

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2019

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.S. No.858 of 2016 and
Application No.6559 of 2016

Tamilnadu Butter and Ghee Traders Association,
No.5 (old No.11), PNR Layout,
Trichy Road, Coimbatore-641018
Represented by its Secretary,
Mr.M.Sethumadhavan

... Plaintiff

Vs.

Milky Mist Dairy Food Private Limited,
Represented by its Managing Director,
Mr.Thangamuthu Sathishkumar
104/9, Erode Road,
Chittode-638 102.

... Defendant

Plaint filed under Order IV Rule 1 of O.S. RULES and ORDER
VII RULE 1 OF CPC praying for:

(a) a permanent injunction restraining the defendant themselves, their directors, their respective heirs, legal representatives, successors in business assigns, servants, agents, distributors, stokists, wholesalers, retailers transporters, representatives or any one claiming through or under them from in any manner continuing to telecast/publish the impugned milky mist ghee advertisement which resorts to generic disparagement of all brands/manufacturers/traders through any media in any manner whatsoever;

(b) The Defendant be ordered to pay a sum of Rs.25,01,000/- as liquidated damages for committing acts of generic disparagement;

c) For costs of the suit; and

d) Pass such further or other orders as this court may deem fit and proper.

For Plaintiff : Mrs.Durga Bhatt
For Defendant : Mr.T.K.Bhaskar

J U D G M E N T

When the matter is taken up for hearing, the learned counsel appearing for the defendant has filed an affidavit dated 08.08.2019, signed by the defendant, wherein in paragraph 3 it has been stated that without prejudice to the Defendant's rights and contentions, the defendant has stop engaging/telecasting the impugned advertisement which is the subject matter of the present suit.

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2. Based on the said affidavit, the learned counsel for the Plaintiff had sought permission of this Court to withdraw the suit with liberty. He has also made the following endorsement:

"The defendant has filed an affidavit dated 08/08/2019 of Ms.S.Anitha specifically stating that the Defendant has stopped engaging/telecasting the impugned advertisement and does not intend to reintroduce the impugned ad.

Based on the undertaking/affidavit dated 08/08/2019, the Plaintiff has instructed us to withdraw the said suit. The Hon'ble Court may therefore permit the Plaintiff to withdraw the suit with liberty."

2. Based on the affidavit dated 08.08.2019 and also in view of the endorsement made, this suit is dismissed as withdrawn with liberty as prayed for. No costs. Consequently, connected Application is closed.

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08.08.2019

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KRISHNAN RAMASAMY, J

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