

C.S.No.522 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.11.2019

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THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.S.No.522 of 2019 &

O.A.Nos.817 to 820 of 2019

M/s.GenxLead Retail Pvt. Ltd.,
Devapragasam Trade Centre,
No.15/491, Madura Gardens,
2nd Floor, "A" Portion, Poonamallee High Road,
Maduravoya, Chennai – 600 095.
Rep. by its Managing Director Gopinathan Ramachandran ... Plaintiff

Vs.

M/s. Purple Panda Fashions Private Limited,
Having its Registered Office at
109-B, Plot No.18, Rejendra Jaina Tower,
Wazirpur Commercial Complex,
New Delhi – 110 052. ... Defendant

Civil Suit filed under Order VII Rule of CPC read with Order IV Rule 1 of
Original Side Rules and sections 27(2), 134, 135 and 142 of the Trade Marks
Act, 1999 and Section 51, 55 and 62 of the Copyriht Act, 1957 and Section 7 of
the Commercial Courts, Commercial Division and Commercial Appellate Division
of High Courts Act No.4 of 2016 for the following judgment and decree :

[i] Declaring that the threats issued by the defendant as mention in its legal notice dated 20.07.2019, are unjustifiable as the plaintiff is using its registered Trade Mark "Shyaway" under No.3203235 since 2015 honestly and continuously which is not at all similar to the defendant's trade mark 'Clovia'.

[ii] Granting permanent injunction, restraining the defendants, their men or agents, from threatening the plaintiff, their agents, affiliates, vendors or any other persons working for the plaintiff, with legal proceedings arising out of the use of the alleged use of the defendant's trademark.

[iii] Granting permanent injunction restraining the defendant, their men agents or any one claiming through or under them from in any manner infringing the registered trade mark 'Shyaway' of the plaintiff or any other trade mark which is similar or in any way deceptively similar to or colourable imitation of the plaintiff's registered trade mark either as name or marketing online sale for any products or in any manner for advertisement or for promoting the defendant's website on Google search engine results.

[iv] Granting permanent injunction restraining the defendant, their men agents or any one claiming through or under them from in any manner infringing the copyright over the registered trade mark 'Shyaway' of the plaintiff or any other trademark which is similar or in any way deceptively similar to or colourable imitation of the plaintiff's copyright on the registered trademark either as name or

marketing online sale for any products or in any manner for advertisement or for promoting the defendant's website on Google search engine results.

[v] Granting permanent injunction restraining the defendant, their men agents or any one claiming through or under them in any manner passing off the registered trademark 'Shyaway' of the plaintiff or any other trademark which is similar or in any way deceptively similar to or colourable imitation of the plaintiff's registered trademark either as name or marketing online sale for any products or in any manner for advertisement or for promoting the defendant's website on Google search engine results.

[vi] Directing the defendant to pay costs of the suit to the plaintiff.

For Plaintiff : Mr. Joseph George Mayiladumpara

For defendants : Mr. Kamal Ahuja

JUDGMENT

When the matter was taken up today, the learned counsel for the plaintiff and the defendants submitted that the parties have arrived at a settlement and they have settled the matter as per the Memo of Compromise. The learned counsel has also produced Memo of Compromise and submitted that the suit may be decreed in terms of the Memo of Compromise.

2. In view of the same, this suit is decreed in terms of the Memo of Compromise and the Memo of Compromise shall form part of the decree. Consequently, the connected applications are closed. No cost.

28.11.2019

vrc

Index : Yes/No

Internet : Yes/No

Speaking/Non-Speaking Order



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N.SATHISH KUMAR, J.

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