

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14.02.2018

CORAM

THE HON'BLE MR.JUSTICE M.SUNDAR

C.S.No.517 of 2009

M/s.Thalappakatti Naidu Ananada Vilas Biriyani Hotel,
Rep. By its Pertner, Mr.D.Nagasamy,
No.15, East Car Street,
Dindigul.

.. Plaintiff

Vs.

Thalappakattu Briyani,
No 20 D, Thiru-v-ka Road
Royapettah,
Chennai-14.

.. Defendant

This Civil Suit is preferred, under Order VII Rule 1 of Civil Procedure Code, 1908 and Order IV Rule 1 of O.S.Rules, 1956 read with Sections 134 and 135 of the Trade Marks Act, 1999, praying to

a) granting a permanent injunction restraining the defendant, their men, servants, agents or anyone claimed through or under them from in any manner passing off the plaintiff Trade Mark and Trading style "Thalappakatti Biriyani Hotel" by using the offending Trade Mark and the trading style "Dindigul Thalappakattu Biriyani" or by using any other Trademark which is similar or deceptively similar to that of the plaintiff's trade mark "Thalappakatti Biriyani Hotel".

b) directing the defendant to render a true and faithful account of the profits earned by them through the sale of food products bearing the offending trade mark "Dindigul Thalappakattu Biriyani" and directing payment of such profits to the plaintiff by way of damages for passing off committed by the defendant.

c) directing the defendant to surrender to plaintiff the entire stock of unused offending goods with Trade Mark "Thalappakattu Biriyani & Fast food"

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:

d) for costs of the suit

For Plaintiff : Mr.S.Vijayan

JUDGMENT

Mr.S.Vijayan, counsel on record for sole plaintiff submits that he has instructions to withdraw the suit and an endorsement to that effect has been made in the suit file, which reads as follows:

“ I have got instructions from plaintiff to withdraw the suit.

I may be permitted to withdraw the suit.

(s/d)

Counsel for Plaintiff's

14.02.2018“

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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the aforesaid submission and in the light of the endorsement extracted supra, this Civil Suit will stand dismissed as withdrawn.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 applications shall stand closed. No costs.

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.

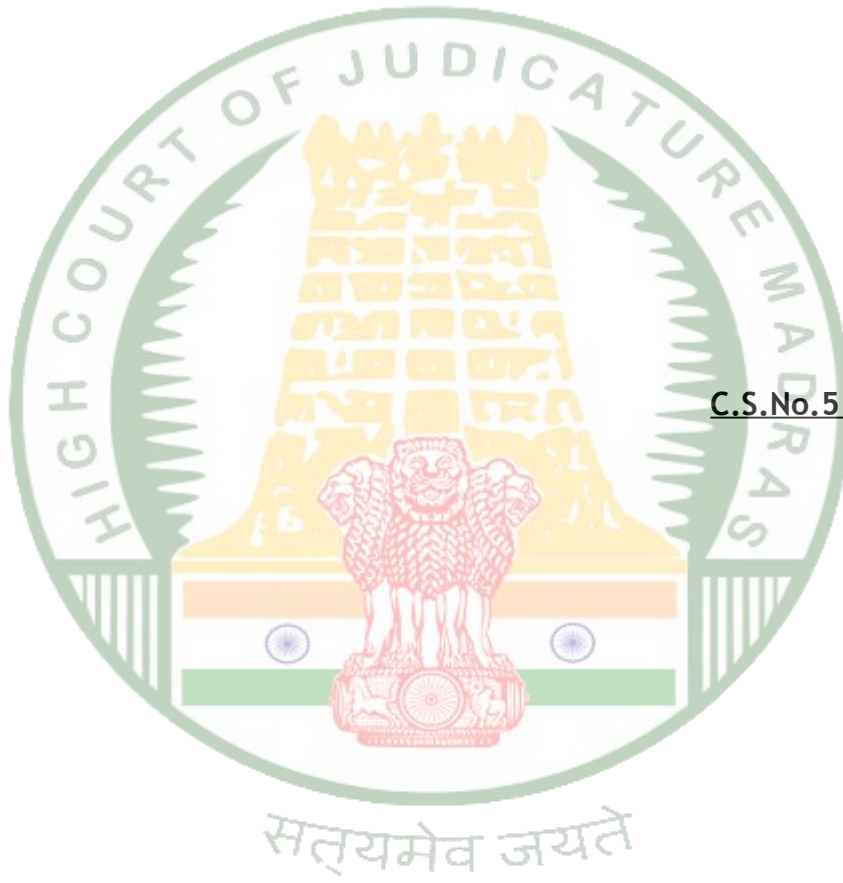
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Speaking/Non-Speaking order
Index : Yes/No
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M.SUNDAR, J.
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