

IN THE HIGH COURT OF JUDICATURE AT MADRAS**Dated : 05.07.2019****Coram****The Honourable Mr.Justice KRISHNAN RAMASAMY****C.S.No.728 of 2011**

Bharati Life Sciences Pvt. Ltd.,
"Jamals Sonu Terrace",
No.42/1, Basement Floor,
Loganathan Nagar,
1st Street, Choolaimedu,
Chennai - 600 094.
Rep. by its Manager - Purchase
Mr.Prasath

...Plaintiff

Versus

Riseon Remedies India Pvt. Ltd.,
New No.16, Old No.8, First Main Road,
Kalaimagal Nagar,
Ekkattuthangal,
Chennai - 600 032.

...Defendant

This suit is filed under Order VII Rule 1 of CPC r/w. Section 27, 28, 29, 134 & 135 of the Trade Marks Act, 1999 r/w. Order IV Rule 1 of Original Side Rules for the following reliefs:

(a) to grant a permanent injunction restraining the defendant, their proprietor, partner, distributors, stockists, servants, agents, retailers, representatives or any other person or persons claiming from or under him or them from in any manner manufacturing, selling, offering for sale, stocking, advertising directly or indirectly

dealing in Medicinal Products under the trademark ACENAL MR or any other trademark which is identical or deceptively similar to the plaintiff's trademark ACENAL SR, ACENAL - P, ACENAL 100 so as to pass off defendant's goods as and for that of the plaintiff or that the defendant is in any manner whatsoever connected with the plaintiff.

(b) to grant a permanent injunction restraining the defendant, their proprietors, partner, distributor, stockists, servants, agents, retailers, representatives, or any other person or persons claiming from or under him or them from in any manner manufacturing, selling, offering for sale, stocking, advertising directly or indirectly dealing in Medicinal Products under the trademark ACENAL MR or any other trademark which is identical or deceptively similar to the plaintiff's trademark ACENAL SR, ACENAL - P, ACENAL 100 registered under No.1688690, 1688691, 1688693 in Class - 5 in respect of Medicinal and Pharmaceutical preparation so as to infringe the plaintiff's registered trademark ACENAL SR, ACENAL - P, ACENAL 100 registered under No.1688690, 1688691, 1688693 in Class - 5;

(c) to direct the defendant to deliver up for destruction, to the plaintiff, of the preparations, dies, blocks, articles, literatures, advertisements, cartons, labels, papers and all other things bearing and containing the trademark ACENAL MR to the authorized representative of the plaintiff for destruction;

(d) to pass a preliminary decree in favour of the plaintiff directing the defendant to render accounts to profits made by the defendant by use of the impugned trademark ACENAL MR or any other marks thereof which is identical to or deceptively similar to plaintiff's trademark ACENAL SR, ACENAL - P, ACENAL 100 which will cause confusion or deception among the trade and public and a

final decree be passed in favour of the plaintiff by directing the defendant to pay amounts of such profits found to have been earned by the defendant, after the latter have rendered accounts,

(e) to direct the defendant to pay to the plaintiff a sum of Rs.1,00,000/- as damages for infringing and passing off the plaintiff's trademark;

(f) to direct the defendant to pay costs of this suit and

For Plaintiff : No appearance

For Defendant : No appearance

J U D G M E N T

When the matter was called on 03.07.2019, there was no representation on both sides. Hence, the matter was directed to be listed under the caption, "For Dismissal" on 05.07.2019 i.e., today.

2. Accordingly, today, the case is listed under the caption, "For Dismissal". Even today, when the matter is called, there is no representation on both sides. Therefore, this Civil Suit is dismissed for non-prosecution. No costs.

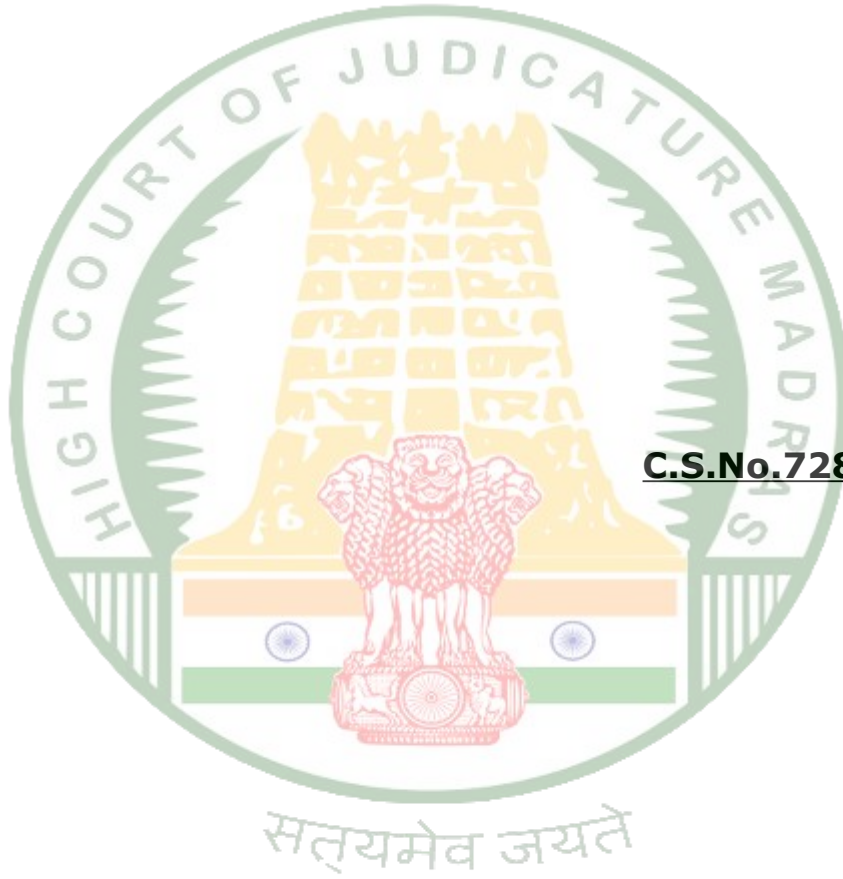
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Index : Yes/No

KRISHNAN RAMASAMY, J.,

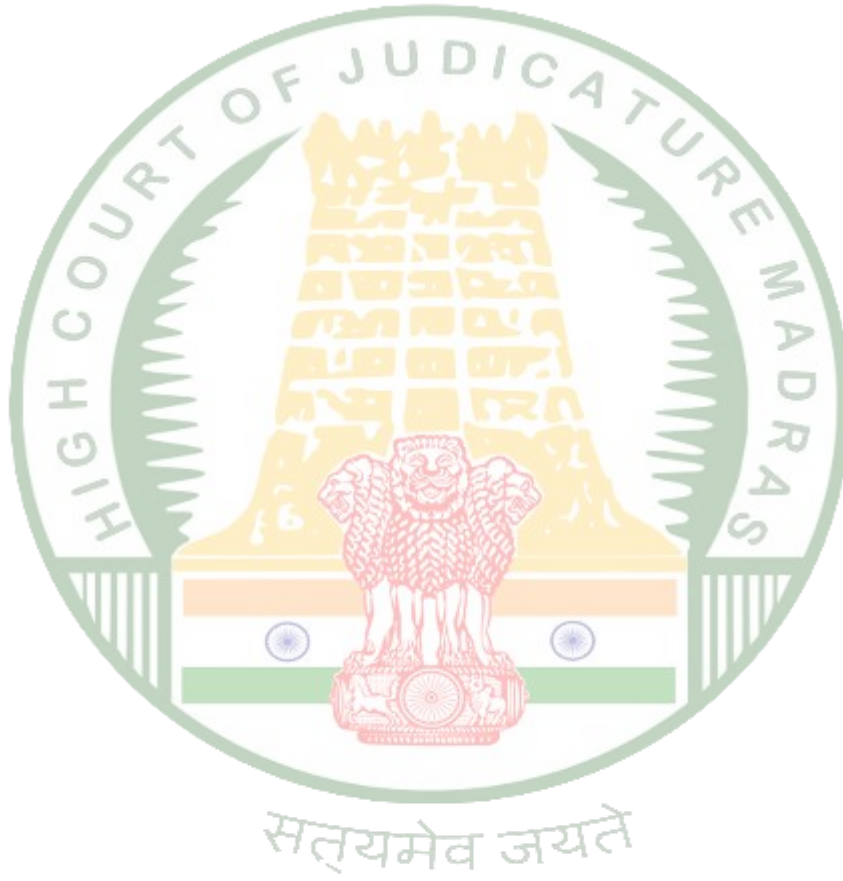
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