

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:28.02.2018

CORAM

THE HON'BLE MR.JUSTICE M.SUNDAR

C.S.No.528 of 2009

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

Vs.

New Dindigul Thalappakattu Biriyani
No.46, Seydams
Periyamet
Chennai-3 .. Defendant

Civil Suit preferred, under Order VII Rule 1 of the Code of Civil Procedure, 1908, read with Order IV Rule 1 of High Court Original Side Rules and Sections 134 and 135 of the Trademarks Act, 1999 seeking 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 "New 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"; for a direction to 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 "New Dindigul Thalappakattu Biriyani" and directing payment of such profits to the plaintiff by way of damages for passing off committed by the Defendant; for a direction to the defendant to surrender to Plaintiff the entire stock of unused offending goods with Trade Mark "New Dindigul Thalappakattu Biriyani" with name boards, labels, wrappers, boxes, covers, bags,

packets, cartons, bills, advertisement, materials, reports, envelops, brochures, printing blocks, etc., bearing the offending Trademark for destruction and for the 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.

2. Learned counsel on record for plaintiff submits that he has instructions from his client to withdraw the suit. Mr.S.Vijayan, learned counsel on record for sole plaintiff has made an endorsement in the suit file, which reads as follows:

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

3. In the light of the submission made by learned counsel on record for plaintiff and in the light of the endorsement made in the suit file, which has been reproduced supra, this suit stands dismissed as withdrawn. No costs.

28.02.2018

gpa

M.SUNDAR.J.,

gpa



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