

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 06.06.2017

Coram :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

C.S.No.242 of 2017

M/s.Global Dhall Industries,
Shop No.8-130/1-Raghoji Compound
Near Gunj Bus Stand
Gulbarga - 585 104, Karnataka
Also having its Branch office at
No.2, Kumarappa, Mastri Street,
Parrys, Chennai 600001
And No.204/109, G.A.Road,
Old Washermenpet,
Chennai 600 021
Represented by its Managing Partner
Mr.S.Chandrashekhar ... Plaintiff

-VS-

Sri Raghavendra Dhall Mill
No.7/3, Sithri Road,
Bhuvanagiri 608 601 ... Defendant

Plaint under Order IV Rule 1 of the original side Rules and Order VII, Rule 1 of the CPC r/w Sections 27(2), 29, 134 and 135 of the Trade Marks Act, 1999, praying for

(a) granting a permanent injunction, restraining the Defendant, by itself, its servants, agents, distributors, or anyone claiming through him from manufacturing selling, advertising and offering for sale using same or similar Trade Mark DOVE by the Defendant or any other similar Trademark or in any media and use the same in any goods, invoices, letter heads and visiting cards or by using any other Trademark which is in any way visually or

deceptively or phonetically similar to the plaintiff's Trademark DOVE or in relation to dhall or any goods or services and use the same pouches, packets or use the mark in invoices, letters heads and visiting cards or any other trade literature or by using any other Trademark which is in any way visually, or phonetically similar to the Plaintiff's registered Trademark Nos.A.No.1820170 and A.No.18487814, or in any manner infringe the Plaintiff's registered Trademark;

(b) granting a permanent injunction, restraining the Defendant, by itself, its servants, agents, franchisees or anyone claiming through him from manufacturing, selling, advertising and offering for sale using the Trademark DOVE by the defendant or any other similar Trade Mark or in any media and use the same in invoices, letter heads and visiting cards or by using any other trademark which is in any way visually or deceptively or phonetically similar to the Plaintiff's trade mark manufacturing, selling, advertising and offering for sale using the Trade mark DOVE with respect to dhall or any other goods or services or use the mark in invoices, letters heads and visiting cards or any other trade literature or any other manner by using any other trade mark which is in any way visually, or phonetically similar to the Plaintiff's Trade Mark DOVE or in any manner pass off the Plaintiff's goods or services;

(c) directing the defendant to surrender to the plaintiff all the packing material, cartons, advertisement materials and hoardings, letter-heads, visiting cards, office stationery and all other materials containing/bearing the Trade Mark DOVE or other deceptively similar trade mark used in the pouches and packets in respect of dhalls.

(d) directing the Defendant to render an account of profits made by them by the use of the impugned Trademark using the Trade Mark DOVE on the goods referred and decree the suit for the profits found to have been made by the defendant, after the defendant has rendered accounts;

(e) directing the defendant to pay to the plaintiff the costs to the suit.

For Plaintiff : M/s. Daniel & Gladys Daniel

For Defendant : Mr. M. Malick

J U D G M E N T

This Civil Suit has been filed by Global Dhall Industries praying for the grant of interim injunction, restraining the respondent in various means for alleged infringement of Trademark.

2. When the matter is called for hearing to day, the learned counsel for the plaintiff and respondent would submit that a memorandum of compromise has been entered into between the parties and that the suit may be decreed in terms of the same.

3. The memorandum of compromise dated 28.4.2017 entered into between the parties is extracted hereunder;

"1. The terms plaintiff and defendant shall mean and include its heirs, executors, administrators, successors and assigns of each party.

2. The defendant submit to a Judgment and Decree as prayed for in terms of prayers a & b of para 24 of the plaint for

(a) granting a permanent injunction, restraining the Defendant, by itself, its servants, agents, distributors, or anyone claiming through him from manufacturing selling, advertising and offering for sale using same or similar Trade Mark DOVE by the Defendant or any other similar Trademark or in any media and use the same in any goods, invoices, letter heads and visiting cards or by using any other Trademark which is in any way visually or deceptively or phonetically similar to the plaintiff's Trademark DOVE or in relation to dhall or any goods or services and use the same pouches, packets or use the mark in invoices, letters heads and visiting cards or any other trade literature or by using any other Trademark which is in any way visually, or phonetically similar to the Plaintiff's registered Trademark Nos.A.No.1820170 and A.No.18487814, or in any manner infringe the Plaintiff's registered Trademark;

(b) granting a permanent injunction, restraining the Defendant, by itself, its servants, agents, franchisees or anyone claiming through him from manufacturing, selling, advertising and offering for sale using the Trademark DOVE by the defendant or any other similar Trade Mark or in any media and use the same in invoices, letter heads and visiting cards or by using any other trademark which is in any way visually or deceptively or phonetically similar to the Plaintiff's trade mark manufacturing, selling, advertising and offering for sale using the Trade mark DOVE with respect to dhall or any other goods or services or use the mark in invoices, letters heads and visiting cards or any other trade literature or any other manner by using any other trade mark which is in any way visually, or phonetically similar to the Plaintiff's Trade Mark DOVE or in any manner pass off the Plaintiff's goods or services;

3. The defendants undertake not to file any application/secure any registration, jointly or severally or in partnership with others, for registration of the mark DOVE/DOVE formative marks in future.

4. The defendants undertake not to file any application/secure any registration, jointly or severally or in partnership with others, for registration of the artistic work DOVE under the Copyright Act.

5. The Defendants undertake to withdraw any application filed/registration secured, jointly and severally or in partnership with others, prior to the date of the decree, that is not within the knowledge of the Plaintiff, if any under the Trademarks Act, 1999.

6. The Defendants undertake to withdraw any application filed/registration secured, jointly or severally or in partnership with others, prior to the date of the decree, that is not within the knowledge of the plaintiff, if any under the copyright Act, 1957.

7. The Defendants undertake not to use/register the trademark DOVE/DOVE formative marks, jointly or severally or in partnership with others.

8. The Defendants undertake not to use/register the copyright DOVE/DOVE formative marks, jointly or severally or in partnership with others.

9. The defendants undertake to honor the Decree and act in all fairness in accordance with the intent, terms and conditions of this Memo of Compromise, going forward.

In view of the decree for permanent injunction the Plaintiff's have given up the relief contained in Prayer c,d & e in para 24 of the Suit including cost of the suit."

DR.ANITA SUMANTH, J

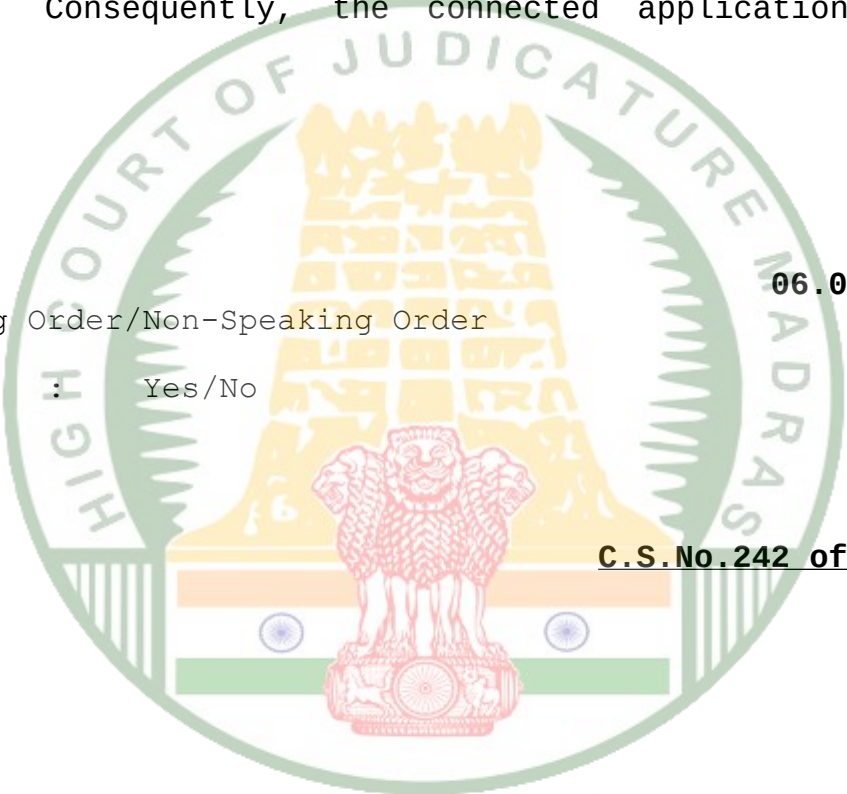
msr/sai

4. Accordingly, the suit is decreed in terms of
aforementioned memorandum of compromise dated 28.4.2017
entered into between the plaintiff and defendant. No
costs. Consequently, the connected applications are
closed.

Speaking Order/Non-Speaking Order

Index : Yes/No

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