

IN THE HIGH COURT OF JUDICATURE AT MADRAS**DATED : 08.07.2019****CORAM :****THE HONOURABLE Mr.JUSTICE KRISHNAN RAMASAMY****C.S.No.340 of 2017
and
O.A.Nos.460 to 462 of 2017**

M/s.MRF Limited,
Having regd. Office at
No.114, Greams Road,
Chennai 600006, rep. by its
Manager- Sports Division
Mr.Cyril Paldano

... Plaintiff

...Vs..

1. Mr.Sathish
2. Mrs.Kalaivani
3. Ashok Kumar

... Defendants

सत्यमेव जयते

Suit filed under order IV RULE 1 of the O.S.Rules, Sections 28, 29, 134 and 135 of the Trade Marks Act, 1999 and Sections 51, 55 and 62 of the Copyright Act, 1957 praying for a judgment and decree
(A) A perpetual injunction restraining the Defendants, their distributors, stockists, servants, agents, retailers, representatives or any other person claiming under/through them from in any manner infringing the Plaintiff's Registered Trade Marks 'MRF', 'Genius', and

'MRF connected Letter Device' filed as **Plaint Document No.1**, and/or Plaintiff's Cricket Bat Trade Marks filed as **Plaint Document No.6** by manufacturing and/or marketing any goods or stickers and in particular sports goods/merchandise including but not limited to cricket bats, under the trademark 'MRF' or 'Genius' or any other mark which is/are identical with and/or deceptively similar to the Plaintiff's trademarks either per-se or in combination with other work/mark, and English or Tamil or any other language, which is identical with and/or deceptively similar to plaintiffs' registered trademarks 'MRF', 'Genius', and 'MRF Connected Letter Device' or in any other manner whatsoever;

(b) A perpetual injunction restraining the Defendants, their distributors, stockists, agents, retailers, representatives or any other person claiming under/through them from in any manner infringing the Plaintiff's Registered Trade Marks 'MRF', 'Genius', and 'MRF Connected Letter Device' filed as **Plaint Document No.1**, and/or Plaintiff's cricket Bat Trade Marks filed as **Plaint Document No.6** either per-se or in combination with any other work/mark, and English or Tamil or any other language, which is identical with and/or deceptively similar to plaintiff's registered trademarks 'MRF', 'Genius', and 'MRF Connected Letter Device', so as to pass off or enable others to pass off the Defendant's products or cricket bats and/or cricket kits of others as and for that of the Plaintiff or wrongfully associate themselves with the Plaintiff's business or in any other manner whatsoever, (c) A perpetual injunction restraining the Defendants, their distributors, stockists, servants, agents, retailers, representatives or any other person claiming under/through him from in any manner infringing the Plaintiff's Copyright in the 'MRF CONNECTED LETTER DEVICE' filed as

Plaint Document No.1, and/or plaintiffs Bat Trade Marks/Artistic Works filed as **Plaint Document No.6** or any substantial reproduction/imitation of the same on or in connection with the business of the Defendants, or in any other manner whatsoever. (d) A Mandatory injunction directing the defendants 1 to 3 to disclose the details of the manufacturer in New Delhi or such other places from whom/where the cricket bats are being procured and with whom the defendants 1 to 3 are acting jointly and in concert in infringing the plaintiff's registered trademark, passing off the counterfeit cricket bats as that of genuine bats of the plaintiff as well as infringing the copyright contained in the MRF labels of the plaintiff. (e) The Defendant be ordered to surrender to Plaintiff for destruction all the Defendant's counterfeit products, packets, labels, dyes, blocks, moulds, screen prints, packing materials and other materials bearing the Plaintiff's said Trademarks/Artistic Works. (f) The Defendants be ordered and decreed to pay to the Plaintiff's jointly and severally a sum of Rs.25,01,000/- as damages for acts of Passing Off and infringement of Trade Mark & infringement of copyright committed by the Defendants (g) For costs of the suit (h) Pass such further or other order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

For Plaintiff : Mr.Madhan Babu
For Defendants : Mr.G.Mohana Krishnan
(D1 and D2)

JUDGMENT

When the matter is taken up for hearing, the learned counsel for the first defendant has filed an affidavit dated 17.06.2019, wherein it is stated as follows:

"5. I respectfully apologize for the inconvenience caused to the Plaintiff in this regard and my actions in this regard are out of my belief and faith that the goods in question were actually products of the Plaintiff. However, I have come to know that the said goods are spurious goods and in order to establish my bonafide, I have already stated the particulars of my supplier in the affidavit filed by me before this Hon'ble Court.

6. I am filing the instant affidavit in order to tender an unconditional apology to the Plaintiff in respect of my having unknowingly dealt with spurious goods as if as though they are that of the Plaintiff.

7. I submit that I am a very poor person and my income is also very much meager to the tune of about Rs.9000/- per month, which is barely adequate to feed the mouths in our house. However having realized the mistake unknowingly committed by me I fully repent for the same.

8. I respectfully submit that this Hon'ble Court may take into account of my unconditional apology by way of this affidavit and also consider my very poor financial status.

9. As a token of my repentance I am ready and willing to tender a sum of Rs.50,000/- [Rupees Fifty Thousand only] to the Plaintiff."

2. The learned counsel appearing for the defendants also stated no objection to the decree the suit in respect of the prayer (a), (b) and (c). Further, as per the order of this Court dated 24.06.2019, the learned counsel for the defendants also produced a Demand Draft bearing No.550022 dated 29.06.2019, drawn on Indian Bank, in favour of the MRF Limited, for a sum of Rs.50,000/- (Rupees Fifty Thousand only) before this Court. The said Demand Draft was handed over to the learned counsel for the Plaintiff and the same has been duly received by the learned counsel for the Plaintiff.

3. In respect of the prayers (d) (e) (f) (g) and (h) are concerned, the learned counsel appearing for the Plaintiff submitted that the plaintiff is not pressing the same.

4. Recording the said submission made by the learned counsel for the Plaintiff and also recording the affidavit filed by the first defendant dated 17.06.2019, the suit is decreed in respect of prayers (a), (b)

KRISHNAN RAMASAMY, J

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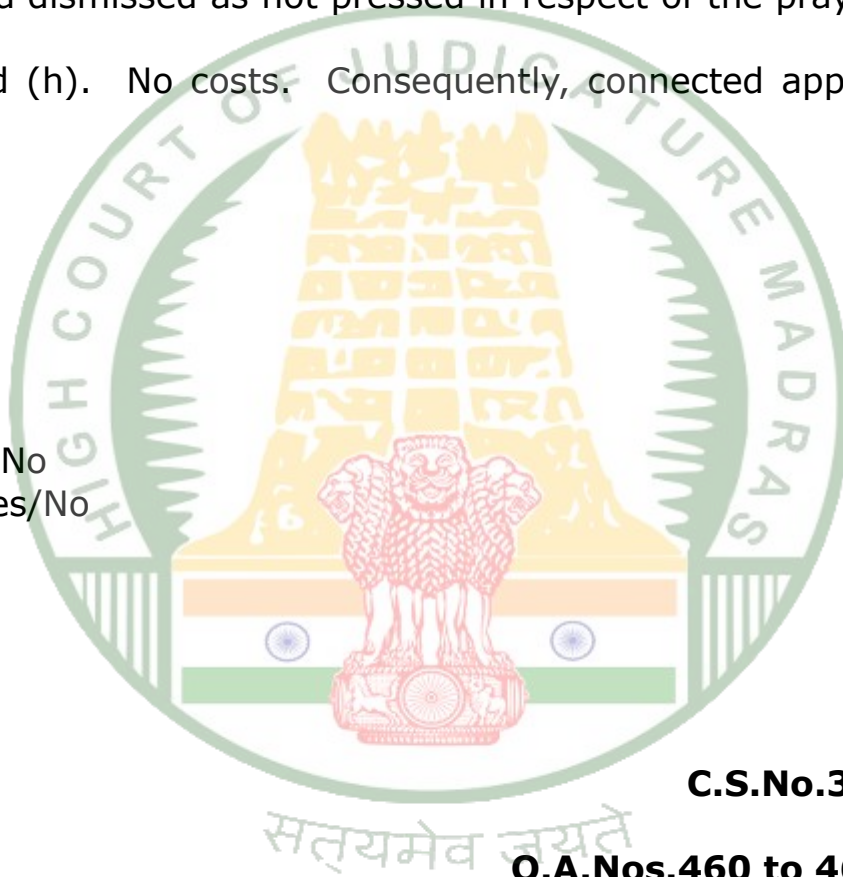
and (c) and dismissed as not pressed in respect of the prayers (d), (e), (f) (g) and (h). No costs. Consequently, connected applications are closed.

08.07.2019

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Index:Yes/No

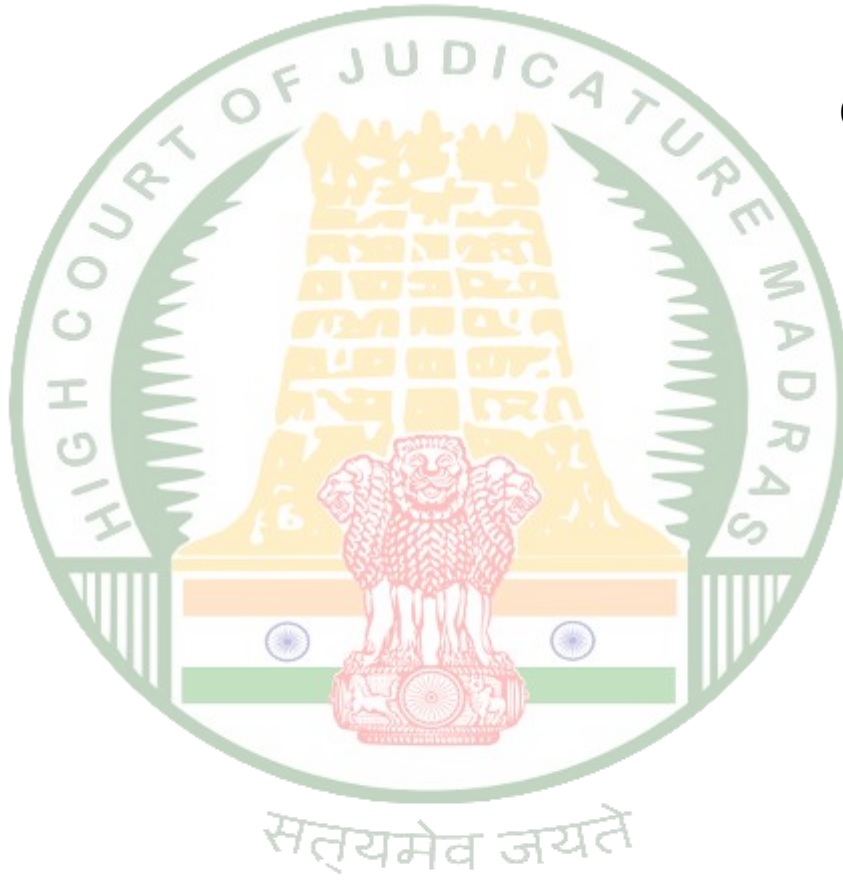
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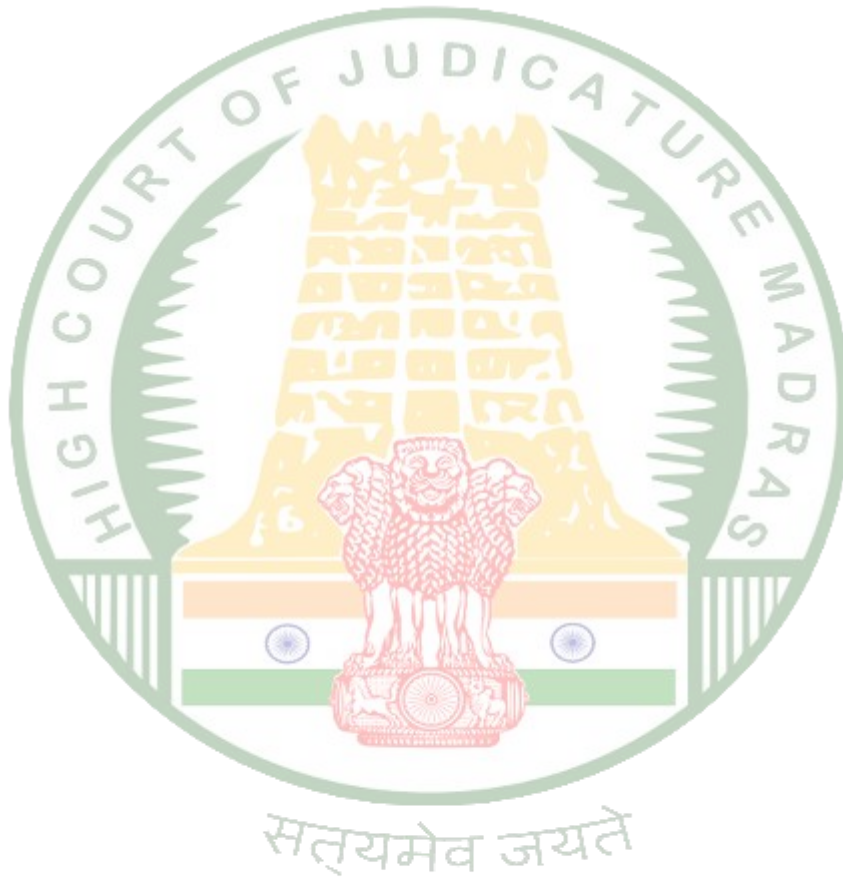
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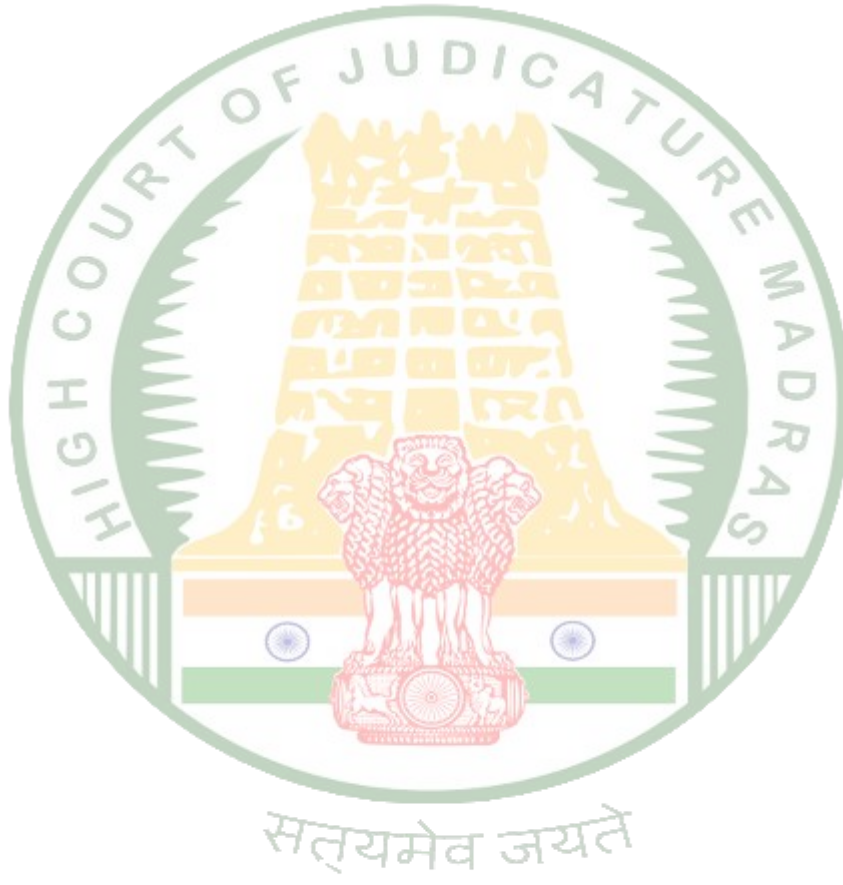


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