

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.09.2019

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The Honourable Mr.Justice N.SATHISH KUMAR

**C.S.No.636 of 2012
and O.A.No.828 of 2012
and A.No.4406 of 2012**

1.Ambadi Enterprises Limited,
5th Floor Parry House,
43, Moore Street,
Parrys,
Chennai – 600 001.
Represented by
Mr.S.Mohan,
G.M.Finance Ambadi Enterprises Limited

2.Parry Murray & Co. Ltd.
Third Floor, simpson House,
6 Cherry Orchard Road,
Croydon, CRO 6BA,
United Kingdom
Represented by
Mr.Ajit Kumar,
CEO – Parry Murray & Co. Ltd.

...Plaintiffs

Versus

1.Cannanore Home Furnishings
Step Road, P.O.Narath
Cannanore – 670 603.
Kerala, India
Represented by its Proprietress Ms.V.Roshitha
(Amended as per order dated 29.08.2013, made in Application No.3740/2013)
Having Office at Step Road, P.O.Narath
Cannanore – 670 603,
Kerala, India.

2.Mr.V.Raveendran,
Proprietor & Director – Sales & Marketing,
Cannanore Home Furnishins
Having Office at Step Road, P.O.Narath,
Cannanore – 670 603,
Kerala, India.

3.Mr.K.Jayarajan,
Sales & Marketing Cannanore Home Furnishings
Having Office at Step Road, P.O.Narath,
Cannanore – 670 603,
Kerala, India.

4.Ms.V.Roshitha
Proprietress
Having Office at Step Road, P.O.Narath,
Cannanore – 670 603,
Kerala, India

...Defendants

(Fourth defendant was impleaded as per the order dated 29.08.2013, passed in Application No.3737 of 2013 dated 04.09.2013)

This suit is filed under Order VII Rule 1 of C.P.C read with Order IV Rule 1 of O.S.Rules & Section 22 of the Designs Act, 2000 for the following reliefs:

(a) A permanent injunction restraining the defendants by themselves, or their men, servants, agents, promoters, representatives, stockists, retailers, or any one claiming through them from in any manner whatsoever infringing upon or using the "STANHOPE" design or a fraudulent imitation of the "STANHOPE" design on their products or selling or marketing any product bearing the "STANHOPE" design or a fraudulent imitation of the "STANHOPE" design.

(b) A permanent injunction restraining the defendants by themselves, or their men, servants, agents, promoters, representatives, stockists, retailers, or any one claiming through them from in any manner whatsoever passing off their pirated products as that of the plaintiffs';

(c) A preliminary decree be passed in favour of the plaintiffs

directing the defendants to render account of profits made by infringing on the plaintiffs' registered "STANHOPE" design and passing off their products as those of the plaintiffs' and a final decree be passed in favour of the plaintiffs for the amount of profits thus found to have been made by the defendants after the latter have rendered accounts;

(d) A direction to the defendants to surrender on oath to the plaintiffs for destruction all materials bearing the plaintiffs' "STANHOPE" design or any design deceptively similar to plaintiffs' "STANHOPE" design.

(e) Costs of the suit.

For Plaintiffs : Mr.Pranavacharan

For Defendants : Ms.Selvi Rajesh

J U D G M E N T

The learned counsel appearing for the defendants submitted in paragraph Nos.7 & 8 of the written statement, the defendants undertook that they will not deal with the plaintiffs' design "STANHOPE" in any way; they have no stocks whatsoever relating to the plaintiffs' design "STANHOPE" and they further assured that they will never infringe the plaintiffs' design "STANHOPE" in future.

2. The learned counsel for the plaintiffs prayed that the suit may be decreed in terms of the submission made by the defendants' counsel and the said submission may be recorded by this Court.

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3. The submission made by the defendants' counsel is recorded.

4. In view of the submission made by the plaintiffs' counsel, this Court is inclined to decree the suit in respect of prayer (a), (b), (d) & (e), however, as far as prayer (c) is concerned, the suit is liable to be dismissed. Accordingly, this Civil Suit is decreed as prayed for, in respect of prayer (a), (b), (d) & (e), whereas, the same is dismissed in respect of prayer (c). Consequently, connected Applications are closed.

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Index : Yes/No

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