

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.12.2019

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.S.No.518 of 2005

M/s.Lifestyle International Pvt.Ltd.,
"ASMA" building,
No.84, TTK Salai, Alwarpet,
Chennai-600 018.

.. Plaintiff

/versus/

M/s.Madharsha,
208, Purasaiwalkam High Road,
Chennai-7

.. Defendant

This Civil Suit is filed under Order IV Rule 1 Original Side Rules read with Order VII Rule 1 of CPC and under Sections 134 and 135 of the Trade Marks Act, 1999 and Sections 55 and 62 of the Copy Right Act, 1957 prayed for (a) Granting a permanent injunction restraining the defendant, his men, servants, agents, manufacturers, dealers, stockist or anyone claiming through or under him from, in any manner, infringing the plaintiff registered Trade Mark "LIFESTYLE" by using the offending Trade Mark "Madhar Sha LIFESTYLE" or any other mark or marks, which are similar or in any way deceptively similar to or a colourable imitation of the plaintiff's registered Trade Mark "LIFESTYLE", in respect of ready made garments, textile goods and other products dealt with by the plaintiff.

(b) Granting a permanent injunction restraining the defendant, his men, servants, agents, manufacturers, dealers, stockist or anyone claiming through or under them from, in any manner, infringing the plaintiff registered Trade Mark "LIFESTYLE" by using the offending Trade Mark "Madhar Sha LIFESTYLE" or any other mark or marks, which are similar or in any way deceptively similar to or a colourable imitation of the plaintiff's registered Trade Mark "LIFESTYLE".

(c) Granting a permanent injunction restraining the defendant, his men, servants, agents, manufacturers, dealers, stockist or anyone claiming through or under them from, in any manner passing off their ready made and textile goods as that of the plaintiff's by using the offending Trade Mark "LIFESTYLE" or by using any other Trade Mark which is similar or deceptively similar to that of the plaintiff's established trade mark "LIFESTYLE", either by selling or offering for sale or in any manner advertising the same.

(d) Directing the defendant to render a true and faithful account of the profits earned by them through the sale of ready made garments and textile goods bearing the offending trade mark "Madhar Sha LIFESTYLE" and directing payment of such profits to the plaintiff by way of damages for passing off committed by the defendant.

(e) Directing the defendant to surrender to the plaintiff the entire stock of unused offending goods with the Trade Mark "Madhar Sha LIFESTYLE" together with textile materials, cartons, labels, brochures, printing blocks, boxes, etc, bearing the offending Trade Mark for

destruction.

(f) Directing the defendant to pay the plaintiff the costs of the suit.

For plaintiff : Mr.S.Diwan
for APR Associates
For Defendant : Mr.S.A.Rajan

JUDGMENT

The learned counsel for the plaintiff is not ready.

2. The suit is of the year 2005. Even before framing issues, the parties have desited the Court for framing issues under the guise of reporting settlement. After several adjournments, this Court on 25.07.2011 has passed the following order:-

“Though the parties have taken several adjournments for reporting settlement, till date they are not in a position to arrive at a settlement and report the same. This Court is not inclined to prolong the case without any progress based on the said representation that they are making efforts to settle the matter. It at all the parties are to settle the matter and only in order to encourage them to effect a settlement. This court granted such an

adjournment. Now, this Court feels that the case is being protracted in the guise of reporting settlement. Therefore, this Court deems it fit to proceed with the framing of issues and the follow up procedure towards the disposal of the case”

3. Thereafter inspite of adjourning the matter on several occasions for the past eight years, the plaintiff had not taken any efforts to get along with the suit. When the matter was posted before the Master for recording evidence neither the learned counsel for the plaintiff present nor the plaintiff present. Hence the Master has posted the matter back to the Court vide order dated 15.11.2019. Thereafter, two adjournments were granted by the Court at request of the plaintiff under the guise of reporting settlement. Today, again the learned counsel for the plaintiff is not ready. Hence, this suit is dismissed for default. There shall be no order as to costs.

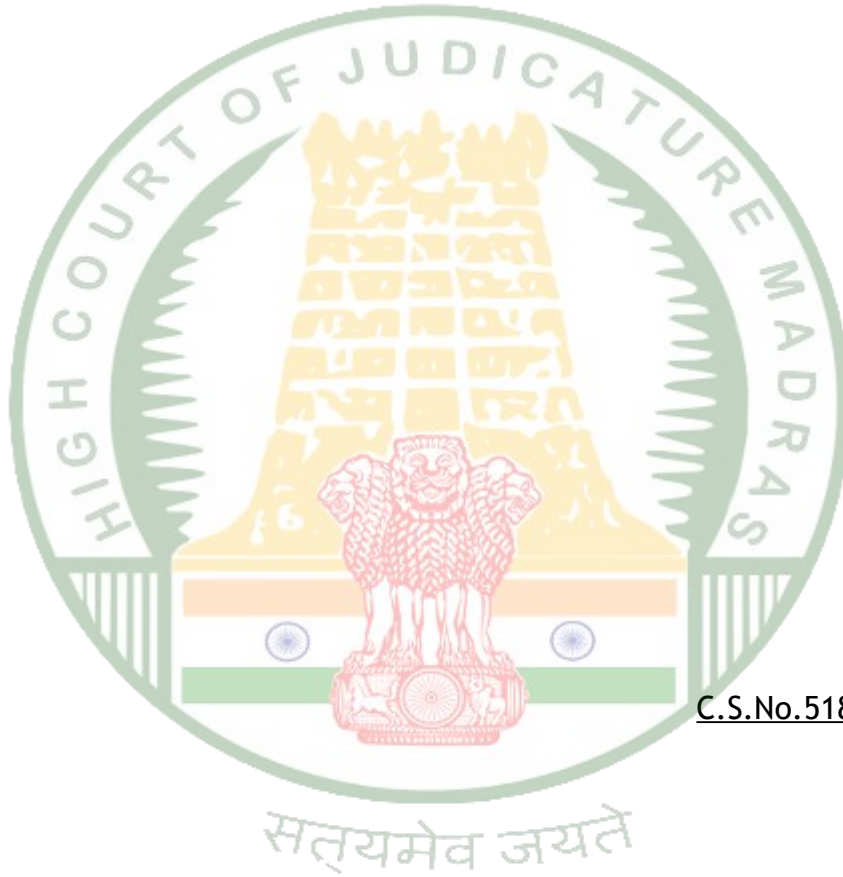
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Speaking Order / Non-Speaking Order
Index : yes/no
rpl

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Dr.G.JAYACHANDRAN,J.

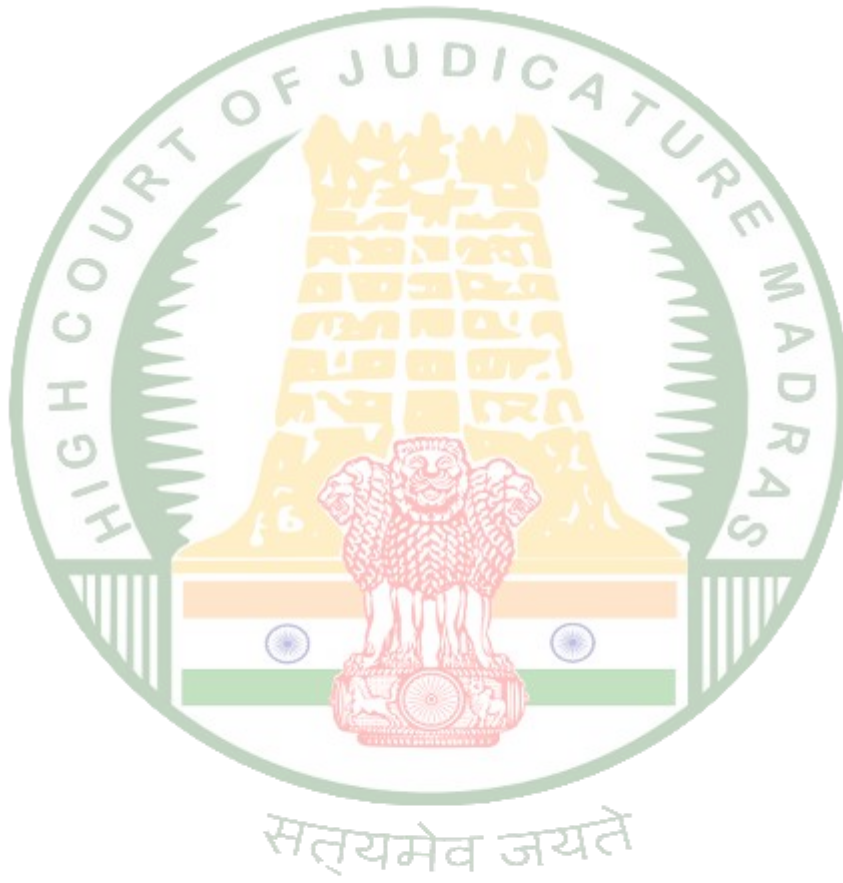
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