

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 30TH DAY OF AUGUST 2019

THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

C.S.No.67 of 2015

Mr.A.Manickavel,
trading as
Bharathi Soap Works,
No.38, Bhavani Ellaiamman Koil Street,
Otteri, Chennai 600 012 ...Plaintiff

-vs-

Mr.Battula Narasimhulu
trading as Vasavi Industries
Plot No.817, Prashant Nagar,
Vanasthalipuram,
Hyderabad 500 070
State of Telangana
(Formerly State of Andhra Pradesh) ...Defendant

This Civil Suit praying that this Honble Court be
pleased to :

a) a permanent injunction restraining the defendant by
themselves, their directors, partners, legal representatives,
successors in business, assigns, servants, agents, transporters,
distributors, printers, stockists, wholesalers, dealers,
retailers or any one claiming through or under them
from infringing plaintiffs registered trade mark SILVER FOAM XXX

Label/pouch by manufacturing, distributing, marketing, selling, offering for sale, advertising or in any other manner dealing in detergent cake, washing powder etc., or any other product bearing the deceptively similar trademark SUPER FOME XL and identical package, wrapper, container, carton label with colour scheme, getup, layout which are similar to plaintiffs registered trade mark SILVER FOAM XXX label/pouch in any manner whatsoever:

(b) a permanent injunction restraining the defendant by themselves, their directors, partners, their legal representatives, successors in business, assigns, servants, agents, transporters, distributors, printers, stockists, wholesalers, dealers, retailers or any one claiming through or under them from committing acts of copyright infringement by making substantial reproduction of the plaintiffs registered copy right in the artistic work SILVER FOAM XXX LABEL by use of identical colour scheme of red, white and yellow with blue background for their SUPER FOME XL package/wrapper or in any manner whatsoever.

(c) a permanent injunction restraining the defendant by themselves, their directors, partners, legal representatives, successors in business assigns, servants, agents, transporters, distributors, printers, stockists, wholesalers, dealers, retailers, advertisers or any one claiming through or under them from committing acts of passing off and enabling others to pass off by manufacturing, distributing, marketing, selling, offering

bearing the deceptively similar trade mark SUPER FOME XL and identical package, wrapper, container, carton, label with colour scheme, getup, layout which are similar to plaintiffs trade dress & get up in SILVER FOAM XXX package/wrapper in any manner whatsoever.

(d) The defendant be ordered to surrender to the plaintiffs for destruction, all containers, pouches, prints, dies, blocks, moulds and plates, screen prints, packing and advertising material and any other material in their possession, bearing the mark SUPER FOME XL which is a substantial reproduction of the plaintiffs trade dress & get up and copyright in the artistic work SILVER FOAM XXX package/wrapper.

(e) a preliminary decree be passed in favour of the plaintiff directing the Defendant to render account of profits made by use of trade mark SUPER FOME XL label and the identical artistic work therein and 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:

(f) the defendant be ordered to pay to the plaintiff a sum of Rs.1,00,000/- as damages for their wrongful and illegal activities by use of trademark SUPER FOME XL label and artistic work therein.

(g) for costs of the suit.

This Civil Suit coming on this day before this Court for hearing the court made the following order:

<https://hcservices.ecourts.gov.in/hcservices/>

When this matter was listed before the learned Additional Master, it was represented by the learned counsel for the

Plaintiff that they are going to file application to file additional documents and requested to post the matter before this Court. On the request of the learned counsel for the Plaintiff, this matter has been listed today before this Court.

2. Today, when the matter is taken up for hearing the learned counsel for the Plaintiff would submit that they are not going to file any application for marking additional documents and requested this Court to post this matter before the learned Additional Master for recording exparte evidence.

3. In view of the same, Registry is directed to post this matter before the learned Additional Master II for recording exparte evidence on 05.09.2019 and the same shall be completed on or before 13.09.2019. In any case, if the plaintiff is not available before the learned Additional Master II on the next hearing date, he shall pay a cost of Rs.5,000/- (Rupees Five Thousand only) to the Chief Justice Relief Fund.

4. After completion of exparte evidence, post the matter before this Court on 13.09.2019.

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Sd/.K.R.J

30.08.2019

//Certified to be a true copy//

Dated this the day of 2019.