

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2018

CORAM

THE HON'BLE MR.JUSTICE M.SUNDAR

C.S.No.837 of 2017

and

A.Nos.7615 and 7616 of 2017 and O.A.Nos.1076 and 1077 of 2017

M/s.Designo Lifestyle Solutions Private Ltd.,
 Old No.9, New No.15, 1st Floor,
 Khader Nawaz Khan Road,
 Nungambakkam,
 Chennai-600 006
 represented by its Director,
 Mr.R.Ramakrishnan

.. Plaintiff

Vs.

TrendSutra Platform Services Private Limited,
 101, Ackruti Corporate Park,
 LBS Marg, Kanjurmarg (W),
 Mumbai-400 079
 Maharashtra (India)

.. Defendant

This Civil Suit is preferred, under Order IV Rule 1 of the Original Side Rules and Order VII Rule 1 of CPC read with Sections 27, 28, 29, 134 and 135 of the Trade Marks Act, 1999 seeking judgment and decree by granting (a) perpetual injunction restraining the defendant, by themselves, their directors, men, servants, agents, dealers, distributors, stockists, wholesalers, retailers, representatives or any one claiming under them from in any manner infringing the Plaintiff's registered trademark SO FA SO GOOD by use of an identical trademark SOFA SO GOOD or any other mark similar to plaintiff's registered trademark in their advertisements or in any other manner whatsoever; (b) perpetual injunction restraining the defendant, by themselves, their directors, men, servants, agents, dealers, distributors, stockists,

wholesalers, retailers, representatives or any one claiming under them from in any manner passing off and enabling others to pass off the defendant's furniture as and for the plaintiff's furniture by use of the trademark SOFA SO GOOD or any other mark identical or deceptively similar to the plaintiff's trademark SO FA SO GOOD in their advertisements or in any manner whatsoever; (c) the defendant be ordered and decreed to pay to the plaintiff a sum of Rs.10,00,000/- as damages for acts of infringement of trademark and passing off committed by the defendant by manufacture, market and sale of sofas, furniture bearing the trademark SOFAS SO GOOD; (d) the defendant be ordered to surrender to plaintiff for destruction of all materials bearing the trademark SOFA SO GOOD or any trademark similar to plaintiff's trademark SO FA SO GOOD; (e) a preliminary decree be passed in favour of the plaintiff directing the defendant to render account of profits made by use of trademark SOFA SO GOOD and a final decree be passed in favour of the plaintiff for the amount of profits thus found to have been made by the defendant after the latter have rendered accounts and (f) for costs.

For Plaintiff : Mr.Arun C.Mohan

For Defendant : Ms.Janani Shankar
for M/s.Shardul Amarchand
Mangaldas

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JUDGMENT

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This suit has been filed by the plaintiff alleging infringement of registered trademark 'SO FA SO GOOD' of the plaintiff.

2 Mr.Arun C.Mohan, counsel on record is before this commercial division on behalf of plaintiff. M/s.Shardul Amarchand, Mangaldas, Allwin

Godwin, Janani Shankar have entered appearance on behalf of the sole

defendant and Ms.Janani Shankar, learned counsel is before this commercial division today.

3 Mr.Rinkesh Bafna, authorised signatory of the defendant company is also present before the court and his Aadhar card has been produced for ascertaining his identity. Photocopy of the Aadhar card signed by Rinkesh Bafna has also been produced and the same shall also form part of the case file.

4 Most importantly, the defendant has filed an affidavit dated 4.1.2018 and contents of the affidavit read as follows :

“I, Rinkesh Bafna s/o. Ashok Kumar Bafna, aged about 26 years, residing at No.11, Ujjani street, Ayanavaram, Chennai-600 023 do hereby solemnly affirm and states as follows:-

1.I am the authorised signatory of the Defendant above named and I am well aware of the facts and circumstances of the case. I am competent and duly authorised to swear this affidavit on behalf of the Defendant.

2.I state that the Defendant above named is neither using or intends to use the mark 'SOFA SO GOOD' I state that the Defendant undertakes to remove the said mark from its materials/stock/advertisement campaign.

3.In light of the aforesaid submissions, the Defendant prays that this Hon'ble court may be pleased to pass such orders as this Hon'ble court may deem fit and proper in the circumstances of the case and thus render justice.”

5 Mr.Arun C.Mohan, learned counsel on record for plaintiff, who has been served a copy of the affidavit asserts, on instructions from his client, that he will give up plaint prayers contained in sub paragraphs c, d, e, f and g

in paragraph 19 of the plaint. Ms. Janani Shankar, learned counsel says that the defendant would submit to decree with regard to the plaint prayers 19(a) and 19(b) of the plaint.

6 For the purpose of absolute clarity, entire prayer in the suit as adumbrated in various sub paragraphs of paragraph 19 of plaint is extracted infra and the same reads as follows :

“19. The plaintiff, therefore, prays that this Hon'ble Court may be pleased to grant a judgment and decree on the following terms:

a. a perpetual injunction restraining the defendant, by themselves, their directors, men, servants, agents, dealers, distributors, stockists, wholesalers, retailers, representatives or any one claiming under them from in any manner infringing the Plaintiff's registered trademark SO FA SO GOOD by use of an identical trademark SOFA SO GOOD or any other mark similar to plaintiff's registered trademark in their advertisements or in any other manner whatsoever;

b. a perpetual injunction restraining the defendant, by themselves, their directors, men, servants, agents, dealers, distributors, stockists, wholesalers, retailers, representatives or any one claiming under them from in any manner passing off and enabling others to pass off the defendant's furniture as and for the plaintiff's furniture by use of the trademark SOFA SO GOOD or any other mark identical or deceptively similar to the plaintiff's trademark SO FA SO GOOD in their advertisements or in any manner whatsoever;

c. the defendant be ordered and decreed to pay to the plaintiff a sum of Rs.10,00,000/- as damages for acts of infringement of trademark and passing off committed by the defendant by manufacture, market and sale of sofas, furniture bearing the trademark SOFAS SO GOOD

d. the defendant be ordered to surrender to plaintiff for

destruction of all materials bearing the trademark SOFA SO GOOD or any trademark similar to plaintiff's trademark SO FA SO GOOD;

e. a preliminary decree be passed in favour of the plaintiff directing the defendant to render account of profits made by use of trademark SOFA SO GOOD and a final decree be passed in favour of the plaintiff for the amount of profits thus found to have been made by the defendant after the latter have rendered accounts.

f. for costs; and

g. pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstance of the case and thus render Justice"

7 Both learned counsel agree for a decree in the main suit itself on the above terms.

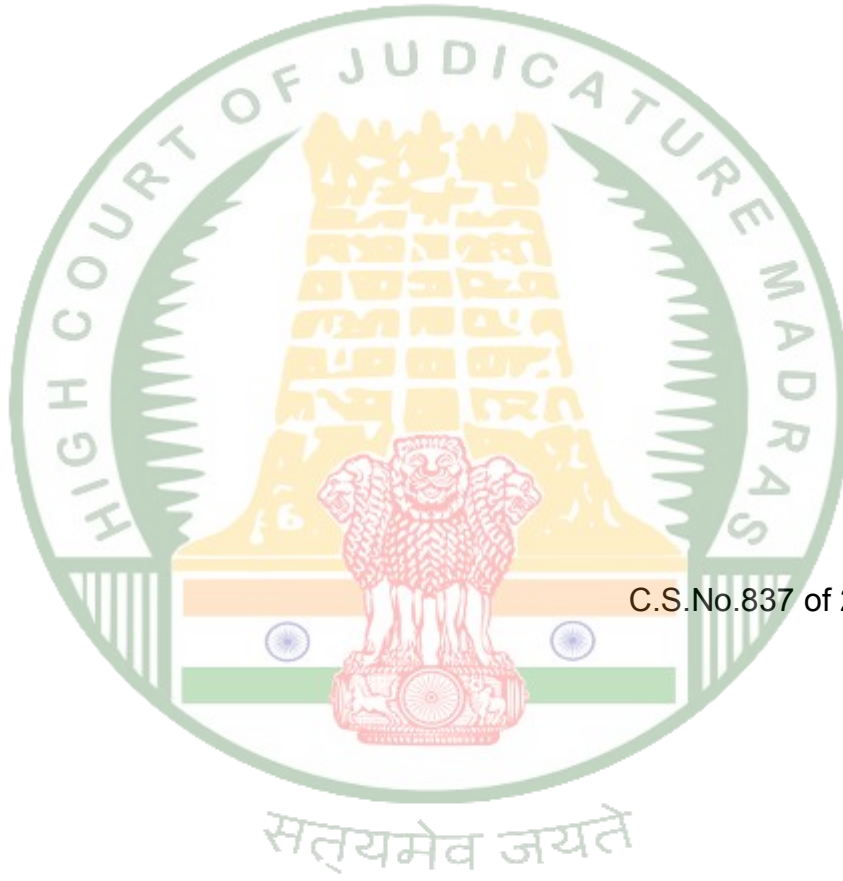
8 For the purpose of abundant clarity, it is made clear that the suit is decreed with regard to prayers in plaint paragraphs 19(a) and 19(b). Prayers in plaint paragraphs 19(c) to 19(g) are given up. The aforesaid affidavit of defendant dated 4.1.2018, photocopy of the Aadhar card of Rinkesh Bafna and a copy of the board resolution of defendant dated 27.12.2017 (authorising the aforesaid Rinkesh Bafna) shall all form part of this decree. There shall be no order as to costs. Consequently, connected applications are closed.

04.01.2018

Index : Yes/No

M.SUNDAR, J.

vvk



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