

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 10.12.2018

CORAM

THE HON'BLE MR.JUSTICE M.SUNDAR

C.S.No.617 of 2015
and
O.A.Nos.780 and 781 of 2015

N.Rango Rao & Sons Private Ltd.,
 PB No: 52, Vani Vilas Road,
 Mysore : 570 004
 and also at
 25-B, Industrial Estate
 Ekkaduthangal
 Chennai 600 097

..Plaintiff

Vs.

Jalaram Perfumery Industries
 Bilaspur, Chattisgarh,
 Vyapar Vihar - 495 001
 And also at No:2, NM Lane, 2nd Floor
 Cottonpet Cross
 Bangalore : 560 053

.. Defendant

This Civil Suit is preferred, under Order IV Rule 1 O.S. Rules Read with Order VII Rule 1 CPC, read with Sections 134 & 135 of The Trade Marks Act, 1999, praying to granting a permanent injunction restraining the Defendant by itself, its servant, agents or any one claiming through it from in any manner infringing the Plaintiff's registered Trade Mark "WOODS" by using the identical and offending Trade Mark "WOODS" or any other mark or marks which are in way identical, deceptively similar to or a colourable imitation of the plaintiff's registered Trade Mark "WOODS", either by manufacturing or selling or offering for sale or in any manner advertising the same; for granting a permanent injunction restraining the defendant by

itself, its servant, agents or any one claiming through it from in any manner passing off its “Agarbathi/Incense Sticks” bearing the offending Trade Mark “WOODS” as and for the Plaintiff’s celebrated products including Agarbathi/Incense Sticks and Dhoop sticks bearing the Plaintiff’s registered Trade Mark and copyrighted artistic work “WOODS” by manufacturing or selling or offering for sale or in any manner advertising the same; for directing the defendant to render a true and faithful account of the profits earned by the Defendant through the sale of its products, including the products bearing the offending Trade Mark “WOODS” and direct payment of such profits to the Plaintiff for the passing off committed by the Defendant; to directing the defendants to surrender to the plaintiff the entire stock of unused offending labels bearing the offending Trade Mark “WOODS” along with the blocks and dyes for destruction and for costs.

For Plaintiff : Mr. S. Diwakar

For Defendant : Mr.V.M.Ravishankar

JUDGMENT

There is a sole plaintiff and a sole defendant in the instant suit.

2. Mr.S.Diwakar, learned counsel on record for sole plaintiff and Mr.V.M.Ravishankar, learned counsel on record for sole defendant are before this Commercial Division.

3. This suit is listed under the caption 'FOR REPORTING SETTLEMENT

<http://www.judis.nic.in> AND MEMORANDUM OF COMPROMISE' today.

4. Plaintiff is a private limited company incorporated under the laws of India and is, therefore, a juristic person. Mr.V.Ramamoorthy, whom this Commercial Division is informed is Associate Regional Manager, Tamil Nadu in the plaintiff company, is before this Commercial Division with a Letter of Authorization dated 30.11.2018, which in turn is backed by extract of Minutes of Meeting of Board of Directors of plaintiff company held on 06.01.2016 at its Registered Office.

5. With regard to sole defendant, this Commercial Division is informed that sole defendant is a partnership firm and there are four partners in the same. The details of the partners have been set out and placed before this Commercial Division by way of a separate memo. Mr.Paresh Sachdev, who is spouse of one of the partners (Mrs.Radhika Sachdev) is present before this Commercial Division along with an Authorization Letter, which has been duly signed by all the partners of defendant firm.

6. In the aforesaid backdrop, both learned counsel and the respective representatives of plaintiff company and defendant firm submit that the entire lis has been amicably settled between the parties and they have reduced the same into writing by way of a Memorandum of Compromise dated 05.12.2018, which has been placed before this Commercial Division.

This 'Memorandum of Compromise' dated 05.12.2018 shall hereinafter be referred to as 'said MOC' for the sake of convenience and clarity. Said MOC

has been signed by the Managing Director of the plaintiff company and all the partners of the defendant's firm. To be noted, it has also been duly notarized.

7. As mentioned supra, a memo on behalf of defendant firm authorizing the spouse of one of its partners has also been placed before this Commercial Division. Both the aforesaid individuals i.e., Mr.V.Ramamoorthy, on behalf of plaintiff and Mr.Paresh Sachdev, on behalf of defendant firm submit that parties have signed said MOC after understanding all the contents and both of them make a common request that this Commercial Division may please dispose of the main suit by passing a compromise decree in terms of said MOC, which reads as follows:

**MEMORANDUM OF COMPROMISE ENTERED INTO BETWEEN THE
PLAINTIFF AND DEFENDANT**

The Plaintiff and Defendant jointly beg to state and submit as follows:

*1.The above mentioned suit was filed by the Plaintiff seeking permanent injunction against the Defendant for acts of infringement of trademark **WOODS**, for acts of passing off committed by the defendant through the use of the mark **WOODS**, which is identical to the plaintiff's prior adopted, registered and reputed trademark **WOODS** and for other consequential reliefs.*

2.Pending disposal of the said suit, both the plaintiff and the defendant though it fit to amicably settle the dispute and in view of the same, both the parties to the suit are submitting to this Memorandum of compromise on such terms and conditions as mentioned herein below.

3.The Defendant agrees and acknowledges the plaintiff holds

the exclusive proprietorship and absolute monopolistic rights over the trademark "WOODS" both in view of statutory registrations and also through long and continuous use of the mark in the market.

4. In view of the same, the Defendant has assured the plaintiff that

i. The Defendant shall forthwith cease to use and shall not manufacture or market their products under the mark **WOODS** or any mark deceptively similar, either phonetically, visually or structurally thereto, in any manner whatsoever;

ii. Consequently, the defendant agrees to bind itself to a decree of permanent injunction in terms of prayers 31 (i) and 31(ii) of the plaint in C.S.No.617 of 2015;

iii. The defendant shall take appropriate steps before the Registrar of Trademarks to withdraw their trademark application No.2923274 in class 3, which seeks to register the mark UOODS that is phonetically identical to the plaintiff's registered trademark WOODS;

5. Subject to the above, the plaintiff agrees to give up other reliefs found in plaint, being prayer 31(iii), 31(iv) and 31(v).

6. Parties to this Memorandum further agree that they shall bear respective costs.

7. The plaintiff and the Defendant pray that the above suit may be decreed in terms of the above compromise.

Dated at Bilaspur (C.G.) on this the 05 day of December 2018.

sd/-
Plaintiff

sd/-
Defendant

sd/-
Counsel for Plaintiff

sd/-
Counsel for Defendant'

8. In the light of the narrative supra, there shall be a compromise decree in this suit in terms of said MOC. Said MOC, aforesaid memo dated 05.12.2018 filed by the defendant firm, authorization letter produced by the defendant, Letter of Authorization dated 30.11.2018 in plaintiff company's letterhead and extract of the minutes of meeting of Board of Directors of plaintiff company held on 06.01.2016, self-attested photo copies of photo identity cards of both aforesaid representatives shall all form part of compromise decree.

Suit decreed on above terms. There shall be no order as to costs. Consequently, connected interlocutory applications are closed.

10.12.2018

Speaking order/Non-Speaking Order

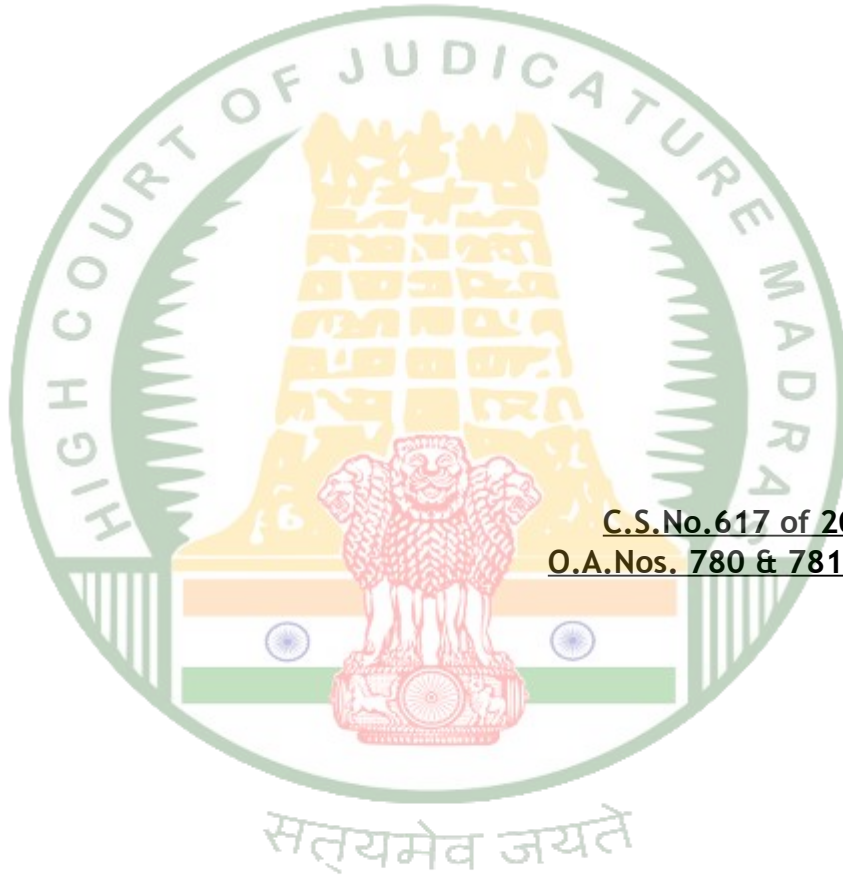
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M.SUNDAR, J.

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