

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15.02.2018

CORAM

THE HON'BLE MR.JUSTICE M.SUNDAR

C.S.No.521 of 2009

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

..Plaintiff

Vs.

Thalappakattu Briyani,
No.773, T.H.Road,
Old Washermenpet,
Chennai – 21.

.. Defendant

Civil Suit filed under Order VII Rule 1 of Civil Procedure Code read with order IV Rule 1 of High Court O.S. Rules and Sections 134 and 135 of the Trade Marks Act, 1999 for granting a permanent injunction restraining the defendant, their men, servants, agents or anyone claiming 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 "Thalappakattu Briyani" or by using any other Trademark which is similar or deceptively similar to that of the Plaintiff's trade mark "Thalappakatti Biriyani Hotel"; to 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 trade mark "Thalappakattu Briyani" and directing payment of such profits to the Plaintiff by way of damages for passing off committed by the Defendant; also to direct the defendant to surrender to Plaintiff the entire stock of unused offending goods with Trade Mark "Thalappakattu Briyani" with name boards, labels, wrappers, boxes, covers, bags, packets, cartons, bills, advertisements, materials, reports,

envelops, brochures, printing blocks, etc., bearing the offending Trademark for destruction and to pay costs of the suit.

For Plaintiff : Mr.S.Vijayan

For Defendant : No appearance.

JUDGMENT

Mr.S.Vijayan, learned counsel on record for the sole plaintiff is before this Commercial Division. Learned counsel submits that he has instruction from his client i.e., sole plaintiff to withdraw the suit.

2. Learned counsel has also made an endorsement in the suit file, which reads as follows:

"I have got instruction from plaintiff to withdraw the suit. I may be permitted to withdraw the suit.

Sd/-

Counsel for Plaintiff

15.02.2018

S.Vijayan"

3. In the light of the submission made by the learned counsel for plaintiff and the endorsement made by learned counsel for plaintiff, which has been extracted supra, this suit will stand dismissed as withdrawn. No costs.

Mr.S.Vijayan, submits that there is no request for refund of Court fee in the light of the nominal Court fee that has been paid. This is recorded.

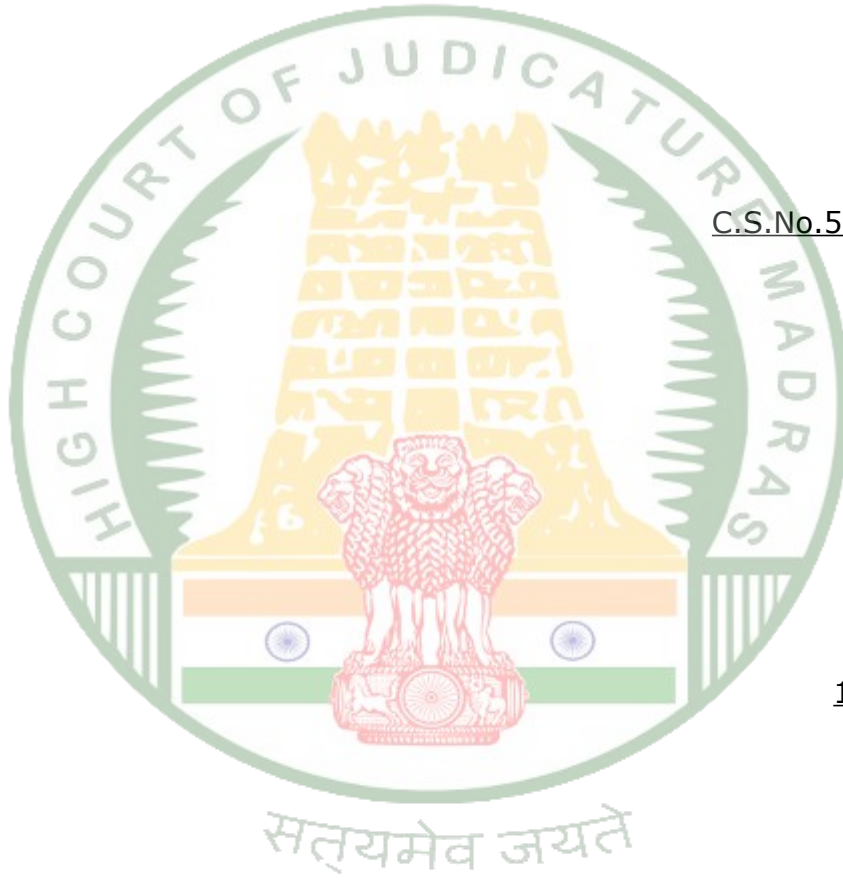
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M.SUNDAR, J.
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C.S.No.521 of 2009

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