

C.S.No.797 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.11.2019

CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.S.No.797 of 2009 &

A.No.8683 of 2019

1. M/s.S.Ponnusamy Goundeer & Co.
A Partnership Firm
rep. by its Partner
Mr.N.Thiyagarajan

2. M/s.Sri Srinivasa & Co.
and also trading as
Sri Senniappa Rice and Oil Mill,
A Partnership Firm
Rep. by its Partner
Mr.N.Thiyagarajan

All the above firms at
Padiyandipalayampudur,
Veeranampalayam P.O.,
Kangayam - 638 701
Erode District.

... Plaintiffs

सत्यमेव जयते
Vs

M/s.Sri Balaji & Co.,
Muthu Modern Rice Mill,
Rep. by Mr.N.Muthusamy,
45 & 46,Palayakottai Road,
Kangayam 638 701.

... Defendant

Civil Suit filed under Order IV Rule 1 of O. S. Rules read with Order VII Rule 1 of CPC read with Sections 27, 28, 29, 134 and 135 of Trade Marks Act, 1999 for the following judgment and decree :

[i] A perpetual injunction restraining the defendant by himself/themselves, their men, servants, agents, distributors, stockists, representatives, partners, director or any of them from in any manner infringing the plaintiff's registered trademark 'SS' by use of the Trademark 'SS' and/or 'SSm' or any other mark deceptive to plaintiff's registered trademark or in any other manner whatsoever;

[ii] A perpetual injunction restraining the defendant by himself/themselves, their men, servants, agents, distributors, stockists representatives, partners, directors or any of them from in any manner passing off the plaintiff's trademark 'SS' by use of the trademark 'SS' or 'SSm' or any other manner whatsoever;

[iii] The defendants be ordered to surrender to the plaintiff for destruction all bags, labels, dies, blocks, moulds, screen prints, advertisement and promotional materials, packing materials and any other materials bearing the Trademark 'SS' and/or 'SSm' or any other mark deceptively similar to the plaintiff's Trademark.

[iv] A preliminary decree be passed favouring the plaintiff directing the defendant to render true account of profits made by the use of trademark 'SS'

and/or 'SSm' and final decree be passed in favour of the plaintiffs after the defendant have rendered accounts.

[v] A declaration to declare that the Trade Mark 'SS' belongs to the plaintiff absolutely and that the defendant has no manner of right, title or interest in the Trade Mark 'SS' and/or 'SSm' or any deceptively Trade Mark having retired from the plaintiff's firm who are originators and proprietors of the Trade Mark 'SS';

[vi] for cost of the suit.

For Plaintiffs : Mr.K.Rajasekaran

For defendant : Mr.Arun C Mohan

JUDGMENT

When the matter was taken up today, the learned counsel for the plaintiff and the defendants submitted that the parties have entered into Memo of Compromise and they have settled the matter as per the Memo of Compromise executed by the parties. One of the Partner Mr.N.Thiyagarajan of the plaintiffs and Mr.M.Sivaprakash, partner of the defendant company present. The learned counsel has also produced Memo of Compromise entered between parties. The learned counsel further submitted that the suit may be decreed in terms of the Memo of Compromise.

2. In view of the same, this suit is decreed in terms of the Memo of Compromise and the Memo of Compromise shall form part of the decree. The bag produced by the parties shall also be kept along with the records. Consequently, the connected application is closed. No cost. On an application filed by the plaintiff, the registry shall return the original documents filed in the suit to the plaintiff on substituting certified copies of the documents.

20.11.2019

vrc

Index : Yes/No

Internet : Yes/No

Speaking/Non-Speaking Order

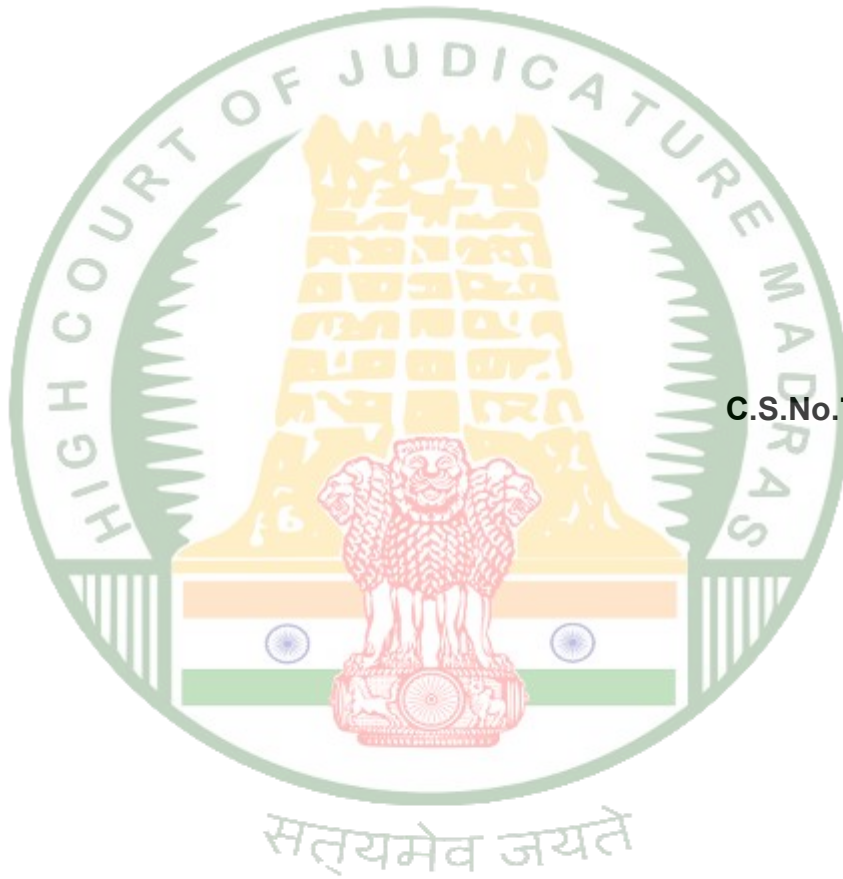


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N.SATHISH KUMAR, J.

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