

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

COMMERCIAL I.P. SUIT NO.579 OF 2016

M/s.Black Ticket Films	)....Plaintiff
V/s.	
1. Mr.Walter Philip	)
2. SVD Jayachandran	)....Defendants

Mr.Amir Arsiwala for plaintiff.
[Ms.Rinta Thomas-partner of plaintiff present].
Mr.Virendra Kanojia for defendants.
[Mr.Walter Philip defendant no.1 and Constituted Attorney of
defendant no.2 present].

CORAM : K.R.SHRIRAM,J
DATE : 25.6.2019

P.C.:-

1. The parties have entered into consent terms dated 25.6.2019. The consent terms is signed by the partner of plaintiff, defendant no.1 for himself and as Constituted Attorney of defendant no.2 and their respective advocates. Mr.Arsiwala for plaintiff states that he has a copy of power of attorney which defendant no.2 has given to defendant no.1 and he is satisfied that defendant no.1 has the power to sign these consent terms on behalf of defendant no.2. Mr.Arsiwala for plaintiff and Mr.Kanojia for defendants state that signatories of plaintiff and of defendant are present in Court and

identify them.

2. The consent terms which is on Rs.100 stamp paper is taken on record and marked `X; for identification and for ease of reference is scanned and reproduced below :-



[illegible]

2. **SVD Jayachandran, individual,**)
 having his address at New No.)
 141, Madhavaram High Road,)
 Porambur, Chennai,)
 Tamil Nadu – 600 011) **...DEFENDANTS**

CONSENT TERMS

1. The Plaintiff abovenamed filed the present suit in relation to the Defendants' attempt to pass off their goods and services as that of the Plaintiff's, by way of using the trade name and moniker "Black Ticker Films". By way of this suit, the Plaintiff, inter alia, sought the relief of permanent injunction against the Defendants from using the trademark "Black Ticker Films" to represent any of their goods or services.
2. After negotiations between the parties, they have agreed to settle the dispute between them as set out in the present suit, and the terms of the settlement are set out below.
3. It has been recorded in the order dated the 8th of March, 2016, in Notice of Motion (Commercial Division) 318 of 2016, that the Defendants have not used the expression/moiker name in question, viz. "Black Ticker Films" in any manner since the receipt of notice issued by the Plaintiff to them. The Defendants repeat and reiterate this assertion and undertake that it is true and correct.
4. The Defendants agree and undertake that they shall not use the trademark and moniker "Black Ticker Films", or any other trademark or moniker deceptively similar thereto, in relation to any of their business activities or for any other purpose from the date of the filing of the present Consent Terms. The Defendants agree and accept that the Plaintiff has been using the trademark "Black Ticker Films" since the 6th of May, 2009, continuously and notoriously and has gained significant goodwill on account of its usage of this trademark since then.

5. The Defendants further agree and undertake to cause the removal and/or shutting down of all webpages hosted on various social media platforms such as Facebook, Twitter, etc under the name "Black Ticker Films" and/or any other name deceptively similar thereto. The Defendants further agree and undertake to cause the removal of their website "www.blacktickertfilms.in". The Defendants agree that the undertakings set out in this paragraph shall be complied within a period of 3 weeks from the date of the filing of these Consent Terms.
6. The Plaintiff agrees that, upon the compliance by the Defendants of their obligations under the present Consent Terms, it shall not have any monetary claim on account of any loss and/or damage it may have suffered on account of the cause of action set out in detail in the Plaint filed by it in the present suit. The filing of the present Consent Terms, and the compliance by the Defendants of their obligations set out hereunder, shall discharge them off any liability on account of the cause of action set out in the plaint filed by the Plaintiff in the present suit.
7. The Defendant No. 2 had filed for registration of the trademark "Black Ticker Films" with the registrar of trademarks in classes 35 and 41 under application numbers "2986031", "2986033", and "3055392". These applications for registration of the trademark "Black Ticker Films" have been processed up to registration. The Defendant No. 2 now acknowledges that he from the date of the filing of the present consent terms, he has no right, title, or interest in the trademark "Black Ticker Films" as well as the trademark registration application numbers "2986031", "2986033", and "3055392". The three trademarks registered with the registrar of trademarks bearing identification numbers "2986031", "2986033", and "3055392" are collectively referred to as "**the said Trademarks**".
8. In consideration for the Plaintiff not seeking any monetary compensation and/or damages in relation to the usage of the trademark "Black Ticker Films" by the Defendants, the Defendant

No. 2 hereby conveys, transfers, assigns and delivers to the Plaintiff all of his right, title, and interest of whatever kind in and to the said Trademarks, together with the (i) goodwill, if any, of the business relating to the said goods in respect upon which the said Trademarks are used and for which they are applied for registration; and, (ii) all rights to sue for past, present and future infringements and/or misappropriations of the said Trademarks.

9. The Defendant No. 2 further agrees and undertakes it hereby authorizes the Plaintiff to make any application as may be required under the Trade Marks Rules, 2017, or any other provision of law to effectuate the transfer of the said Trademarks to the Plaintiff; and the Plaintiff or any of its partners will be entitled to sign any application or form on behalf of the Defendant No. 2 in relation to the said Trademarks (and only the said Trademarks) as may be required to effectuate their assignment in terms of paragraph 8 above.
10. The parties hereto agree that as from the date of the filing of the present Consent Terms, the said Trademarks have become the absolute property of the Plaintiff. The Plaintiff would take necessary action to effect the registration of assignment of the said Trademarks, and for all purposes the present Consent Terms shall be treated as the Deed of Assignment and may be filed at the concerned offices of the Registrar of Trademarks; and for the avoidance of doubt it is stated that the Plaintiff alone shall be responsible for payment of applicable taxes and/or fees, if any, on any of the financial transaction in respect to the said Trademarks.
11. The present Consent Terms are being executed in triplicate, and all 3 copies shall be equally authoritative of the contents of the present Consent Terms. One of the original copies of the present Consent Terms, duly executed by the parties in the present suit, shall be presented to this Hon'ble Court with a request to make the same part of the record of the present suit.
12. In terms of the stipulations and undertakings set out above, the Plaintiff agrees and humbly prays it be allowed to withdraw the

present suit without any liberty to file a fresh suit upon the same cause of action. However, this shall not prevent the plaintiff from making necessary legal action or filing of a fresh suit in case the defendants failed to adhere to their undertakings and obligations as set out above.

13. The present Consent Terms are being executed (1) on behalf of the Plaintiff by its partner, Ms. Rintu Thomas, (2) on behalf of the Defendant No. 1, by himself, and (3) on behalf of the Defendant No. 2, by the Defendant No. 1 in his capacity as his constituted attorney of the Defendant No. 2.

Dated this 35th day of June, 2019.



For the Plaintiff
(Through its Partner Ms. Rintu Thomas)


Defendant No. 1
(Mr. Walter Philip)


Defendant No. 2
(SVD Jayachandran, through his constituted attorney, Mr. Walter Philip)


Advocate for the Plaintiff


Advocate for the Defendants

3. By these consent terms, defendant no.2 is also giving a power of attorney to plaintiff as recorded in the consent terms and also is assigning certain rights under the consent terms. The undertaking of plaintiff that they shall pay whatever stamp duty is

required if there is a deficiency, is accepted. If concerned authority finds that there is a deficiency in stamp duty, they are at liberty to impound the document, adjudicate and call upon plaintiff to pay the same. That will not preclude plaintiff from challenging any such adjudication order independently and in accordance with law.

4. Order in terms of consent terms. All undertakings accepted. All statements accepted as undertakings to this Court.

5. Suit disposed in terms of consent terms. Refund of court fees in accordance with Rules. All interim applications stand disposed. All interim orders stand vacated.

(K.R.SHRIRAM,J)