

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.02.2018

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

C.S. No.649 of 2012

and

O.A. Nos.835 to 837 of 2012

1. Dr. Issac Isaac Mathai,
S/o. Late Rev. Fr. Mathai Nooranal
residing at No.202,
Parvathi Plaza,
Richmond Road,
Bangalore - 560 025.
represented by his duly authorised power agent,
M/s.Suja Issac,
residing at No.202,
Parvathi Plaza,
Richmond Road,
Bangalore - 560 025.

2. Soukya Indian Holistic Centre Private Ltd.
Soukya Road,
Samethanahalli, Whitefield
Bangalore - 560 067.
represented by its Director,
Ms. Suja Issac,
residing at No.202,
Parvathi Plaza,
Richmond Road,
Bangalore - 560 025.

... Plaintiffs

Versus

Sowkhya Way2 Health Private Ltd.,
No.22, Jagannathan Road,
Spring Field Apartments,
Nungambakkam
Chennai - 600 034.

... Defendant

Plaint filed under Order IV Rule 1 of Original Side Rules Read with Order
VII Rule 1 of CPC and Sections 27, 28, 29, 134 & 135 of Trade Marks Act, 1999.

For Plaintiffs : Mr.Seshadri
For Defendant : Mr.G.K.Muthukumar

JUDGMENT

On behalf of the Plaintiffs Mr.Seshadri, learned counsel is before this Court and on behalf of the sole defendant Mr.Muthukumar, learned counsel, M/s.GMS Law Associates is before this Court.

2. Mr.Daniel, authorised representative, on behalf of plaintiffs, and Mr.George Koshy, on behalf of the defendant company are present before this Court.

3. Both learned counsel submit that the parties have entered into a memorandum of compromise, dated 16.02.2018.

\ 4. Both learned counsel request this Commercial Division to pass a decree in terms of the aforesaid memorandum of compromise. For the sake of convenience, I deem it appropriate to extract, the memorandum of compromise, which reads as follows :-

1. The defendant was previously using the trademark SOWKHYA WAY2HEALTH in Chennai, Ooty and Kodaikanal and presently is using the trademark "SOWKHYA WAY2 HEALTH" only in Chennai. Defendant hereby undertakes to discontinue the use of the word "SOWKHYA" in all its trade name and trademark, " SOWKHYA WAY2 HEALTH" all over the world. The defendant has already abandoned the use of its domain name SOWKHYA.com.

2. The defendant further undertakes not to use any word similar to "SOUKYA" in any form or manner or in any language and to withdraw trademark application no.1364342 in class 42 seeking to register the mark,

"SOWKHYA WAY2 HEALTH". But the defendant does not give up any right, title, interest or usage over the trademark, "WAY2 HEALTH" which is separately registered as its trademark and will continue to enforce and enjoy all its rights over the same and to use it as such or with some other word and device except SOWKHYA or any other deceptively similar word.

3. The parties agree that in view of the compromise the parties herein give up all existing claims against each other and hence this Memorandum of Compromise and a Judgment and Decree passed by this Hon'ble Court terms thereof.

4. The parties agree to bear their own costs.

5. There shall be a decree in the suit in terms of the aforesaid memorandum of compromise. The aforesaid memorandum of compromise dated 16.02.2018 and the photo identity cards of the respective individuals, who were before this Court (self attested photo copies) will also form part of the decree.

6. The Suit is decreed in the above terms. No costs. Consequently, connected Original Applications are closed.

16.02.2018

Index : Yes/No

Internet : Yes / No

Speaking/Non Speaking

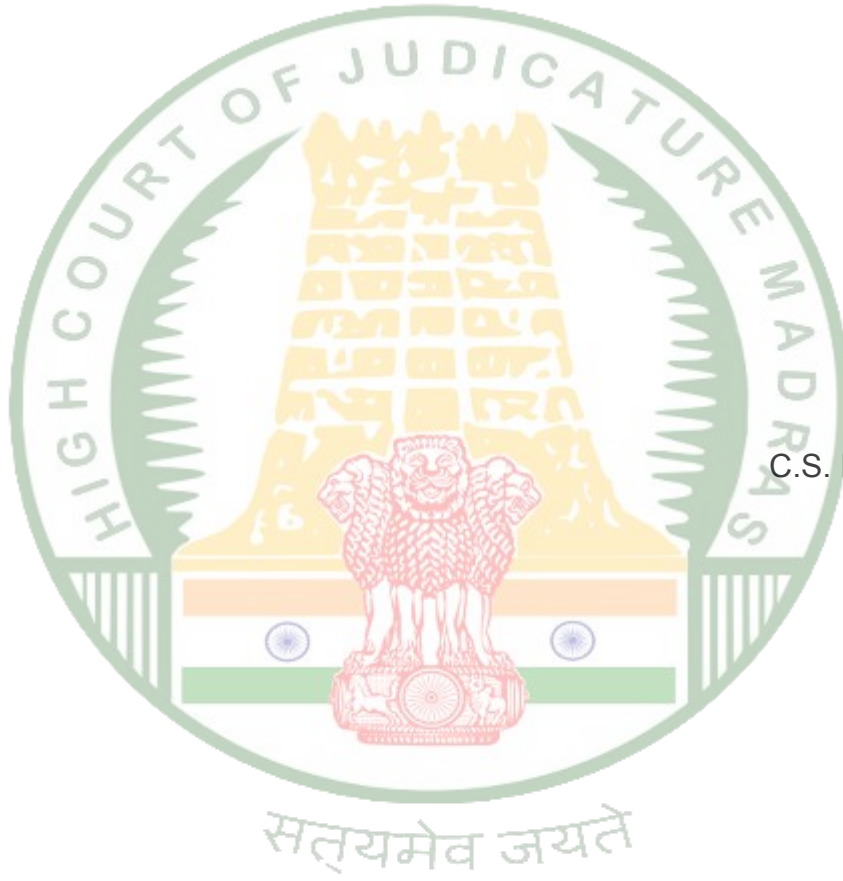
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To

The Sub Assistant Registrar (O.S.),
High Court, Madras - 104.

M.SUNDAR. J,

vsi2



C.S. No.649 of 2012

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