

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 26.11.2018

CORAM

THE HON'BLE MR.JUSTICE M.SUNDAR

C.S.No.504 of 2016 and
O.A.No.663 of 2016 and
A.No.4689 of 2016

Mr.A.Akthar Hussain
Sole Proprietor
M/s.Challenger Computer
A Proprietary concern
having its office at
No.839A, Heera Market, 1st Floor
(Opp to Karnataka Bank Ltd.,)
Anna Salai, Chennai - 600 002

.. Plaintiff

Vs.

M/s.Challenger Computers,
A Registered Partnership Firm,
Reg.No.Kanchipuram 41 of 2006
having its office at
No.84, Kamarajar Street,
Kanchipuram, Tamil Nadu - 631 501.

Represented by its partner,
Mr.K.Rajesh

.. Defendant

This Civil Suit is preferred, under Order VII Rule - 1 of Civil Procedure Code, 1908 Read with Order IV Rule 1 of High Court O.S Rules and Section 134 and 135 of the Trade Marks Act, 1999 - Suit for Permanent Injunction restraining the defendant, his men, agents, servants or any one claiming through them from in any manner infringing the Plaintiff's Registered Trade Mark "CHALLENGER COMPUTER" by using the offending Trade Mark "CHALLENGER COMPUTERS" or any other Trade Mark or device which is identical or deceptively similar to or a colourable imitation to that of the

plaintiff's registered trademark; to directing the defendant to surrender to the plaintiff the entire stocks, cartons with the infringing artistic work "CHALLENGER COMPUTERS" and unused infringing Trademark labels "CHALLENGER COMPUTERS" together with blocks, bills, invoices and dies for destruction; to directing the defendant to render a true and faithful accounts of the profits earned by them through the sale of their products bearing the infringing labels "CHALLENGER COMPUTERS" which are similar or deceptively similar to the plaintiff's Trademark and directing the payment of such profits to the Plaintiff and for costs.

For Plaintiff : No appearance

For Defendants : Mr.S.Ramesh

JUDGMENT

Read this in conjunction with and in continuation of earlier proceedings of this Commercial Division dated 29.10.2018 which reads as follows:

Mr.A.P.Surya Prakasam, learned counsel on record for sole plaintiff and Mr.S.Ramesh, learned counsel on behalf of sole defendant are before this Commercial Division.

2. Learned counsel for plaintiff Mr.A.P.Surya Prakasam has filed a memo dated 25.10.2018 which reads as follows:

MEMO FILED BY THE COUNSEL FOR PLAINTIFF

It is respectfully submitted that inspite of several reminders to the plaintiff to meet the counsel to enable him to proceed with the case the plaintiff failed to meet the counsel and give necessary instructions.

Hence the counsel by his letter dated 10.09.2018 and 28.09.2018 has informed the plaintiff that in the event of plaintiff failed to meet the counsel with necessary instructions

he will be constrained to withdraw his appearance but inspite of receipt of the letters there is no response from the plaintiff till this day.

Hence it is prayed that the plaintiff counsel may be permitted to withdraw their appearance on behalf of the plaintiff and this memo may be taken on file and necessary orders may be passed in this regard and thus render justice.

Dated at Chennai on this 25th day of October, 2018.

-sd/-

Counsel for Plaintiff

3. The aforesaid memo filed by the learned counsel for plaintiff is self explanatory. In the light of the aforesaid memo, Registry is directed to not to show the name of learned counsel in the next listing. Likewise, Registry is directed to show the name of the plaintiff together with full/complete address of the plaintiff as in the short and long cause titles in plaint in the next listing.

4. Be that as it may, Registry to issue notice to the plaintiff returnable by 26.11.2018.

5. Registry to issue notice to the plaintiff without insisting on defendant to pay batta owing to peculiar circumstances in this case.

List on 26.11.2018.'

2. Today, this Commercial Division is informed that sole plaintiff has been duly served and name of the sole plaintiff together with full/complete address as in the short and long cause titles in plaint is shown in the cause list.

3. Name of the sole plaintiff called out aloud thrice. There is no representation and there is no response. This Commercial Division is also informed that no new counsel has entered appearance on behalf of sole plaintiff.

4. Be that as it may, though the sole defendant has entered appearance through a counsel and though the name of the sole defendant is shown in the cause list, none appears for the sole defendant.

5. In the light of the aforesaid narrative, this suit is dismissed for default/non-prosecution. Consequently, all connected miscellaneous petitions are closed. There shall be no order as to costs.

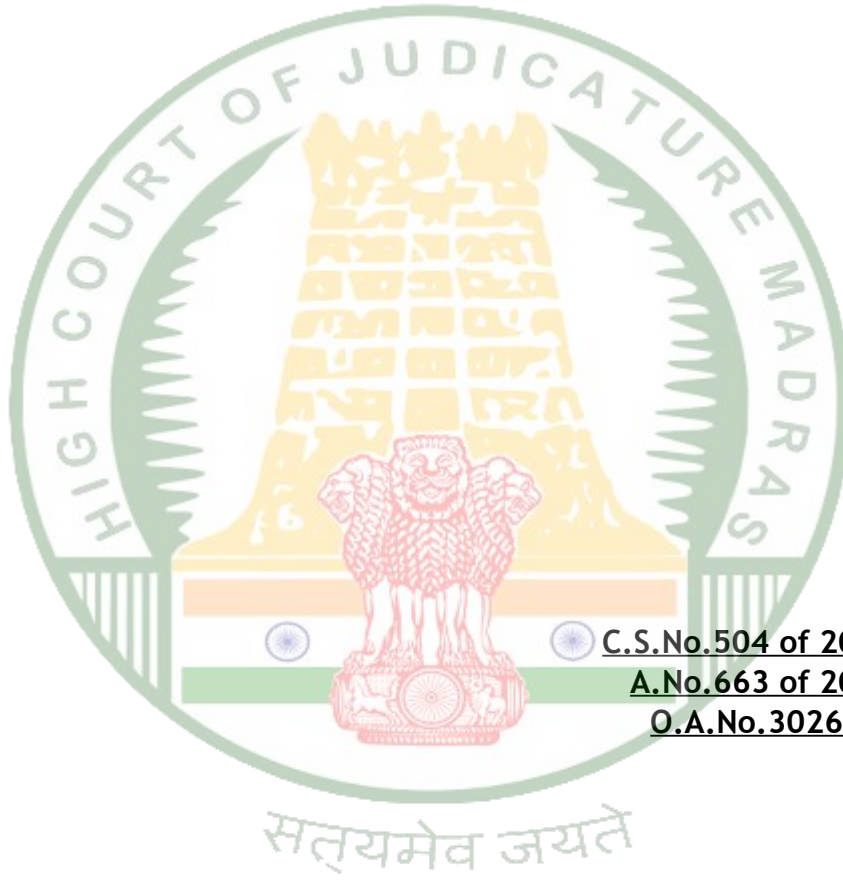
26.11.2018

Index : Yes/No

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M.SUNDAR, J.

gpa/mp



C.S.No.504 of 2016 and
A.No.663 of 2016 and
O.A.No.3026 of 2017

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