

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2017

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THE HON'BLE MR.JUSTICE P.KALAIYARASAN

**C.S.No.689 of 2010
and O.A.No.882 of 2010**

M/s. M.V.Hospital for Diabetes P. Ltd.,
By its Managing Director Dr.Viay Viswanathan,
Having Office at No.4, Main Road,
Royapuram, Chennai - 13.

.. Plaintiff

vs

Dr.Bhawari Diabetes Care Pvt., Ltd.,
Rep. by its Director,
Mr.Manohar Bhawari,
1st Floor, Purvodoy Bhawan,
Royal Plaza, Christian Basti,
G.S.Road, Gauhati - 781 005.

.. Defendant

Civil Suit filed under Order IV Rule 8 of O.S.Rules and Order XXXIX Rule 1 and 2 of CPC, to pass an order of injunction restraining the respondent, his men or agents or anyone claiming under him from in any way using the Trade Mark "M.V" belonging to the applicant or any other Mark or name deceptively similar to that of the applicant pending disposal of the above suit.

For Plaintiff : Mr.J.Srinivasa Mohan

For Defendant : No appearance

J U D G M E N T

The plaintiff has filed this suit for permanent injunction restraining the defendant, his men, agents or any one claiming under him from in any way using the Trade Mark "M.V" belonging to the plaintiff or any other Mark or name deceptively similar to that of the plaintiff and for costs.

2. The General Manager of the plaintiff has been examined as P.W.1. Through him 5 Exhibits have been marked. As per the evidence of P.W.1 and the above documents, the plaintiff M.V.Group Hospital was established by late Prof.M.Viswanathan in the year 1954. In 1971, it became a hospital exclusively for Diabetes care. Over the years, it has grown to be one of the largest referral centre for Diabetes with two lakhs patients registered to date. It is recognised as an internationally known tertiary care centre for diabetic patients requiring super-specialist opinion and management. The plaintiff had conceived, adopted and commenced use of the mark "M.V" on or about the year 1974. The Trade Mark "M.V.Diabetes" is an invented / coined mark by the plaintiff and also forms prominent part of its corporate name and trading style. The said Trade Mark has a unique get up, design and colour scheme.

3. The General public recognises "M.V" exclusively associated with the plaintiff hospital and none others. The plaintiff hospital has been designated by the World Health Organization, Geneva, as the WHO collaborating centre for Research Education and Training in Diabetes in India. The plaintiff has also obtained Trade Mark Registration and the same were marked as Ex.P.2 and Ex.P.3.

4. The plaintiff permitted M.V.Diabetes Care Pvt., Ltd., a group company to use the know-how and the method of treatment developed by the plaintiff in the field of Diabetes, apart from using the mark "M.V". The defendant approached the above plaintiff group company seeking license for the right to use M.V name and the know-how to operate the business. The agreement was entered into between the plaintiff and the defendant on 03.05.2006, whereby the defendant was granted a "non-exclusive" license to operate the business. Under the agreement, within 90 days before the expiry of the agreement, the defendant has to move for a renewal. There was no agreement to renew and therefore, the agreement stood terminated as on 02.05.2009. However, the defendant is continuing to run the clinic with the M.V name under the style "MVD Centre for Diabetes and Healthcare", which is deceptively similar to the permitted name under

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the contract. The copy of the agreement, dated 03.05.2006 entered into between the parties is marked as Ex.P.4. Thus, through the evidence of P.W.1 and also from Ex.P.1 to Ex.P.5, the plaintiff has established his case and therefore, the plaintiff is entitled to the relief as prayed for.

In fine, the suit is decreed as prayed for with costs. Consequently, connected Original Application is closed.

07.03.2017

Index : Yes / No

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