

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

CIVIL SUIT No.581 of 2018

- 
1. Nishanth Ravichandran
No.2, 4th Cross, 1st Main Road,
S.V.S.Nagar,
Valasaravakkam,
Chennai, Tamil Nadu,
India, Pin-600 087.
2. GFM Retail Private Limited,
No.2, 4th Cross, 1st Main Road,
S.V.S. Nagar, Valsaravakkam,
Chennai, Tamil Nadu,
India, Pin - 600087
rep. By its Director,
Nishanth Ravichandran. ... Plaintiffs

1. SPI Diners Private Limited,
No.3, 2nd Street, Subba Rao Avenue,
College Road, Chennai 600 006
Tamil Nadu.

(Amended as per order dated 09.10.2018 in Application No.7721 of 2018)

2. SPI Cinemas Private Limited,
No.25, Whites Road, Mamatha Complex,
5th Floor, Royapettah,
Chennai 600 014. ... Defendants

Civil Suit filed under Order VII Rule I of the Code of Civil Procedure, 1908 read with Order IV Rule 1 of the Original Side Rules of the Madras High Court, Section 2(1)(c) (xvii) read with Section 7 of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 and Sections 11, 27, 29, 134, 135 of the Trade Marks Act, 1999, seeking

(a) A permanent injunction restraining Defendants No.1 and No.2, their directors proprietors, subsidiaries, affiliates, franchisees, officers, employees, servants, agents, distributors, stockists, representatives and anyone acting for or on its behalf from in any manner directly or indirectly using the mark/name ENVY or any mark/name similar to the Plaintiff's trade mark/name ENVEE, amounting to infringement of Plaintiff No.1's registered trademark ENVEE under registration number 3714941 in Class 39;

(b) A permanent injunction restraining Defendants No.1 and No.2, their directors proprietors, subsidiaries, affiliates, franchisees, officers, employees, servants, agents, distributors, stockists, representatives and anyone acting for or on its behalf from in any manner directly or indirectly using the mark/name ENVY or any mark/name similar to the Plaintiff's trade mark/name ENVEE, amounting to passing off of the Defendants' business/services as those of the Plaintiffs;

(c) A permanent injunction restraining Defendants No.1 and No.2, their directors proprietors, subsidiaries, affiliates, franchisees, officers, employees, servants, agents, distributors, stockists, representatives and anyone acting for or on its behalf from in any manner directly or indirectly using the mark/name ENVY or any mark/name similar to the Plaintiff's trade mark/name ENVEE, amounting to dilution and tarnishment of the Plaintiff's trade mark ENVEE;

(d) An order directing the Defendants No.1 and 2 to furnish all the data and accounts of all transactions undertaken and the profits obtained (including the date of the suppliers, the number of purchases, etc) during the course of its business relating to goods/services under the impugned mark ENVY, to the Plaintiffs;

(e) An order for delivery up of all finished and unfinished materials including signage, cards,

stationery, accessories, packaging, labels, brochures, printed materials including hoardings and other material bearing the impugned ENVY mark or any mark deceptively similar to the Plaintiff's trademark/name ENVEE, by Defendants 1 and 2 to the Plaintiffs for the purpose of destruction

(f) Costs.

For Plaintiffs : Mr.M.S.Bharath
For Defendants : Mr.Aashish Dafari

J U D G M E N T

When the matter is taken up for hearing today, Mr.M.S.Bharath, learned counsel for the Plaintiff sought permission of this Court to withdraw the Civil Suit and he has also made an endorsement in the court bundle to the following effect:

“As per written instructions from Plaintiffs, this Suit is withdrawn hereby. ”

2. In view of the above, the Civil Suit is dismissed as withdrawn.

However, there will be no order as to costs. Refund of Court fee to the plaintiff, as permissible under Rules, is ordered. Consequently, connected Original Application Nos.777 to 779 of 2018 are closed.

03.04.2019

Index : Yes/No
Speaking Order : Yes/No

(aeb)

S.VAIDYANATHAN,J.

(aeb)



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