

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.07.2017

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THE HONOURABLE DR.JUSTICE ANITA SUMANTH

C.S. No.907 of 2016

M/S.COTTON HOUSE,
Represented by its Partner,
Mr.R.Venugopal

.. Plaintiff

-vs-

M/S.NEW COTTON HOUSE,
Represented by its Proprietor,
Mr.Nijam Sintha

.. Defendant

Prayer: Civil Suit filed under Order VII Rule 1 of C.P.C. and Order IV Rule 1 of the Original Side Rules Read with Sections 28, 29, 134 & 135 of the Trade Marks Act, 1999.

For Plaintiff : Mr.S.Rajasekar

For Defendant : Mr.R.Raghavendran

JUDGMENT

Learned counsel for both sides would submit that the parties have entered into a Memorandum of Compromise dated 15.07.2017 signed by the respective counsel and parties in the following terms:

(a)The defendant acknowledges the plaintiff to be the registered Proprietor of the trademark COTTON HOUSE

registered on 20-06-2008 in class 35 under Registration No.1085695 before the Trade Marks Registry.

(b)The defendant also undertakes not to infringe upon the trade/service mark COTTON HOUSE in future;

(c)The defendant undertakes not use the Offending trademark NEW COTTON HOUSE or any other mark deceptively similar to the Plaintiff's trademark COTTON HOUSE in relation to any falling under class 25 and 35 of the Trademark Rules, 2002.

(d)The defendant has already changed the offending name "NEW COTTON HOUSE" at the premises bearing No.25, LB Road, Adyar, Chennai 600 020, with a new name "NEW COTTON POINT" in compliance with the final orders passed in O.A.Nos.1079 and 1080 of 2016 and the Plaintiff has no objection for the new name being used by the Defendant.

(e)The Defendant shall remove the Offending name NEW COTTON HOUSE in the following places where he has godown and shops:-

i.New No.37, Velayuthapandian Street, M.C.Road, Old Washermenpet, Chennai-21.

ii.New No.19, Swamy Pandaram Street, Chindatripet, Chennai-2.

iii.New No.89/1, East Coast Road, Thiruvanmiyur, Chennai-600 041.

Within 2 weeks from the date of Compromise decree being passed by this Hon'ble Court.

4.The above undertaking being given by Mr.NijamSintha, the Sole Proprietor of M/s NEW COTTON

HOUSE, shall be binding on all his legal heirs, executors, administrators, successors and assigns.

5.In terms of the aforesaid undertakings given by the defendant, the Plaintiff foregoes his claim for rendition of account for profits, damages for acts of infringement and passing off.

6.The trademark and trade name of the Plaintiff as used is filed as Annexure P-1. The offending mark and trade name as was used by the Defendant is filed as Annexure D-1. The trade name and the label agreed to be used by the Defendant from this date is filed as Annexure D-2.

7.Both the Parties shall bear their respective costs.”

2.When the matter is called for hearing today, the parties are also present.

3.In view of the memo of compromise filed by both sides, the Civil Suit is disposed of. The memo of compromise shall form part of the decree. No order as to costs. Consequently connected Applications are closed. Both the parties shall bear their respective costs.

19.07.2017

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DR.ANITA SUMANTH,J.

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