or in any manner advertising the same;
- (c) Directing the defendant to surrender the entire stock or unused offending trade mark wrappers, bill books etc. bearing the offending trade mark "Wavetell co" and the trade name, together with blocks and dyes for destruction.
- (d) Directing the defendant to render a true and faithful accounts of the profits earned by the defendant through the sale of his products sold under the offending trade mark "Wavetell co" and the offending trade name and directing payment of such profits to the plaintiffs for the passing off committed by the defendants.

(e) Directing the defendant to pay to the plaintiff the cost of the suit;

For Plaintiff : Mr.H.Manojin
For Defendants : Ex-parte

JUDGMENT

The plaintiff has not shown any interest in completing the evidence, even though several opportunities have given by the Master in the year 2014 itself. The notes prepared by the Master clearly shows that several opportunities have been given to the plaintiff, but he has not turned up from 2014 to 2016. Two years have gone but the plaintiff has no interest in prosecuting the case.

2. Hence, the suit is dismissed for non-prosecution. No costs.

06.01.2017

Index: Yes/No
Internet:Yes/No
rts

N.SATHISH KUMAR, J.,
rts

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