

C.S.No.885 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.09.2019

CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.S.No.885 of 2013 &

O.A.Nos.49 to 51 of 2014 & 432 of 2014

M/s.Mothi Textiles,
194, Gandhi Road,
Surampatti, Erode – 9
and also at

Jains Kences Retreat, No.15, Reddy Street,
Block No.1, 4th Floor, Virugambakkam,
Chennai – 600 092.

.. Plaintiff

Vs.

P.Sivasamy,
Trading as Muthulakshmi Mills,
No.2, Sengunthapuram,
11th Cross, Vivekananda Nagar,
Karur – 2.

.. Defendants

Civil Suit filed under Order VII Rule 1 CPC read with Order IV Rule 1 of
Original Side Rules read with Sections 27, 28, 29, 134 & 135 of Trade Marks Act
and Sections 51, 55 and 62 of the Copyright Act 1957 of the Commercial Courts
Act, 2015 and Sections 55 and 62 of Copyright Act 1957 praying for the following
judgment and decree :

a) For a permanent injunction restraining the defendants by himself, his men, servants, agents, distributors, stockists, representatives or any one claiming through them from in manner infringing the plaintiff's registered trademark under No.454606 in class 24 by using the trademark MUTHU or any other mark deceptively similar to the plaintiffs' registered trademark MOTHU or in any other manner whatsoever;

b) For a permanent injunction restraining the defendants by himself, his men, servants, agents, distributors, stockists, representatives or any one claiming through them from in manner passing off and/or enabling others to pass off the defendants products as and for the plaintiffs' products by manufacturing, selling, or offering to sell, distributing, displaying, printing, stocking, using, advertising products bearing trademark MUTHU or any other mark deceptively similar to the plaintiffs' registered trademark MOTHU or in any other manner whatsoever;

c) For a permanent injunction restraining the defendants by himself, his men, servants, agents, distributors, stockists, representatives or any one claiming through them from in manner committing acts of copyright infringement by using, marketing and publishing the MUTHU labels which is a substantial reproduction of plaintiffs' MOTHU towel labels registered under No.A-14103/75,

under A-35687/82, under No.A-56907/85 in similar colour scheme, get up and layout or in any other manner whatsoever;

d) the defendants be ordered to surrender to plaintiffs for destruction of all products, labels, dyes, blocks, moulds, screen prints, packing materials and other materials bearing the trade mark MUTHU or any mark deceptively similar to plaintiffs' trademark and artistic work MOTHU.

e) a preliminary decree be passed in favour of plaintiffs directing the defendant to render account of profits made by use of Trademark and copyright in the artistic work MUTHU 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;

f) for costs of the suit.

For Plaintiff : Mr.R.Sathish Kumar

For defendant : Mr.Niranjana T.G.

JUDGMENT

सत्यमेव जयते

The suit has been filed for the following reliefs :

a) For a permanent injunction restraining the defendants by himself, his men, servants, agents, distributors, stockists, representatives or any one

claiming through them from in manner infringing the plaintiff's registered trademark under No.454606 in class 24 by using the trademark MUTHU or any other mark deceptively similar to the plaintiffs' registered trademark MOTHU or in any other manner whatsoever;

b) For a permanent injunction restraining the defendants by himself, his men, servants, agents, distributors, stockists, representatives or any one claiming through them from in manner passing off and/or enabling others to pass off the defendants products as and for the plaintiffs' products by manufacturing, selling, or offering to sell, distributing, displaying, printing, stocking, using, advertising products bearing trademark MUTHU or any other mark deceptively similar to the plaintiffs' registered trademark MOTHU or in any other manner whatsoever;

c) For a permanent injunction restraining the defendants by himself, his men, servants, agents, distributors, stockists, representatives or any one claiming through them from in manner committing acts of copyright infringement by using, marketing and publishing the MUTHU labels which is a substantial reproduction of plaintiffs' MOTHU towel labels registered under No.A-14103/75, under A-35687/82, under No.A-56907/85 in similar colour scheme, get up and layout or in any other manner whatsoever;

d) the defendants be ordered to surrender to plaintiffs for destruction of all products, labels, dyes, blocks, moulds, screen prints, packing materials and other materials bearing the trade mark MUTHU or any mark deceptively similar to plaintiffs' trademark and artistic work MOTHU.

e) a preliminary decree be passed in favour of plaintiffs directing the defendant to render account of profits made by use of Trademark and copyright in the artistic work MUTHU 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;

f) for costs of the suit.

2. When the matter was taken up today, the learned counsel appearing for the defendant submitted that the matter between the parties is almost settled and the defendant will no longer use the trademark of the plaintiff and they have also entered into a contract in this aspect. The learned counsel appearing for the plaintiff has not disputed the same and further submitted that they are not pressing for rendition of accounts and damages.

3. Since the defendant has made an admission of infringement and also submitted that they also desist from infringing hereafter and also made a change

in their marks, this Court is of the view that it is the fit case, where the decree and judgment itself can be passed on the basis of the admission of the fact made before this Court through their counsel. Even the oral admission of the learned counsel for the defendant can also be taken note of. In view of the above, the admission of the defendant's counsel taken on record and the suit is decreed.

According, the suit is decreed in respect of prayers 'a' to 'c'. As far as the prayers 'd' and e are concerned, the suit is dismissed. Consequently, the connected applications are closed. No cost.

13.09.2019

vrc

Index : Yes/No

Internet : Yes/No

Speaking/Non-Speaking Order

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N.SATHISH KUMAR, J.

VRC



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