

IN THE HIGH COURT OF JUDICATURE AT MADRAS**Dated : 22.07.2019****Coram****The Honourable Mr.Justice KRISHNAN RAMASAMY****C.S.No.126 of 2015
and O.A.Nos.184 & 185 of 2015**

M/s.Designo Lifestyle Solutions Private Ltd.,
Old No.9, New No.15, 1st Floor,
Khader Nawaz Khan Road,
Nungambakkam, Chennai – 600 006.
represented by its Director,
Mr.R.Ramakrishnan

...Plaintiff


Versus

Dhiman Overseas Marketing,
C-18, Mansarover Garden,
Kirti Nagar,
New Delhi – 110 015.

...Defendant

This Civil Suit is filed under Order IV Rule 1 of O.S.Rules and Order VII Rule 1 of C.P.C r/w. Sections 27, 28, 29, 134 & 135 of the Trademarks Act, 1999 for the following reliefs:

(a) a perpetual injunction restraining the defendant, by themselves, their proprietor/partners/directors as the case may be, men, servants, agents, dealers, distributors, stockists, wholesalers, retailers, representatives or any one claiming under

them from in any manner infringing the plaintiff's registered trademark SO FA SO GOOD by use of an identical trademark SOFAS SO GOOD or any other mark similar to plaintiff's registered trademark or in any other manner whatsoever;

(b) a perpetual injunction restraining the defendant, by themselves, their proprietor/partners/directors as the case may be, men, servants, agents, dealers, distributors, stockists, wholesalers, retailers, representatives, or any one claiming under them from in any manner passing off and enabling others to pass off the defendant's furniture as and for the plaintiff's furniture by use of the trademark SOFAS SO GOOD or any other mark identical or deceptively similar to the plaintiff's trademark SO FA SO GOOD in any manner whatsoever;

(c) the defendant be ordered and decreed to pay to the plaintiff a sum of Rs.10,00,000/- as damages for acts of infringement of trademark and passing off committed by the defendant by manufacture, market and sale of sofas, furniture bearing the trademark SOFAS SO GOOD;

(d) the defendant be ordered to surrender to plaintiff for destruction of all materials bearing the trademark SOFAS SO GOOD or any trademark similar to plaintiff's trademark SO FA SO GOOD;

(e) a preliminary decree be passed in favour of the plaintiff directing the defendant to render account of profits made by use of trademark SOFAS SO GOOD and a final decree be passed in favour of the plaintiff for the amount of profits thus found to have

been made by the defendant after the latter have rendered accounts; and

(f) for costs.

For Plaintiff : Mr.Arun C.Mohan

For Defendant : No Appearance

J U D G M E N T

The present suit has been filed by the plaintiff for the reliefs stated in the prayer portion of this Judgement.

2. Mr.Arun C.Mohan, learned counsel for plaintiff submitted that the matter has been settled between the parties and he has also filed a Memo of Compromise dated 13.06.2016, entered into between the plaintiff and the defendant, before this Court. He therefore prayed that the suit may be decreed in terms of the said Memo of Compromise and the same may be recorded.

3. The said Memorandum of Compromise reads as follows:

"The terms plaintiff and defendant shall mean and include their heirs, executors, administrators, successors and assigns of each party.

1. The defendant agrees and acknowledges that the

plaintiff is the registered proprietor of the trademark SO FA SO GOOD and has exclusive statutory rights by virtue of registration and proprietary rights on account of prior, long and extensive use of the trademark SO FA SO GOOD to the exclusion of others.

2. The defendant submits a judgment and decree as prayed for in terms of prayer (a) & (b) of the para 20 of the plaint as follows:

(a) a perpetual injunction restraining the defendant, by themselves, their proprietor/partners/directors as the case may be, men, servants, agents, dealers, distributors, stockists, wholesalers, retailers, representatives or any one claiming under them from in any manner infringing the plaintiff's registered trademark SO FA SO GOOD by use of an identical trademark SOFAS SO GOOD or any other mark similar to plaintiff's registered trademark or in any other manners whatsoever;

(b) a perpetual injunction restraining the defendant, by themselves, their proprietor/partners, directors as the case may be, men, servants, agents, dealers, distributors, stockists, wholesalers, retailers, representatives, or any one claiming under them from in any manner passing off and enabling others to pass off the defendant's furniture as and for the plaintiff's furniture by use of the trademark SOFAS SO GOOD or any other mark identical or deceptively similar to the plaintiff's trademark SO FA SO GOOD in any manner whatsoever;

3. The defendant further agrees and undertakes that they would not manufacture, market, use, sell, distribute, export, or in any manner deal with the mark SOFAS SO GOOD or any mark similar to plaintiff's registered trademark SO FA SO GOOD in respect of their articles made of leather and furniture. The defendant further undertakes to destroy all empty packaging materials, brochures, leaflets, pamphlets, hand bills, hoardings, wall posters, calenders, carry bags, stationery items and such other sales promotional materials bearing the impugned trademark SOFAS SO GOOD.

4. On the basis of above, the plaintiff agrees to give up the reliefs of rendition of accounts and damages claimed by them in para 20 (c), (d), (e) & (f) of the plaint as against the said defendant subject to the conditions as aforesaid.

5. The defendant agrees that in the event of breach/violation of all or any of the clauses of this memorandum of compromise, the plaintiff shall be at liberty to move appropriate applications for breach of undertaking before this Court.

6. The parties shall bear their own costs."

4. The above Memo of Compromise is recorded and the same shall form part of the decree.

KRISHNAN RAMASAMY, J.,

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5. Considering the submission made by the plaintiff's counsel, this Court is inclined to decree the suit in terms of the said Memo of Compromise. Accordingly, this Civil Suit is decreed in terms of the Memo of Compromise filed by plaintiff's counsel with a liberty to the plaintiff to file appropriate Applications, in the event of breach/violation of all or any of the clauses of this Memorandum of Compromise by the defendant. No costs. Consequently, connected Applications are closed.

22.07.2019

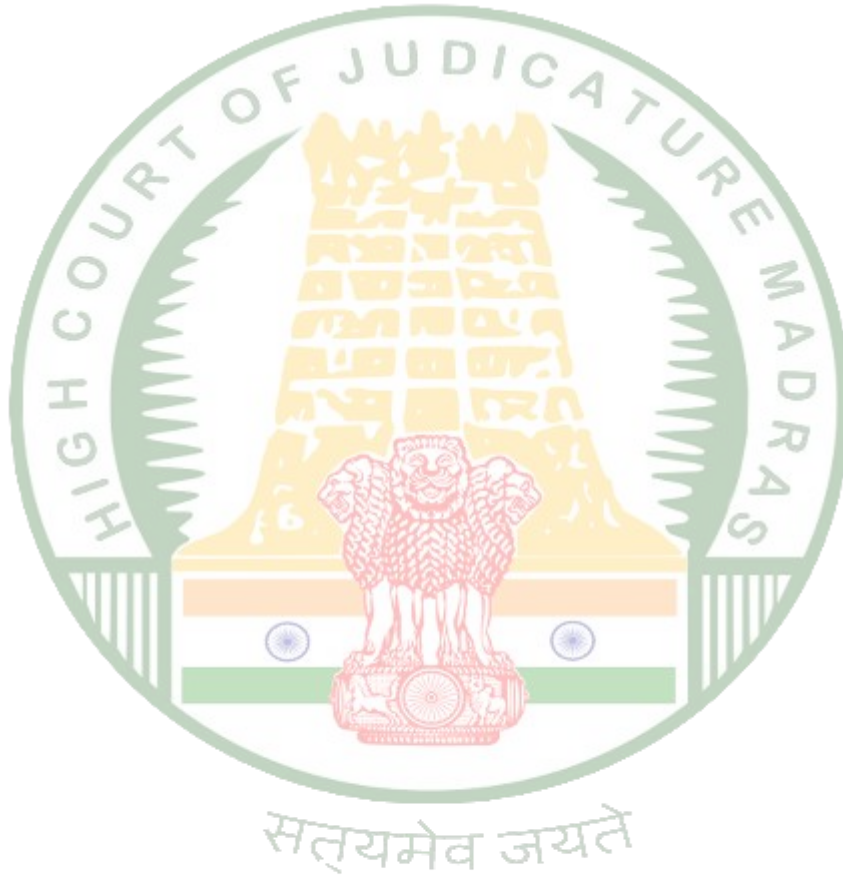
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Index : Yes/No

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