

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on : 23.02.2017

Judgment Pronounced on: 27.02.2017

Coram:

The Hon'ble Mr.Justice N.SATHISHKUMAR

Civil Sit No.137 of 2013

M/s. MRF Limited,
Having regd. Office at
No.114, Greams Road,
Chennai - 600 006, rep.
by its Company Secretary
Mr.Ravi Mannath.
Plaintiff

.. ..

Versus

P.Annadurai,
Proprietor,
Dinesh Tyres,
No.296, Bye-Pass Road,
Madurai-625 010.

..

..

Defendants

The suit has been filed under Order IV Rule 1 of Original Side Rules of the High Court of Judicature at Madras, Sections 28, 29, 134 and 135 of the Trade Marks Act, 1999 and Sections 51, 55 and 62 of the Copyright Act, 1957 for the following reliefs:-

(a) A perpetual injunction restraining the Defendant, its distributors, stockists, servants, agents, retailers, representatives or any other person claiming under/through them from in any manner infringing the Plaintiff's Registered Trade Marks 'MRF' , 'MRF' Connected Letter Device' and/or the MRF Muscleman Device and/ or MRF Exclusive Dealer Board by using the said trademarks or any

other mark, which is identical with and/or deceptively similar to the above trademarks of the Plaintiff in connection with the defendant's business, and in particular tyre business, or in any other manner whatsoever;

(b) A perpetual injunction restraining the Defendant, their distributors, stockists, servants, agents, retailers, representatives or any other person claiming under/through them from in any manner using the Plaintiff's Registered Trade Marks 'MRF' , 'MRF' Connected Letter Device' and/or the MRF Muscleman Device and/ or MRF Exclusive Dealer Board by using the said trademarks or any other mark, which is identical with or deceptively similar to the Plaintiff's MRF Corporate Trademarks/Artistic Works and MRF Exclusive Dealer Board so as to pass off the Defendant's business as that of a Dealer of the Plaintiff and wrongfully associate themselves with the Plaintiff's business or in any other manner whatsoever;

(c) A perpetual injunction restraining the Defendant, his distributors, stockists, servants, agents, retailers, representatives or any other persons claiming under/through him from in any manner infringing the Plaintiff's Copyright in the 'MRF CONNECTED LETTER DEVICE', MRF MUSCLEMAN DEVICE' or the MRF Exclusive Dealer Board, by using the above mentioned Artistic Works or any substantial reproduction/ imitation of the same on or in connection with the business of the Defendant, or in any other manner whatsoever;

(d) Surrender to Plaintiff the glow sign board, lables, dyes, blocks, moulds, screen prints, packing materials, bills, vouchers, literature, publicity material, letterheads, invoices, challans, visiting cards, job cards, delivery notes, rate list, sign boards, glow signs, blow ups and all reprographic materials and other materials bearing any of the trademarks or artistic works of the Plaintiff.

(e) The Defendant be ordered and decreed to pay to the Plaintiffs a sum of Rs.25,01,000/- as damages for acts of Passing Off and infringement of Trade Mark & Copyright committed by the Defendant till date; and (f) The costs of the suit.

For Plaintiff	..	Mr.Madhan Babu for M/s Satish Parasaran
For Defendants	..	No appearance

JUDGMENT

The suit is filed for permanent injunction restraining the Defendant, its distributors, stockists, servants, agents, retailers, representatives or any other person claiming under/through them from in any manner

(a) infringing the Plaintiff's Registered Trade Marks 'MRF', 'MRF' Connected Letter Device' and/or the MRF Muscleman Device and/ or MRF Exclusive Dealer Board by using the said trademarks or any other mark, which is identical with and/or deceptively similar to the above trademarks of the Plaintiff in connection with the defendant's business, and in particular tyre business, or in any other manner whatsoever; (b) using the Plaintiff's Registered Trade Marks 'MRF', 'MRF' Connected Letter Device' and/or the MRF Muscleman Device and/ or MRF Exclusive Dealer Board by using the said trademarks or any other mark, which is identical with or deceptively similar to the Plaintiff's MRF Corporate Trademarks/Artistic Works and MRF Exclusive Dealer Board so as to pass off the Defendant's business as that of a Dealer of the Plaintiff and wrongfully associate themselves with the Plaintiff's business or in any other manner whatsoever;

(c) infringing the Plaintiff's Copyright in the 'MRF CONNECTED LETTER DEVICE', MRF MUSCLEMAN DEVICE' or the MRF Exclusive

Dealer Board, by using the above mentioned Artistic Works or any substantial reproduction/ imitation of the same on or in connection with the business of the Defendant, or in any other manner whatsoever;

(d) for a direction to the defendant to Surrender to Plaintiff the glow sign board, lables, dyes, blocks, moulds, screen prints, packing materials, bills, vouchers, literature, publicity material, letterheads, invoices, challans, visiting cards, job cards, delivery notes, rate list, sign boards, glow signs, blow ups and all reprographic materials and other materials bearing any of the trademarks or artistic works of the Plaintiff;

(e) for a direction to the Defendant to pay to the Plaintiffs a sum of Rs.25,01,000/- as damages for acts of Passing Off and infringement of Trade Mark & Copyright committed by the Defendant till date; and for costs of the suit.

2. Brief facts of the case of the plaintiff is as follows:-

(i) The plaintiff is a company incorporated in the name and style of Madras Rubber Factory in the year 1961. Since its incorporation, the plaintiff has honestly conceived and adopted the abbreviation 'MRF' as its house mark and has been extensively employing the same continuously and uninterruptedly in respect of its

wide range of tyres, tubes and other rubber products. The trademark in due course became distinctive of the plaintiff's products/goods, and the plaintiff had acquired substantial goodwill and reputation in connection with its high quality products and services sold/provided under the trademark 'MRF'. Subsequently, the plaintiff changed its corporate name itself to 'MRF' Limited'. The plaintiff has also from the very inception used the artistic works as its corporate trade mark/logos, namely 'MRF Connected Letter Device' and 'MRF Muscleman Device'.

(ii) The plaintiff has also authorized its dealers and franchises to use the 'MRF Connected Letter Device' and 'MRF Muscleman Device' along with artistic works in a unique manner as a retail outlet glow sign board with the word 'Exclusive', to indicate to customers that such outlets are authorized outlets of the Plaintiff and that the products being sold in and services provided from such outlets are original products/services of the Plaintiff.

(iii) The plaintiff has also obtained registration of the trademarks 'MRF', 'MRF Connected Letter Device, MRF Muscleman Device and the MRF Exclusive Dealer Board under various Classes and has also been renewed from time to time. The plaintiff is the leading company in India for the manufacture of tyres and tubes of various kinds which enjoys global reputation and goodwill for its products.

Besides this, the plaintiff is also the owner of the Copyright in the MRF Connected Letter Device, MRF Muscleman Device and various Artistic Works.

3. The defendant vide his application dated 27.9.1997, was appointed as exclusive dealer of the plaintiff, vide plaintiff's letter dated 17.02.1998. Pursuant to being appointed as a dealer of the plaintiff, the defendant commenced the use of the plaintiff's dealer glow sign board and other publicity materials containing the trademarks MRF, MRF Connected Letter Device and MRF Muscleman Device provided by the plaintiff, in respect of his business. The defendant initially satisfied the conditions and performance required of a dealer. However, after some time he was not able to get along with the plaintiff's personnel and policies. Therefore, the plaintiff finally terminated the defendant's dealership in terms of the agreement by issuing a 30 days termination notice dated 03.01.2012. The defendant also sent a reply dated 01.02.2012 with false allegations and the same is also properly replied by the plaintiff. On 06.02.2012 the plaintiff deputed one of his representatives to handover two cheques for a total amount of Rs.67,178.31 due and payable to the defendant under the dealership, and to collect the items/ materials such as glow sign boards, blowups etc., as per the

terms specifically agreed to by the defendant at the time of grant of the dealership. However, the same was refused by the defendant, the plaintiff issued a letter dated 17.03.2012 enclosing the above mentioned two cheques to the defendant and requested for return of all plaintiff's materials. However, the defendant did not accept the letter dated 17.03.2012 and also the letter of termination dated 06.02.2012 informing that since the defendant was no longer associated with the plaintiff and consequently, the defendant would not use of the any of the trademarks of the plaintiff MRF or artistic work. In July 2012, the plaintiff learnt that the defendant was continuing to use the plaintiff's MRF Corporate Trademarks/Artistic works and MRF Dealer Board, in connection with his business. Hence, the plaintiff issued a desist notice dated 26.07.2012 which was replied by the defendant on 11.08.2012 and also on 14.09.2012. Despite the desist notice issued by the plaintiff, the defendant is still carrying on business as if the dealer of the plaintiff even after termination of the dealership. Hence the suit.

4. The defendant remains ex parte. On the side of the of the plaintiff, Assistant Manager of the Plaintiff Company examined himself as P.W.1 and marked Exs. P1 to P17. The authorization given to him to adduce evidence on behalf of the plaintiff company is also

filed as Ex.P1. In his evidence P.W.1 has spoken about the plaintiff's Corporate Trademarks, logos and artistic works and the plaintiff's goodwill all over the India and the service in respect of the sale of their goods. He has also spoken about the registration of the trademark of the plaintiff's company name. P.W.1 has also spoken about the dealership given to the defendant and the subsequent termination of the dealership agreement by the plaintiff and thereafter also the defendant continuing to use the plaintiff's trademark dishonestly, using the name of the plaintiff Corporate.

5. Ex.P1 is the authorization letter dated 01.02.2017 given to P.W.1-Assistant Manager of the Plaintiff's Company to adduce evidence in this suit on their behalf. Ex.P2 and Ex.P3 are the Plaintiff company's artistic works as well as corporate trade mark/logos, namely 'MRF Connected Letter Device' and 'MRF Muscleman Device'. Ex.P4 is the MRF Exclusive Dealer Board of the plaintiff. Ex.P5 series are the copies of the Trademark certificates and legal user certificates showing that the plaintiff is the registered owner of the trademark MRF and also artistic works. Ex.P6 is the certificate dated 21.12.2012 issued by the Auditor of the plaintiff company to prove their turnover and expenditure in the advertisement from the year 2012. Ex.P7 dated 27.09.1997 is the application form given by the defendant for

dealership, signed by the defendant as a sole proprietor of the Dinesh Tyres. The applicant itself has clearly agreed that the dealership may be terminated either of us at any time without assigning any reason by giving 30 days of notice. On the above termination taking effect he will not use the name or any trademark or artistic works of the plaintiff company in any manner and agreed to return all the materials glow sign board, lables, dyes, blocks, moulds, screen prints, packing materials, bills, vouchers, literature, publicity material, letterheads, invoices, challans, visiting cards, job cards, delivery notes, rate list, sign boards, glow signs, blow ups and all reprographic materials and other materials bearing any of the trademarks or artistic works of the Plaintiff. Ex.P8 dated 17.02.1998 is the dealership given to the defendant. Ex.P9 dated 03.01.2012 clearly proves that the dealership has been terminated by the plaintiff. For which, the defendant sent a reply under Exs.P10 and P11 dated 01.02.2012 and 02.03.2012. The plaintiff company has denied the allegations found in Ex.P11. Again under Ex.P12 dated 17.03.2012, the plaintiff has sent a letter enclosing two cheques for a sum of Rs.67,1768.31 to the defendant. The defendant has sent a reply under Ex.P13 dated 22.03.2012 stating that since he did not accept plaintiff's notice of termination he will not accept the cheques. Ex.P14 dated 26.07.2012 is the legal notice issued to the defendant,

wherein the plaintiff requested the defendant immediately desist from using the trademark in any manner in connection with defendant's business. Ex.P15 is the reply dated 11.08.2012 sent by the defendant denying the allegations and requested the plaintiff to consider his representation made on 01.02.2012 and sought compensation. Ex.P17 is the photographs which shows that the defendant is using the name board of the plaintiff in his business place.

6. From the above documents, it is clear that the plaintiff is a reputed company and they had obtained registration of trademark MRF and acquired substantial goodwill not only in the country but also in abroad and that also proved their turnover and their business. The defendant was originally appointed as a dealer of the plaintiff. As per the dealership itself the defendant has agreed that the same would be terminated by 30 days notice by either side without assigning any reason. Since the dealership agreement was terminated and there was no permission to use the plaintiff trademark in selling the tyres which are identical to the plaintiff goods, the defendant's act is nothing but infringement. He cannot use the plaintiff's trademark in his business without their permission. Once the permission granted to the defendant to use the plaintiff's trademark MRF has already been terminated by the plaintiff, the

defendant cannot use the trademark of the plaintiff. Therefore, this Court is of the view that the plaintiff has made out a case of infringement of their trademark MRF by the defendant and also made out a case for grant of injunction and the other reliefs. Accordingly, the suit is decreed as prayed for. No costs.

27.02.2017

gr.

N.SATHISHKUMAR, J

gr.

PRE DELIVERY JUDGMENT IN
Civil Suit No.137 of 2013

27.02.2017

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