

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:08.03.2018

CORAM

THE HON'BLE MR.JUSTICE M.SUNDAR

C.S.No.238 of 2017**&****O.A.Nos.334 to 336 of 2017****&****A.Nos.4519 and 4520 of 2017**

M.Ponnusamy
Sole Proprietor of Sasi Match Works
18, Venkatachalam Street, Nellorepet
Gudiyattam, Tamil Nadu- 632 602
Represented by his Power Agent
Mr.K.M.Damodaran .. Plaintiff

Vs.

1.Latha Match Industries
2/3, Nadu Street, Anaikuttam Village
Virudhunagar Road
Sivakasi, Tamil Nadu – 626 130

2.Shifa Trading Co.
Gandhi Chowk, Hingol
District-Hingoli
Maharashtra-431 513

3.Jamil Kirana
Siddharth Nagar
Hingoli- 431 513

.. Defendants

Civil Suit preferred, under Order IV Rule 1 of Madras High Court
Original Side Rules read with Order VII Rule 1 of the Code of Civil
Procedure, Sections 27, 28, 29, 134 and 135 of the Trade Marks Act, 1999
and Sections 51, 54, 55 and 62 of the Copyright Act, 1957 seeking
permanent injunction restraining the defendants, themselves, their
directors/partners/proprietors as the case may be, their respective heirs,

legal representatives, successors in business, assigns, servants, agents, distributors, stockists, retailers, transporters, representatives or any one claiming through or under them from in any manner infringing the plaintiff's registered trademark GOPAL and GOPAL label by manufacturing, distributing, marketing, selling, offering for sale, advertising or in any other manner dealing in match boxes or any other product bearing the deceptively similar trademark GOKUL and/or package, wrapper, container, carton, label with colour scheme, getup, layout which are similar to plaintiff's registered trade mark GOPAL and GOPAL label in any manner whatsoever; permanent injunction restraining the defendants by themselves, their directors/partners/proprietors as the case may be, their respective heirs, legal representatives, successors in business, assigns, servants, agents, distributors, stockists, retailers, transporters, representatives or any one claiming through or under them from in any manner infringing the plaintiff's copyright in the artistic work GOPAL label by use of imitative GOKUL label or any other label, which is substantial reproduction of plaintiff's artistic work GOPAL label in any manner whatsoever, amounting to infringement of copyright; permanent injunction restraining the defendants by themselves, their directors/partners/proprietors as the case may be, their respective heirs, legal representatives, successors in business, assigns, servants, agents, distributors, stockists, retailers, transporters, representatives or any one claiming through or under them from in any manner passing off or enabling others to pass off their safety matches as and for the plaintiff's safety matches by use of imitative GOKUL label or any other label, which is identical to and/or deceptively similar to plaintiff's artistic work in the GOPAL label with a similar colour scheme, placement of features, getup and layout or in any other manner whatsoever; to direct the defendant to deliver up for destruction all the offending GOKUL label, safety matches packed in offending GOKUL labels, packing boxes, dies, blocks, screen prints, pamphlets, brochures and such other materials which are identical with and/or deceptively similar to the trademark and artistic work GOPAL

label; a preliminary decree in favour of the plaintiff to render true and faithful accounts of profits earned by the defendant by sale of safety matches using imitative GOKUL label 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; to direct the defendant to pay a sum of Rs.1,00,000/- as liquidated damages for committing acts of trademark infringement, copyright infringement and passing off and for the costs of the suit.

For Plaintiff : Mr.Arun C Mohan

For Defendants : D1- set ex parte
Mr.T.Sundarnathan for D2
No appearance for D3

JUDGMENT

Learned counsel on record for plaintiff Mr.Arun C Mohan submits that he has instructions to withdraw the suit. An endorsement to this effect has been made in the suit file and the same reads as follows:

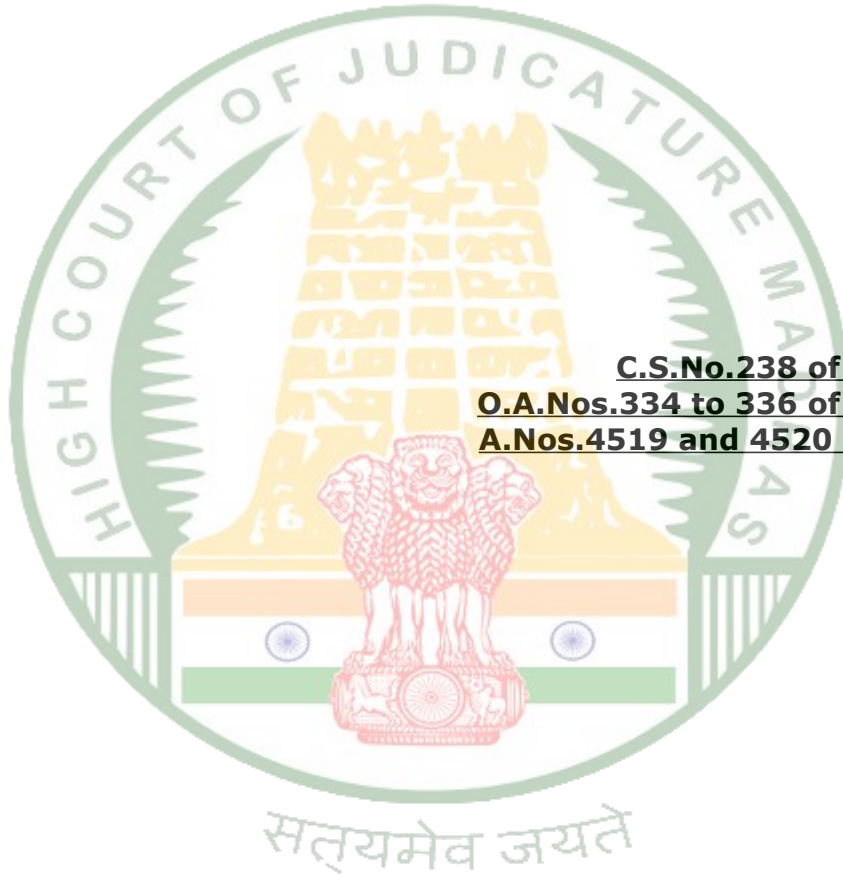
"Under instructions from the plaintiff, I pray that this Hon'ble Court be pleased to permit the plaintiff to withdraw this suit."

3. In the light of the submission made by learned counsel on record for plaintiff and in the light of the endorsement made in the suit file, which has been extracted/reproduced supra, this suit will stand dismissed as withdrawn. No costs. Consequently, all the connected applications are closed.

08.03.2018

M.SUNDAR.J.,

gpa



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