

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 13.04.2017**

**CORAM**

**THE HONOURABLE MR.JUSTICE T.RAVINDRAN**

C.S.No.565 of 2013

1.P.C.Duraisamy,  
Proprietor,  
Sakthi Trading Company,  
No:6, Mamarathupalayam  
Erode – 639 004.

2.Sakthi Masala (P) Ltd.,  
No.6, Mamarathupalayam,  
Erode – 639 004.  
Having Branch Office at  
No.3/18, Reddy Street,  
Near Venkaya Mandi Stop,  
Nerkunram, Chennai – 600 106.

... Plaintiffs

Vs.

1.Sri Shakthi Exports,  
No.5, 1<sup>st</sup> Floor, Peter Nagar,  
Near JK Towers,  
Puduchery – 13.

2.SS Shakthi Exports India Pvt.Ltd.,  
No.47 & 48, Ramasaraswathi Nagar,  
Thailapuram, Tamil Nadu.

... Defendants

Civil Suit filed under Order IV Rule 1 of Original Side Rules read with Order VII Rule 1 of CPC and Section 134, and 135 of the Trade marks Act, 1999, praying for the following Judgment and decree against the defendants for the following reliefs:

a) Granting permanent injunction restraining the defendants by themselves, their servant, agents or any one claiming through them from in any manner infringing the plaintiffs registered Trade Mark "SHAKTHI" by using the identical and offending Trade Mark "SHAKTHI" or any other mark or marks which are in way identical, deceptively similar to or a colourable imitation of the plaintiffs registered Trade Mark "SAKTHI" either by manufacturing or selling or offering for sale or in any manner advertising the same.

b) Granting permanent injunction restraining the Defendants by themselves, their servant, agents or any one claiming through them from in any manner passing off of its "Food Products" bearing the offending Trade Mark "SHAKTHI" as and for the plaintiffs celebrated products including "Food Products" bearing the plaintiffs registered Trade Mark "SAKTHI" either by manufacturing or selling or offering for sale or in any manner advertising the same.

c) Directing the Defendants to surrender to the plaintiffs the entire stock of unused offending labels bearing the offending

Trade Mark "SHAKTHI" along with the blocks and dyes for destruction.

d) Directing the Defendants to render a true and faithful account of the profits earned by the Defendants through the sale of its products, including the products bearing the offending Trade Mark "SHAKTHI" and direct payment of such profits to the Plaintiffs for the passing off committed by the Defendants

e) Directing the Defendants to pay to the Plaintiffs the cost of the suit:

For Plaintiffs : Mr.Rajesh Ramanathan

For Defendants : Set ex-parte

.. . . . .

### JUDGEMENT

Plaintiffs' Counsel present.

2. The defendants have already been set ex-parte.

3. Thereafter, the matter was referred to learned Master for recording ex-parte evidence. After the completion of recording of the ex-parte evidence, the learned Master, referred back the matter before Court for further proceedings.

4. In support of the plaintiffs' claim, PW1 has been examined and the documents Ex.s P1 to P7 have been marked.

5. On a perusal of the evidence of PW1 and the documents marked as Ex.s P1 to P7, they remain uncontroverted, it is found that the plaintiffs have established their claim.

6. In conclusion, the suit is decreed as prayed for with costs.

**13.04.2017**

abr/lok

Index : Yes / No

**T.RAVINDRAN, J.**

abr/lok

C.S.No.565 of 2013

13.04.2017

