

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2017

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

C.S.No.394 of 2009

in

A.No.3469 of 2017

M/s. Fourrts (India) Laboratories Private Limited,
Plot No.1, Fourrts Avenue,
Okkaiyam Thiraiyakkam,
Chennai 600 096.

Rep. by its Chief Financial Officer &
I.T. Head (Information Technology)
Mr.K.S.Vasu

... Plaintiff

Versus

1. Sun Pharmaceutical Industries Limited,
Acme Plaza, Andheri-Kurla Road,
Andheri (East), Mumbai 400 059.
268, Lloyds Road,
Chennai 600 014.

2. Softsule Private Limited,
86/A, L.B.Shastri Marg,
Mulund (W),
Mumbai 400 080.

... Defendants

Plaint filed under Order IV Rule 1 of Original Side Rules r/w
Order VII Rule 1 of C.P.C. read with section 27, 134 & 135 of the
Trade Marks Act 1999 praying (a) granting a permanent injunction,
restraining the Defendants, by themselves, their servants, agents,
men, or anyone claiming through them from manufacturing,
marketing, distributing, offering or advertising for sale any kind of

medicinal and pharmaceutical preparations using the mark REZURON or similar sounding marks in the course of their business and pass off their medicinal and pharmaceutical preparations using the Trade Mark REZURON as and for the pharmaceutical and medicinal preparation sold under trademark REJUNURON of the plaintiff or enable others to pass off. (b) directing the defendants to surrender to the plaintiff all the Pharmaceutical and Medicinal Preparations, packing material, cartons, advertisement materials and hoardings, letterheads, visiting cards, office stationery and all other materials containing/bearing the trademark REZURON or other deceptively similar Trade Mark in respect of pharmaceutical and medicinal preparations. © for a preliminary decree in favour of the Plaintiff, directing the defendant to render an account of profits made by them by the use of the Trade Mark REZURON in relation to medicine 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. (d) directing the defendants to pay to the plaintiff the costs to the suit.

For Plaintiff : Mr.C.Daniel and Gladys Daniel
 For Defendant-1 : Mr.A.Ramesh Kumar

JUDGMENT

Both the plaintiff and the defendants had settled the issues between themselves. A Memo of Compromise has also been filed. This has been signed by the plaintiff and the first defendant. It has

also been signed by the learned counsel for the plaintiff and also by the learned counsel for the first defendant.

2. The terms of memorandum of compromise are recorded, which is as follows:

The Plaintiff and First Defendant have agreed to compromise the matter in following terms:

"1) The terms plaintiff and defendant shall mean and include their heirs, executors, administrators, successors and assignees of each party.

2) The defendant submits that in Para 20 of the plaint the plaintiff prayed for the following Judgment and Decree:

"20. The plaintiff, therefore, prays for a judgment and decree for:

a. Granting a permanent injunction restraining the defendants, by themselves, their servants, agents, men, or anyone claiming through them from manufacturing, marketing, distributing, offering or advertising for sale any kind of medicinal and pharmaceutical preparations using the mark "REZURON" or similar sounding marks in the course of

their business and pass of their medicinal and pharmaceutical preparations using the Trade Mark "REZURON" as and for the pharmaceutical and medicinal preparation sold under trademark "REJUNURON" of the plaintiff or enable others to pass off.

b. Directing the defendants to surrender to the plaintiff all the pharmaceutical and Medicinal Preparations, packing material cartons, advertisement materials and hoardings, letterheads, visiting cards, office stationery and all other materials containing/ bearing the trademark "REZURON" or other deceptively similar Trade Mark in respect of Pharmaceutical and medicinal preparations.

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 "REZURON" in relation to medicine 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.

d. Directing the defendants to pay to the plaintiff the costs to the suit, and

e. Pass such further or other order, as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

3. The defendant undertakes not to use the trademark "REZURON" henceforth with respect to their Medicinal and Pharmaceutical Preparations.

4. The defendant do not have stock of either finished goods or printed materials bearing the trademark "REZURON" as per prayer b of para 20 of the plaint.

5. In view of the decree for permanent injunction the plaintiff has given up th reliefs contained in prayer c and d in para 20 of the plaint including the cost of the suit. The decree may be drawm in terms of para 3 and 4 of Memorandum of Compromise.

6. It is that all the above named parties should bear their own costs in the suit.

7. As per the decree passed and the strength of the Memorandum of Compromise both the parties shall abide by the conditions as per the Memorandum of Compromise."

5. The above said terms of compromise are recorded. The Memo of Compromise shall form part of the decree. The Suit is decreed in terms of Memo of Compromise. No Costs. Corresponding application is closed.

18.09.2017

Speaking / Non-speaking Order
Index : Yes/No

sji/srn



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C.V.KARTHIKEYAN, J.

sjj



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