

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.11.2019

Coram

The Honourable Mr.Justice N.SATHISH KUMAR

C.S.No.982 of 2017
and A.Nos.2211, 2507 and 2508 of 2018

M/s.Adyar Ananda Bhavan Sweets and Snacks
Rep by its Partner, Mr.K.T.Venkatesan
Muthulakshmi Bhavan,
No.9, M.G.Road,
Shastri Nagar, Adyar,
Chennai - 600 020.

...Plaintiff

Versus

Chennai Ananda Bhavan
Kinfra P.O.Muringoor Koratti,
Cochin-Thrissur Highway Nh47,
Thrissur-680 309,
Kerala.

...Defendant

सत्यमेव जयते

This Civil Suit is filed under Order IV Rule 1 of Original Side Rules and Order VII Rule 1 C.P.C. Read with Sections 134 and 135 of the Trademarks Act, 1999, prayed for (a) declare that the defendant is infringing the plaintiff's registered trademark

No.1225607 in respect of its restaurant business carried under the name 'Adyar Ananda Bhavan'.

(b) Grant a permanent injunction restraining the defendant, their men, agents, or persons acting on their behalf, from in any manner infringing the plaintiff's right in trademark bearing No.1225607 in respect of its business under the name 'Adyar Ananda Bhavan' by running a restaurant with identical name and logo or in any manner similar name and logo to that of the plaintiff.

(c) grant a permanent injunction restraining the defendants, the men agents and servants from in any manner passing off its business as that of the plaintiff's by using the name 'Adyar Ananda Bhavan' with or without a similar logo, or by any other identical name or deceptively similar name as that of the plaintiff, with or without any deceptively similar or similar logo as that of the plaintiff in its registered mark bearing No.1225607 or any other names and logos for which registration has been applied for by the plaintiff;

(d) direct the defendants to pay the costs of the suit.

For Plaintiff : Mr.K.Harishankar

For Defendant : set ex parte
vide order dated 01.10.2019

J U D G M E N T

The suit has been filed for the following reliefs:

(a) declare that the defendant is infringing the plaintiff's registered trademark No.1225607 in respect of its restaurant business carried under the name 'Adayar Ananda Bhavan'.

(b) Grant a permanent injunction restraining the defendant, their men, agents, or persons acting on their behalf, from in any manner infringing the plaintiff's right in trademark bearing No.1225607 in respect of its business under the name 'Adyar Ananda Bhavan' by running a restaurant with identical name and logo or in any manner similar name and logo to that of the plaintiff.

(c) grant a permanent injunction restraining the defendants, the men agents and servants from in any manner passing off its business as that of the plaintiff's by using the name 'Adyar Ananda Bhavan' with or without a similar logo, or by any other identical name or deceptively similar name as that of the plaintiff, with or without any deceptively similar or similar logo as that of the plaintiff in its registered mark bearing No.1225607 or any other

names and logos for which registration has been applied for by the plaintiff;

(d) direct the defendants to pay the costs of the suit.

2. The case of the plaintiff is that the plaintiff is the registered proprietor of the famous Trademark 'Adayar Ananda Bhavan' and have been continuously using the same from the year 1988 along with their logo mentioned below:



The plaintiff's trademark has been registered under its name on 21.08.2003 in Class 30 for "Food Products" with the description of "Food items, sweets and snacks savories". While so, in July 2017, the plaintiff came to know that their marks are being used and infringed by the defendant. The plaintiff's registered mark includes its logo with name "Adayar Ananda Bhavan". The defendant is

infringing the plaintiff's mark by using the name of "Chennai Ananda Bhavan" with the logo as mentioned below:



which is deceptively similar to that of the plaintiff's. Hence, the suit has been filed.

3. Since there was no representation for the defendant, the defendant was set ex parte, vide order dated 01.10.2019.

4. On the side of the plaintiff, the Manager of the plaintiff's firm has been examined as P.W.1 and the following documents were marked as Exs.P1 to 13 were examined.

<i>Exhibit</i>	<i>Date</i>	<i>Description of documents</i>
P-1	12.11.2019	Original Authorisation Letter
P-2	18.11.2019	Partnership Deed executed between Sri

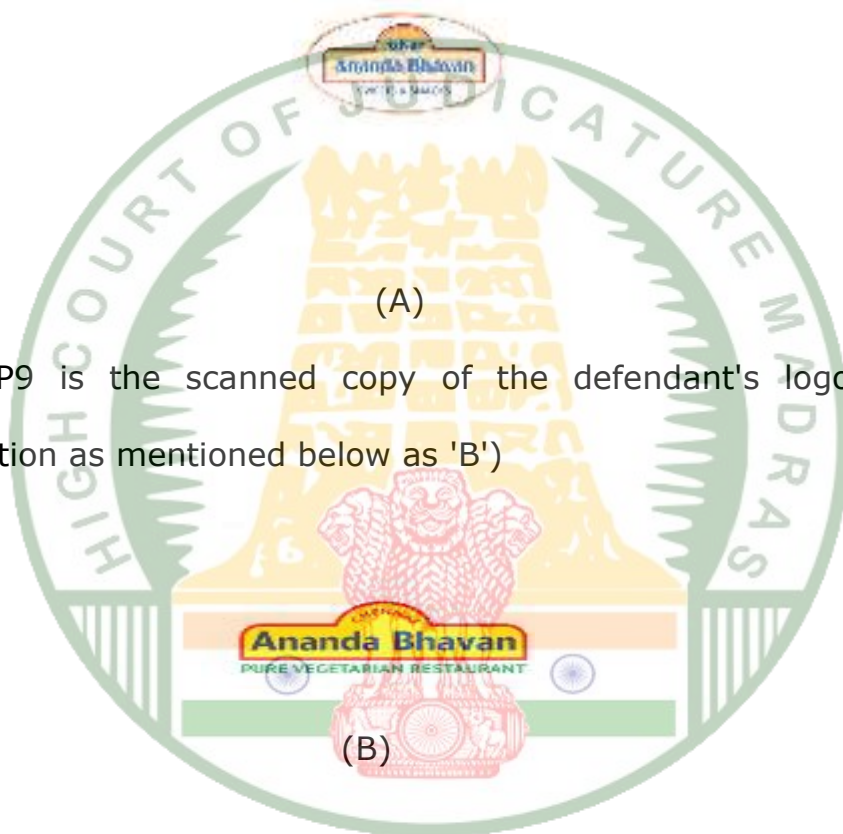
<i>Exhibit</i>	<i>Date</i>	<i>Description of documents</i>
		K.T.Venkatesan and Sri K.T.Srinivasa Rao.
P-3	24.04.1999	Certificate of Registration
P-4	22.05.2017	Legal use certificate
P-5	-	Plaintiff's Logo (Sec 65-B certificate enclosed)
P-6	-	List of Trademark Applications filed by the plaintiff pending registration
P-7	17.07.2017	Legal Notice sent by the plaintiff to the defendant
P-8	30.08.2017	Reply to Legal Notice
P-9	-	Defendant's logo (Sec 65-B certificate enclosed)
P-10	06.02.2018	Receipt/Hotel Bill (Sec 65-B certificate enclosed)
P-11	06.02.2018	Photograph of Chennai Ananda Bhavan and Micro SD-HC (16GB) card with 65B certificate (Sec 65-B certificate enclosed)
P-12	09.03.2018	Screenshot of defendant's Website
P-13	-	65 B certificate for Exs.P5, P9 to P12

5. P.W.1 in his evidence spoken about the nature of business and reputation gained by the plaintiff. Ex.P4, legal user certificate produced by the plaintiff clearly proves the registration in the name of the plaintiff. Ex.P3, registration certificate shows that the plaintiff has not only registered his trademark but also registered its logo. Ex.P5 is the scanned copy, showing the plaintiff's logo in respect of the product 'Adyar Ananda Bhavan' (the picturization as

mentioned below as 'A')

(A)

and Ex.P9 is the scanned copy of the defendant's logo, (the picturization as mentioned below as 'B')



which is similar to that of the plaintiff not only in respect of colour scheme but the entire look is similar to that of plaintiff's logo. If such infringement is continued, it will certainly lead to destruction and confusion in the minds of the public.

6. Having regard to the above fact, the plaintiff clearly established the case against the defendant. Accordingly, the suit is decreed as prayed for. Consequently, connected applications are closed.

26.11.2019

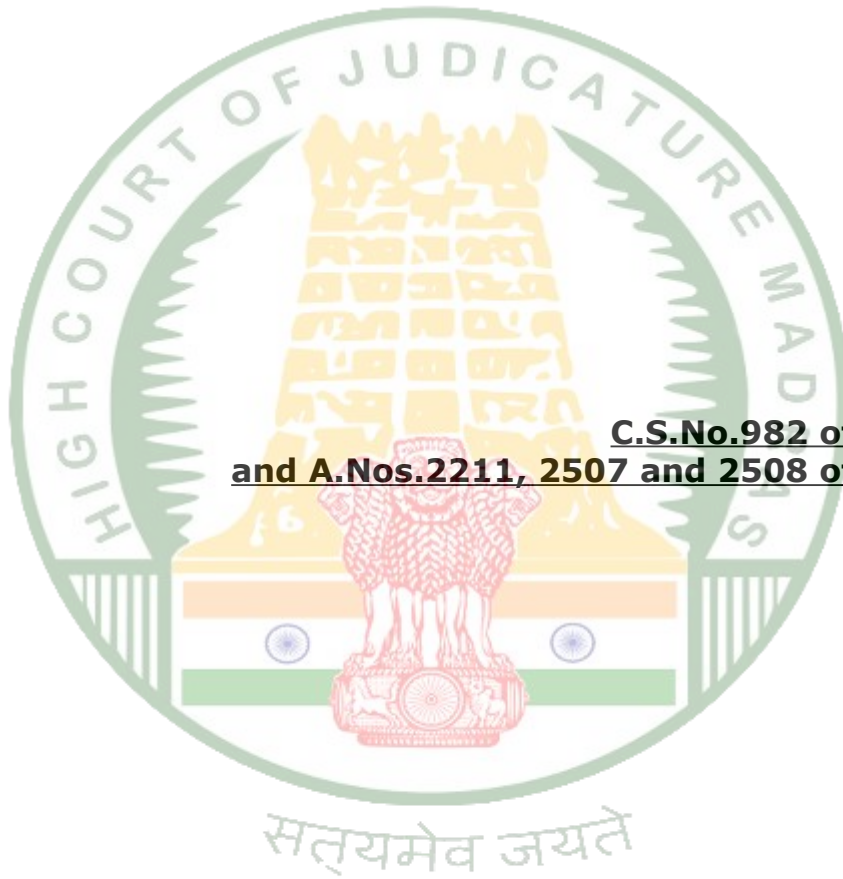
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N.SATHISH KUMAR, J.,

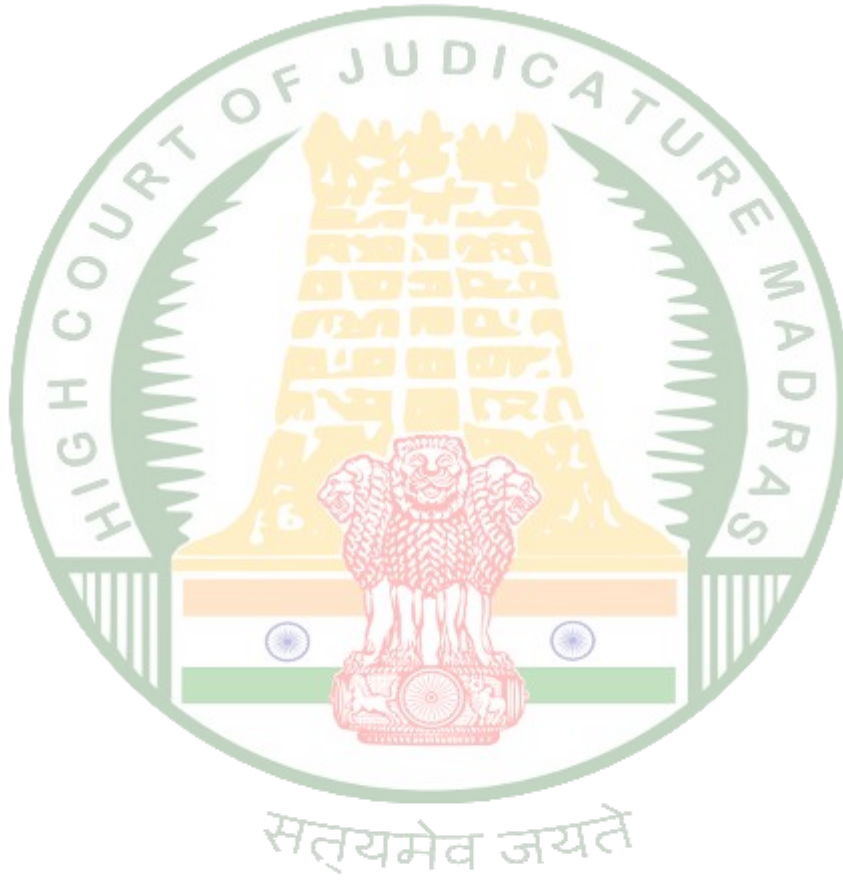
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