

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 01.10.2018

CORAM

THE HON'BLE MR.JUSTICE M.SUNDAR

C.S.No.290 of 2018

&

O.A.Nos. 461 to 463 of 2018

1.Aktiebolaget Volvo,
SE -405 08 Goteborg
Sweden
represented by Constituted Attorney
Mr.Laxminarayan Hegde

2.Volvo Trademark Holking AB,
C/O AB Volvo
SE-405 08 Goteborg
Sweden
Represented by Constituted Attorney
Mr.Laxminarayan Hegde

3.Volvo Car Corporation
SE-405 31 Goteborg
Sweden
Represented by Constituted Attorney
Mr.Laxminarayan Hegde .. Plaintiffs

Vs.

Volvox Engineering Pvt. Ltd.
No.2, Madurai Main Road,
Crawford,
Trichy - 621 012
Tamil Nadu
Through its director Mr.I.V.Venkatesh .. Defendant

This Civil Suit is preferred, under Order VII Rule 1 CPC Read with Order IV Rule 1 of the Original Side Rules of the Madras High Court, Section 2 (1) (C) (xvii) read with Section 7 of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 and Sections 11,2729,134,135 Trademarks Act, 1999, seeking a permanent injunction restraining the defendant, their directors, proprietors, subsidiaries, stockists, representatives and anyone acting for or on its behalf from in any manner directly or indirectly using the mark/name 'VOLVOX' or any mark/name similar to the plaintiffs' trademark/name VOLVO, amounting to infringement of plaintiff No.2's registered trademark VOLVO as referred to in paragraph 12 of the plaint; seeking a permanent injunction restraining the Defendant, their directors, proprietors, subsidiaries, affiliates,

franchisees, officers, employees, servants, agents, distributors, stockists, representatives and anyone acting for or on its behalf from in any manner directly or indirectly using the mark/name VOLVOX or any mark/name similar to the plaintiffs' trademark/name VOLVO, amounting to passing off the defendant's business/services as those of the plaintiffs'; seeking a permanent injunction restraining the defendant, their directors, proprietors, subsidiaries, affiliates, franchisees, officers, employees, servants, agents, distributors, stockists, representatives and anyone acting for or on its behalf from in any manner directly or indirectly using the mark/name 'VOLVOX' or any mark/name similar to the plaintiffs' trademark/name VOLVO, amounting to dilution and tarnishment of the plaintiffs well known trademark VOLVO; to directing the defendant to surrender the ownership of the domain <http://volvoxengg.weebly.com/> any other domain bearing the mark 'VOLVO' in favour of the plaintiff; to directing the defendant to furnish all the data and accounts of all transactions undertaken and the profits obtained (including the data of the suppliers, the number of purchases, etc.) during the course of its business relating to goods/services under the impugned mark VOLVOX, to the plaintiffs'; to delivery up of all finished and unfinished materials including signage, cards, stationary, accessories, packaging, labels, brochures, printed materials including hoardings and other material bearing the impugned VOLVOX mark or any mark deceptively similar to the plaintiffs' trademark /name VOLVO, by the defendant to the plaintiffs' for the purpose of destruction and for costs.

For Plaintiffs : Mr.N.C.Vishal
of M/s.Anand & Anand Law Firm

For Defendants : Ms. Archana Iyer
for Mr.Thriyambak Kannan

JUDGMENT

There are three plaintiffs and a sole defendant in this suit.

2.Mr.N.C.Vishal, learned counsel of M/s.Anand and Anand (Law Firm) for all the three plaintiffs and Ms. Archana Iyer, learned counsel representing the counsel on record for sole defendant are before this Commercial Division.

3.Both learned counsel make a common submission in unison that this suit has been amicably settled between the parties to the lis and they have entered into a Memo of Compromise dated 28.09.2018 (hereinafter referred to as 'said MOC' for the sake of convenience and clarity).

4.Said MOC is placed before me. It has been duly signed by Constituted Attorney of all the three plaintiffs.

5.This Commercial Division is informed that all the three plaintiffs are companies incorporated in Sweden. With regard to sole defendant, the said MOC has been signed by Mr.N.Mohamed Ali and a Board Resolution authorizing him to do so has also been placed before this Commercial Division.

6.Read this in conjunction with and in continuation of earlier proceedings of this Commercial Division dated 07.09.2018, which reads as follows:

□Mr.N.C.Vishal, learned counsel for plaintiffs and Mr.Thriyambak Kannan, learned counsel for sole defendant are before this Commercial Division. To be noted, the suit is listed today under the caption 'For Reporting Settlement and Recording Memorandum of Compromise'.

2.Both learned counsel submit that settlement talks are underway. Both learned counsel submit that

settlement talks are progressing and they are hopeful of the same getting crystallized. On this basis, a joint request is made for some more time to finalize the Memorandum of Compromise.

3.Be that as it may, on behalf of the sole defendant, Mr.Thanaraj Jagadeesan and Mr.N.Mohamed Ali are present in Court today. Adhar Cards for verification of identity have been produced and photocopies of their photo identify cards (self-attested) i.e., Adhar Cards have been filed. Both parties referred to above, confirm that settlement talks are underway, the same are progressing and they are hopeful of a settlement.

In the light of the narrative supra, list this matter under the same caption on 28.09.2018.□

8.It is submitted by both learned counsel that the said MOC was signed by both parties to the lis in the presence of each other and that Mr.Laxminarayan Hegde, Constituted Attorney of plaintiffs was present in Chennai on 28.09.2018 for signing the said MOC.

9.Both learned counsel make a request that main suit itself be disposed of by passing a decree in terms of said MOC.

10.In the light of narrative supra, there is a request by both learned counsel to dispense with the presence of parties for recording the said MOC. With regard to sole defendant, earlier proceedings dated 07.09.2018, explains the dispensing with of the presence of the representatives of the defendant.

11.In the light of the fact that Constituted Attorney of three plaintiffs was present on Friday i.e., 28.09.2018 for signing the said MOC, the presence of Mr.Laxminarayan Hegde is also dispensed with.

12.The prayer for decreeing the suit in terms of said MOC is acceded to. The said MOC together with Board Resolution and the photo identity cards of the representatives shall also form part of the compromise decree.

13.Suit decreed on above terms. No costs. Consequently, all interlocutory applications are closed.

01.10.2018

Index : Yes/No
gpa/mp

M.SUNDAR, J.

gpa/mp

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