

Application No.6646 of 2019
in C.S.Diary No.107873 of 2019

N.SATHISH KUMAR, J.,

The above Application has been filed seeking to grant leave of Court to the applicant/plaintiff to sue for the relief against the respondent/defendant for infringement of registered design and passing off by the respondent/defendant herein before this Court.

2. The suit has been filed by the applicant for the following reliefs:

(a) A permanent injunction restraining the defendant, their partners, associates, all their principal officers, staff, men, agent, servants, successors, assigns in business, representatives, distributors, stockist or any other person acting under or through them from infringing the registered designs in any manner by manufacturing or marketing the Manhole covers with the specific Design which is identical with or deceptively similar to the plaintiff's Registered Design Nos.245523 and 285400.

(b) A permanent injunction restraining the defendant, their partners, associates, all their principal officers, staff, men, agent, servants, successors, assigns in business, representatives and any other person from passing off his/their goods by using the same and deceptively similar design as registered by the plaintiff having Registered Design Nos.245523 and 285400, in respect of Manhole

Covers, and thereby restraining the defendant in any manner from passing off.

(c) Directing the defendant to pay the plaintiff damages quantified at Rs.5,00,000/- (Rupees Five Lakhs only) for the act of infringement of registered Design and Passing Off by the defendant.

(d) For the costs of the suit.

3.1. The learned counsel for applicant submitted that the respondent is carrying on the business of manufacturing, supply and installation connected with the "Manhole covers" which is identically and deceptively similar to the product of the plaintiff and infringing registered design Nos.245523 and 285400 of the plaintiff. He further submitted that the registered office of the respondent is situated at Plot No.59, 4th Line, Syamalanagar, Guntur – 522006, Andhra Pradesh, which is outside the jurisdiction of this Court and therefore, the applicant has filed the above Application for the relief stated *supra*.

3.2. The learned counsel would also submit that the applicant is carrying on their business in Chennai and also the cause of action of the suit arose in Chennai, which is within the jurisdiction of this Court. He therefore prayed that the present Application may be allowed.

4. Heard the learned counsel for applicant.

5.1. After a perusal of the affidavit filed in support of the Application, this Court found that the plaintiff is carrying on their business in Chennai and the respondent has also applied for a tender for supply and installation of the Manhole Covers all over India including Chennai with BPCL. It is also seen that the entire cause of action of the suit has arisen at Chennai, which is well within the jurisdiction of this Court.

5.2. Considering the submissions made by the applicant's counsel and also having been convinced with the reasons stated in the affidavit filed in support of the Application, this Court is inclined to allow the present Application. Accordingly, this Application is ordered as prayed for.

6. Registry is directed to number the suit, if it is otherwise in order and post the same for hearing.

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12.09.2019

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