

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:17.07.2019

CORAM

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

**C.S.No.281 of 2019
and
A.No.3179 of 2019
and
O.A.Nos.434 & 435 of 2019**

1. Aqua Pump Industries
rep. by its Managing Partner
Mr. Ramaswamy Kumaravelu
Thudiyalur Post,
Coimbatore 641 034
having their branch office at
New No.10, Old O.26,
Errabalu Chetty Street,
Parrys Corner,
Chennai - 600 001.

2. Aqua Sub Engineering
rep. by its Managing Partner,
Mr. Ramaswamy Kumaravelu,
Thudiyalur Post,
Coimbatore 641 034
having their branch office at
New No.10, Old No.26,
Errabalu Chetty Stree,
Parrys Corner,
Chenani - 600 001

... Plaintiffs

Vs.

Subhashchandra Jain
 Trading as Choudhary Electronics and Company
 Shiv Talkies Chowk,
 Bilaspur- 495001
 Chhattisgarh

... Defendant

This Civil Suit (Commercial) has been filed under Order IV Rule 1 of O.S. Rules and Order VII Rules 1 of C.P.C r/w. Section 27, 134 & 135 of the Trademarks Act 1999 prays for a decree and judgment against the defendant for

(a) Granting a permanent injunction restraining the defendant, by itself, their servants, agents, distributors, or anyone claiming through them from manufacturing, selling, advertising and offering for sale using the plaintiff's registered "Trade Mark Texmo, Aquatex and Aquatex/Aquahead as such or prefix or suffix in machine, machine tools, pumps and Electric Motors other than for land vehicles or in any other goods manufactured and sold by the defendant or its trading style or in any media and use the same in invoices, letter heads and visiting cards or by using any other trade mark, which is in any way visually, phonetically and deceptively similar to the plaintiffs' registered trade mark Texmo, Aquatex and Aquatex/Aquahead or in any manner infringing the plaintiffs'

registered Trade Mark Nos.315049 (SP-I), (SP-II) & 315050 (SP-I),(SP_II) renumbered as 2702778, 2702779, 2702780 & 2702781, 762990 & 1409010 and other Aquatex (word) and (device) registrations as set out in paragraph 8 of the plaint.

b) Granting a permanent injunction, restraining the defendant, by itself, their servants, agents, distributors, or anyone claiming through them from manufacturing, selling, advertising and offering for sale using the Trade Mark Texmo, Aquatex, and Aquatex/Aquahead, as such or with prefix or suffix in machine, machine tools, pumps and electric motors other than for Land Vehicles or in any other goods manufactured and sold by the defendant and its trading style or in any media and use the same in invoices, letter heads and visiting cards or by using any other trade mark, which is in any way visually, phonetically and deceptively similar to the plaintiffs Trade Mark Texmo, Aquatex and Aquatex/Aquahead or in any manner pass off the plaintiffs' goods.

c) directing the defendant to surrender to the plaintiffs all the goods, packing materials, cartons, advertisement materials and hoardings, letter heads, visiting cards, office stationery and

all other materials containing / bearing the Trade mark Aquahead or other deceptively similar to the plaintiffs' Trade mark Texmo , Aquatex.

d) directing the defendant to render an account of profits made by them by the use of the impugned trade mark Aquahead on the goods referred and decree the suit for the profits found to have been made by the defendant, after the defendant has rendered accounts.

e) directing the defendant to pay to the plaintiff the costs to the suit

For plaintiffs : Mrs Gladys Daniel

For defendant : Mr. Ashok Kumar J.Daga

JUDGEMENT

The plaintiffs have filed the present suit for permanent injunctions and for directions.

2. Today, when the matter is called, the learned counsel appearing for the plaintiffs and the defendant submitted that pending Suit, the parties have arrived at a settlement between themselves and also filed a Memorandum of Compromise to that

effect. The Memo of Compromise is duly signed by the plaintiffs and defendant and their respective counsels. The counsel appearing for the parties submitted that the suit may be decreed as per the terms of the Memo of Compromise dated 11.06.2019.

3. Considering the fact that the matter has been settled between the parties, the Civil Suit is decreed in terms of the Memo of Compromise. The said Memo of Compromise shall form part of the decree. No costs. Consequently, connected miscellaneous petitions are closed.

17.07.2019

mrp

Index : Yes/No

Internet : Yes/No

Speaking order/non speaking order

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KRISHNAN RAMASAMY, J.,

mrp



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