

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.08.2019

Coram

The Honourable Mr.Justice KRISHNAN RAMASAMY

C.S.No.690 of 2011

K.Venkateswara Rao,
Proprietor,
Carrying on business in the name
and style of KVR Institute
New.No.26, Old No.17A, Chari Street,
T.Nagar, Chennai – 600 017.

...Plaintiff

Versus

- 1.KVR English Coaching Centre
2nd Floor, SVR Complex
Beside Konark Theatre, Dilsukh Nagar
Hyderabad – 500 036.
2. K.Venkata Ramana
Author-SVR English Sub-Inspector Study Material
Director, KVR Spoken English
2nd Floor, SVR Complex, Beside Konar Theatre,
Dilsukh Nagar, Hyderabad – 500 036.
3. Thimma Reddy
Chairman. KVR English Coaching Centre
2nd Floor, SVR Complex, Beside Konar Theatre,
Dilsukh Nagar, Hyderabad – 500 036.
4. SVR Coaching Centre
Dawood Complex
Near SBI Main Branch
Easwar Nagar, Kurnool – 518 001.

...defendants

This Civil Suit is filed under Order VII Rule 1 of Civil Procedure Code
r/w. Order IV Rule 1 of High Court OS Rules and Sections 134 and 135 of

the Trademarks Act, 1999 for a judgment and decree, as against the defendants granting; a) Permanent injunction restraining the defendants, their men, agents, servants or any one claiming through them from in any manner infringing the plaintiff's trade name "KVR" by using the offending trademark "KVR" or any other trademark which is identical or deceptively similar to that of the plaintiff's trademark "KVR" in respect of Spoken English (Training), Computer Education (Training), Correspondence courses, Tuition, Academics (education), Education instruction services, education, arranging and conducting of workshops (training), publication of books, organisation of education competitions, teachings;

b) Permanent injunction restraining the defendants, their men, agents, servants or any one claiming through them from in any manner infringing the plaintiff's trade name "KVR" by using the offending trade mark "KVR" or any other trademark which is identical or deceptively similar to that of the plaintiff's trademark "KVR" in respect of Instructional and teaching materials, printed materials, newspapers and periodical books;

c) Permanent injunction restraining the defendants their men, agents, servants or any one claiming through them from in any manner passing off their services in respect of Spoken English (Training), Computer Education (Training), Correspondence courses, Tuition, Academics (education), Education instruction services, education, arranging and conducting of workshops (training), publication of books, organisation of education competitions, teachings of the defendant as that of the plaintiff's by using the offending trade mark "KVR" or any other trademark which is identical or deceptively similar to that of the plaintiff's trademark "KVR."

d) Permanent injunction restraining the defendants their men, agents, servants or any one claiming through them from in any manner passing off their goods in respect of Instructional and teaching materials, printed materials, newspapers and periodical books of the defendant as that of

the plaintiff's by using the offending trademark "KVR" or any other trademark which is identical or deceptively similar to that of the plaintiff's trademark "KVR."

e) Directing the defendants to surrender to the plaintiff the entire stocks of study and course materials with the offending trademark "KVR" or any other trade mark which is identical or deceptively similar to that of the plaintiff's Trademark "KVR."

f) Directing the defendants to render true and faithful accounts of the profits earned by them through educational services and study and course materials under the offending trademark "KVR" or any other trademark which is identical or deceptively similar to that of the plaintiff's Trademark "KVR" and directing the payment of such profits to the plaintiff.

g) Directing the defendants to pay the costs of the suit to the plaintiff.

For Plaintiff : Mr.A.Prabakara Reddy
for M/s.APR Associates
For defendants : Set ex parte

J U D G M E N T

The plaintiff has started and running Education Institute under the name and style of KVR Institute since 1990. The plaintiff is conducting various educational courses in particular spoken English Course by postal and direct coaching. The plaintiff has given extensive advertisements and more than 6 lakhs students joined in various courses conducted by the plaintiff and benefited. The plaintiff's popularity is very high and there is a high patronage from the public.

2. Today (02.08.2019), when the matter is taken up for hearing, the learned counsel for the plaintiff is present.

3. The learned counsel for the plaintiff has submitted that the plaintiff is using the trademark KVR in respect of study materials provided to the students joining in various courses offered by the plaintiff. He further submitted that the plaintiff is the absolute and exclusive proprietor of the trademark KVR used in respect of study materials prepared and offered by the plaintiff to the students for various levels and also the absolute and exclusive proprietor in respect of the educational services provided by the plaintiff under the trade name KVR.

4. He further submitted that the plaintiff has also applied for and obtained registration of the trademark KVR class 41 and 16 and obtained the separate registered one of the trademark KVR English Course under class 16. In this regard, the plaintiff has also filed and marked the registration of trademark certificates, which were marked as Exs.P1 to P3. Under these circumstances, the plaintiff came to know across a news item on 19.06.2011, in the Daily news paper "Sakshi" reading as follows:-

"On Saturday, Chief Minister Kiran Kumar Reddy inaugurated a book on Spoken English prepared by KVR firm. In this programme, KVR firm Director K.Venkata Ramana, Chairman Thimma Reddy and staff participated."

5. Thereafter immediately, the plaintiff has filed this suit against the defendants for infringement of the trademark.

6. The learned counsel for the plaintiff has contended that on previous occasions, the defendants had violated / infringed the trademark during the year 2007. He further submitted that when the infringement of the trade name KVR brought to the knowledge of the defendants, the defendants had issued an undertaking by way of letter dated 01.06.2007 and the same was marked as Ex.P4, wherein he has undertaken that they will not use the name KVR in the future, but in respect of undertaking in the year 2011, to the shock and surprise, the defendants started using the name of KVR and also released the books under the name and style of KVR. The plaintiff is carrying on the business at Chennai. Therefore, seeking action against the defendants for infringement of the trademark, the plaintiff has filed the present suit before this Court.

7. After the service of summons, the defendants failed to appear before this Court and all the defendants have set exparte. On behalf of the plaintiff, PW.1 has examined and Exs.P1 to P.6 have been marked and this Court also perused the averments in the plaint and the proof of affidavit and all the documents.

8. On a perusal of Exs.P1, P2 P3, this Court finds that the plaintiff has registered the trademark KVR. Further, this Court also perused the undertaking given by the defendants in Ex.P2 i.e., undertaking provided by the defendants, wherein they have stated that they will not use the trademark by name and style KVR Institute.

9. The learned counsel has also filed a typed set of papers wherein in page No.6 there was an advertisement for inauguration of Spoken English prepared by KVR firm, which was released by the Chief Minister of Andhra Pradesh by the defendants. Therefore, this Court finds that the defendant infringed the plaintiff's trade mark. Hence, the plaintiff is entitled to the relief as prayed for. Therefore, this suit is decreed as prayed for.

10. In the result, this suit is decreed as above with costs.

02.08.2019

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Index : Yes/No

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KRISHNAN RAMASAMY, J.,
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