

HIGH COURT OF JUDICATURE AT MADRAS**DATED : 03.07.2019****CORAM :****THE HONOURABLE Mr.JUSTICE KRISHNAN RAMASAMY****C.S.No.146 of 2015
and
OA.Nos.201 and 202 of 2015**

Texmo Industries,
Registered Partnership firm,
Represented by its Constituted Attorney Mr.Palaniappan,
P.B.No.5303, Mettupalayam Road,
Coimbatore. ... Plaintiff

..Vs..

1. Rambhai Hargovandhas Patel,
Harikrupa Industries,
5/A, Mahasakthi Industrial Estate,
Behind Sonia Ciramics, Anil Road, Naroda Road,
Ahmedabad-380025, Gujarat.
2. Baldavbhai Rambhai Patel,
Harikrupa Industries,
5/A, Mahasakthi Industrial Estate,
Behind Sonia Ciramics, Anil Road, Naroda Road,
Ahmedabad-380025, Gujarat.
3. Jiviben Rambhai Patel,
Harikrupa Industries,
5/A, Mahasakthi Industrial Estate,
Behind Sonia Ciramics, Anil Road,
Naroda Road, Ahmedabad-380025,

Gujarat.

4. Jigneshbhai Rambhai Patel,
Harikrupa Industries,
5/A, Mahasakthi Industrial Estate,
Behind Sonia Ciramics, Anil Road,
Naroda Road, Ahmedabad-380025,
Gujarat.

5. Mukeshbhai Baldevbhai Patel,
Harikrupa Industries,
5/A, Mahasakthi Industrial Estate,
Behind Sonia Ciramics, Anil Road,
Naroda Road, Ahmedabad-380025,
Gujarat.

6. Harikrupa Industries,
a partnership firm, represented by its partner,
Rambhai Hargovandhas Patel,
5/A, Mahasakthi Industrial Estate,
Behind Sonia Ciramics, Anil Road,
Naroda Road, Ahmedabad-380025,
Gurajat

... Defendants

Suit filed under order VII RULE 1 CPC Read with Order IV Rule 1 of the O.S.Rules of the Madras High Court, and Sections 11,27, 29, 134, 135 Trade Marks Act, 1999 praying for a judgment and decree **(A)** Permanent injunction restraining the Defendants 1 to 6, their directors, employees, officers, servants, agents and all others acting for and on their behalf from making, selling distributing, advertising, exporting, offering for sale, and in any other manner, directly or indirectly, dealing in any product in the name of TEXNO or any other similar mark amounting to an infringement of the Plaintiff's registered

trademarks Nos.315049, 315050, 794417, 794418, 794425, 794426, 794432, 794434, 794436, 794451, 794464 & 794465 **(B)** A Permanent injunction restraining the Defendant, its officers, employees, servants and agents, from manufacturing, selling, offering for sale, advertising and directly or indirectly dealing in any product or service under the trademark TEXNO or any other similar marks amounting to passing off of the products and services of the defendants as and for that of the Plaintiff's mark TEXMO & TEXMO INDUSTRIES. **(C)** To declare the Plaintiff's trademark TEXMO as a well known Trade Mark; **(D)** To grant order of delivery up of any brochures/printed material and/or any material which infringes of plaintiffs' registered trademarks TEXMO; **(E)** To direct the defendants for rendition of accounts in respect of their alleged activities especially sale and promotion of products bearing the mark TEXMO and TEXMO INDUSTRIES for their goods and business; **(F)** Costs and such other relief as this Hon'ble Court may deem fit, in the circumstances of the case, in the interests of justice and equity.

For Plaintiff

: Mr.M.S.Bharath

JUDGMENT

When the matter is taken up for hearing, a Joint Memo of compromise dated 08.06.2019 has been filed on behalf of both the parties. The said Memo has been duly signed by both the parties and attested by their respective counsels. The terms of the Memo of

Compromise reads as under:

"3. Pursuant to court notices issued to the Defendants, they have agreed to cease and desist from using the mark 'TEXNO' or any other similar name in any manner.

4. The Defendants agree and acknowledge that the plaintiff is the registered proprietor of the well-known trademark 'TEXMO' as detailed below and has exclusive statutory rights by virtue of such registrations and proprietary and common law rights on account of prior, long and extensive use of trademark 'TEXMO' and 'TEXMO INDUSTRIES' to the exclusion of others

S.NO.	TRADEMARK	FILING YEAR	TM.NO. & CLASS	STATUS
1.	TEXMO	1998	794425 in class 2	Registered
2.	TEXMO	1976	315049 in class 7	Registered
3.	TEXMO	1976	315050 in class 7	Registered
4.	T E X M O	1998	794426 in class 11	Registered
5.	TEXMO	1998	794451 in class 11	Registered
6.	TEXMO	1998	794432 in class 22	Registered
7.	TEXMO	1998	794436 in class 23	Registered
8.	TEXMO	1998	794464 in class 23	Registered
9.	TEXMO	1998	794434 in class 24	Registered
10.	T E X M O	1998	794465 in class 25	Registered
11.	TEXMO	1998	794417 in class 25	Registered
12.	TEXMO	1998	794418 in class 26	Registered

5. The defendants agree and

undertake that they shall not use 'TEXNO' or any other mark similar thereto as a trademark, name, business name or in any other manner, in relation to any of their products, services and business, present or future.

6. The defendants' trademark 'TEXNO' filed under Application No.2027977 also stands abandoned as on date and the defendants confirm that no fresh trademark application in respect of the said mark or any mark similar to the plaintiff's trademark 'TEXMO' has been preferred by them.

7. The Defendants agree and undertake that they shall not use 'TEXNO' or any other mark similar thereto in any of their advertising/marketing/promotional material in any form or domain, including hoardings, letter heads, invoices or any other material used in respect of their business.

8. The defendants submit to the judgment and decree as prayed for in terms of Prayer 64 (A) and (B).

9. All the aforesaid undertaking will be binding henceforth on the said defendants, their directors, partners, successors-in-business, legal representatives and assignees.

10. It is therefore humbly prayed that the present memorandum of compromise may be recorded and a decree in terms of paragraphs 64(A) and (B) of the Plaint may be passed in favour of the Plaintiff and against the defendants by this Hon'ble Court, incorporating the terms of the settlement as a part thereof.

11. Should the defendants be found to be in breach or violation of the present

Memorandum of Compromise at any future date, they agree to be liable to pay a sum of Rs.5,00,000/- (Rupees Five Lakhs only) as liquidated damages and such other amount as may be calculated as unliquidated damages to the Plaintiff.

12. Subject to the aforesaid express undertaking by the defendants, the plaintiff agrees to give up the other reliefs, i.e, Prayers 64 (C), (D), (E), & (F), claimed by them in the plaint."

2. The learned counsel appearing on either side has submitted that the suit may be decreed in terms of Memo of Compromise. In the said Memorandum of compromise, it is stated that the suit may be decreed in respect of prayers A and B and the plaintiff has given up the others reliefs in Paragraphs (C), (D), (E), & (F).

3. It is represented that the second Defendant passed away and in respect of which a death certificate has been filed before this Court.

4. In view of the same, this suit is dismissed as against the second defendant, as abated.

5. Insofar as other defendants are concerned, recording the Joint Memo of Compromise dated 08.06.2019, this suit is decreed in terms of Joint Memo of Compromise. The Joint Memo of Compromise shall form part of the decree. No costs. Consequently, connected Applications stands closed.

03.07.2019

arr
Index:Yes/No
Internet:Yes/No



WEB COPY

KRISHNAN RAMASAMY, J

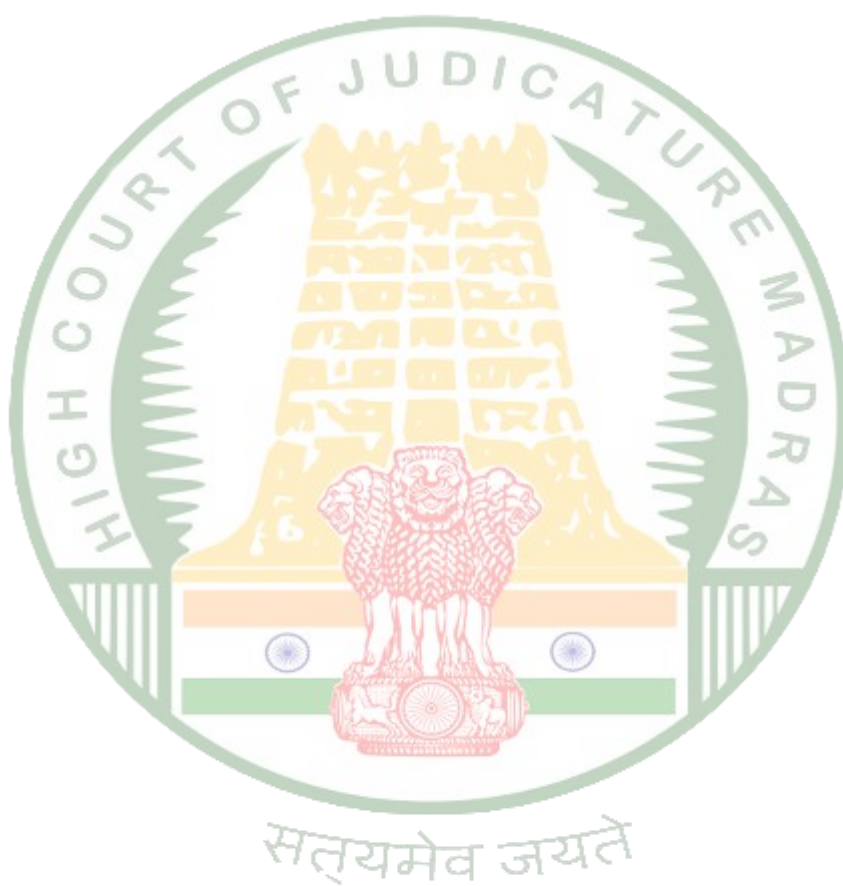
arr



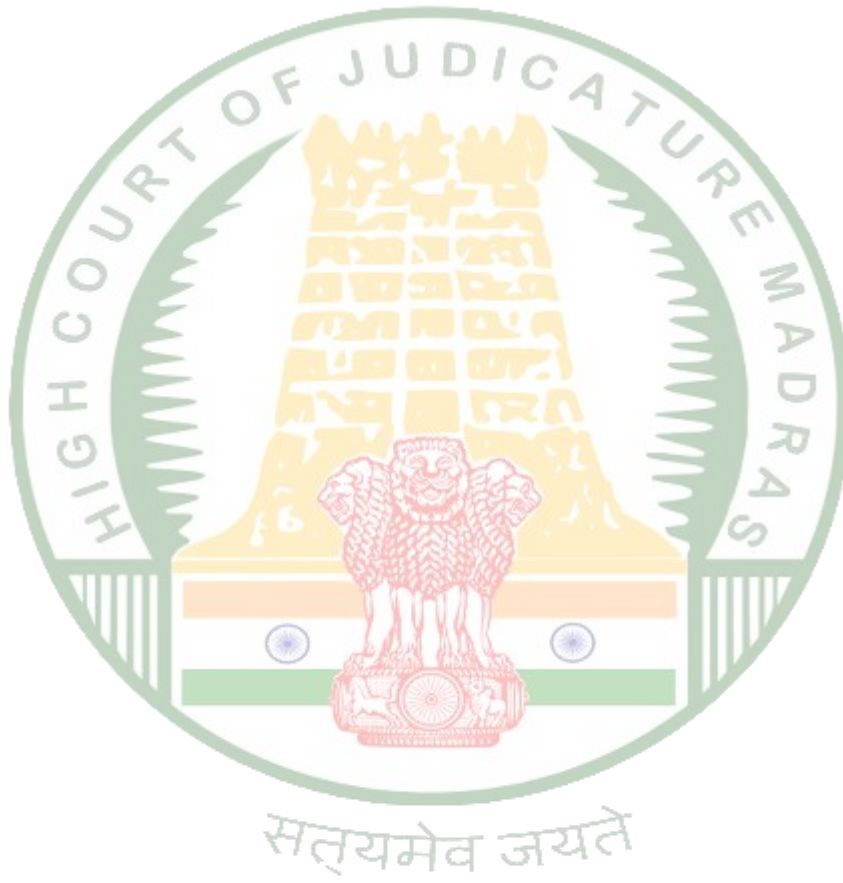
**C.S.No.146 of 2015
and
OA.Nos.201 and 202 of 2015**

WEB COPY

03.07.2019



WEB COPY



WEB COPY