

## IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05.02.2018

CORAM

THE HON'BLE MR.JUSTICE M.SUNDAR

**C.S.No.863 of 2015**  
**and O.A.No.1164 of 2015**

M/s.Thalappakatti Hotels Private Ltd  
 represented by its Managing Director D.Nagasamy  
 Having its head office at No.5/10-73E,  
 Seven Wells Street,  
 St.Thomas Mount  
 Chennai 600 016.

.. Plaintiff

Vs.

Thalapakattu Biriyani  
 represented by Basheer (OWNER)  
 Having his restaurant at No.27,  
 G.S.T.Road, Chrompet,  
 Chennai - 600 044.

.. Defendant

This Civil Suit is preferred, under Order VII Rule 1 of CPC read with Order IV Rule 1 of High Court O.S.Rules and Section 134 and Section 135 of the Trade Marks Act, 1999 praying to

A) Grant a permanent injunction restraining the defendant, their men, servants, agents or anyone claiming through or under them from in any manner infringing and passing off the plaintiff Trade Mark and Trading style "Thalappakatti Biriyani Hotel" by using the offending Trade Mark and Trading style "Thalapakattu" or any other mark or marks which are similar or in any way deceptively similar to or a colourable imitation of the plaintiffs Trade Mark "Thalappakatti Biriyani Hotel"

B) Direct the defendant to render a true and faithful account of the profits earned by them through the sale of food products bearing the offending trademark "Thalapakattu" and directing payment of such profits to the plaintiff by way of damages for infringement committed by the defendant.

C) Direct the defendant to surrender to plaintiff the entire stock of unused offending goods with Trade Mark "Thalapakattu" with name boards,

labels, wrappers, boxes, covers, bags, packets, cartons, bills, advertisements, materials, reports, envelopes, brochures, printing blocks, etc., bearing the offending Trademark for destruction and

D) direct the defendant to pay the plaintiff the costs of the suit.

For Plaintiff : Mr.S.Vijayan

For Defendant : No appearance

**JUDGMENT**

Mr.S.Vijayan, learned counsel on record for sole plaintiff is before this Commercial Division. Learned counsel on record for sole plaintiff submits that he has instructions from his client to withdraw this suit. A suitable endorsement to this effect has also been made in the suit file by the learned counsel and the same reads as follows:

*“I have got instruction from client to withdraw the suit. I may be permitted to withdraw the suit.*

*सत्यमेव जयते* (S/d)

*Counsel for plaintiff*

*05.02.2018.”*

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2. In the light of the aforesaid submission and in the light of the endorsement extracted supra, this Civil Suit will stand dismissed as withdrawn. Consequently, connected pending application shall stand closed.

3. Considering the nominal Court fee that has been paid, learned counsel for sole plaintiff fairly submits that there would be no requirement of refund of court fee.

05.02.2018

Speaking/Non-Speaking order

Index : Yes/No

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M.SUNDAR, J.

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