

C.S.No.374 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.09.2019

CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.S.No.374 of 2019 &

O.A.Nos.604 to 606 of 2019

M/s.MRF Limited,
Having registered Office at
No.114, Greams Road,
Chennai – 600 006
rep. by its DGM – Marketing Development
Mr.P.Charles Pravin Kumar

... Plaintiff

Vs.

Vinod S.George
Proprietor,
Hindustan Tyres & Services,
No.95 A, Bazzar Road,
Sadasivam Nagar, Madipakkam,
Chennai - 600 091.

.. Defendant

Civil Suit filed under Order IV Rule 1 of Original Side Rules Sections 28, 29, 134 & 135 of Trade Marks Act 1999 and and Sections 51, 55 and 62 of the Copyright Act, 1957 and Section 7 of the Commercial Courts, Commercial

Division and Commercial Appellate Division of High Courts Act, No.4 of 2016
praying for the following judgment and decree :

a) a perpetual injunction restraining the defendant, its distributors, stockists, servants, agents, retailers, representatives or any other person claiming under/through them from in any manner infringing the plaintiff's registered Trade Mark 'MRF', 'MRF Connected Letter Device', the MRF Musclemans Device and/or MRF Dealer Board by using the said trademarks or any other mark, identical with and/or deceptively similar to the MRF Corporate Trademarks/Artistic works,'MRF Connected Letter Device' and MRF Dealer Board in connection with the tyre dealership business of the defendant or in any other manner whatsoever;

b) a perpetual injunction restraining the defendant, their distributors, stockists, servants, agents, retailers, representatives or any other person claiming under/through them from in any manner using the MRF Corporate Trademarks/Artistic Works and MRF Connected Letter Device' and/or any other mark which is identical with or deceptively similar to the plaintiff's MRF Corporate Trademarks/Artistic Works and 'MRF Connected Letter Device/MRF Dealer board so as to pass off the defendant's business as that of a dealer of the plaintiff and wrongfully associate themselves with the plaintiff's business or in any manner whatsoever;

c) a perpetual injunction restraining the defendant, his distributors, stockists, servants, agents, retailers, representatives or any other person claiming under/through them from in any manner infringing the plaintiff's Copyright in the 'MRF Connected Letter Device' filed as an plaint document No.1 or 'MRF Musclemann Device' filed as plaint document No.2 or the MRF Dealer Board filed as plaint document No.3, by using the above mentioned Artistic Works or any substantial reproduction of the same on or in connection with the business of the defendant, or in nay other manner whatsoever;

d) the defendant be ordered to remove all painted displays, and other display material being used by the defendant containing MRF Corporate Trademarks/Artistic Works, 'MRF Connected Letter Device' and MRF Dealer Board or any other mark which is deceptively similar and/or is a substantial reproduction thereof and surrender to plaintiff the glow sign board, all goods, labels, dyes, blocks, moulds, screen prints, packing materials, bills, vouchers, literature, publicity material, letterheads, invoices, challans, visiting cards, job cards, delivery notes, rate list, sign boards, glow signs, blow ups and all reprographic materials and other materials bearing any of the trade marks or artistic works of the plaintiff.

e) a preliminary decree be passed in favour of the plaintiff directing the defendant to render account of profits made by use of trademark 'MRF' and the

'MRF Connected Letter Device', MRF Dealer Board and 'MRF Musclemann Device' and a 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 and decreed to pay to the plaintiff a sum of Rs.25,01,000/- as special damages for acts of passing off and infringement of Trade Mark & infringement of copyright committed by the defendant.

g) for costs of the suit.

For Plaintiff : Mr.Madhan Babu

For defendant : Mr.Eapen Verghese

J U D G M E N T

The suit has been filed for perpetual injunctions restraining the defendant and their men from using or infringing or passing off the trademark of the plaintiff as that of the defendant or using similar or deceptively similar trademark of the plaintiff and for preliminary decree directing the defendant's for rendition of accounts, for damages and for costs.

2. When the matter was taken up today, the learned counsel appearing for the defendant filed an affidavit and submitted that after receipt of the notice

from the plaintiff, the defendant has removed all the objectionable display boards and presently there are no display Boards similar to that of the plaintiff anywhere in the shop premises of the defendant.

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 this is a fit case, where the decree and judgment itself can be passed on the basis of the admission of the fact made before this Court by way of affidavit. Even the oral admission of the learned counsel for the defendant can also be taken note of. In view of the above admission of the defendant, the suit is liable to be decreed.

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

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24.09.2019

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Index : Yes/No
Internet : Yes/No
Speaking/Non-Speaking Order

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N.SATHISH KUMAR, J.

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