

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.09.2019

Coram

The Honourable Mr.Justice N.SATHISH KUMAR

C.S.No.663 of 2018

M/s.Sangeetha Caterers and Consultants LLP,
Represented by its Designated Partners,
1.P.Rajagopal
2.P.Suresh
No.7, Gandhi Nagar,
1st Main road,
4th Floor, Adyar, Chennai.

...Plaintiff

Versus

1.M/s.Sangeetha Vegetarian Restaurant,
Tiruchanoor Road,
Revenue Colony,
Andhra Pradesh,
Pin Code 517 501.

2.M/s.Sangeetha Kapila Venkatapadmavathi Foods,
Represented by its working partner
Mr.S.Rajiv Kumar,
No.251/2A, Valluru Gunta Palateda,
Thiruchanoor Road, Tirupathi,
Pincode 517 501.

...Defendants

(Amended as per order passed in
A.No.3165 of 2019 dated 23.04.2019)

This Civil Suit is filed under Order IV Rule 1 of Original Side Rules and Order VII Rule 1 of the CPC r/w Section 27, 134 and 135 of the Trademarks Act 1999 & Proviso 1 to Section 7 of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015, prayed for (a) a permanent injunction restraining the defendants, their legal representatives, their successors in business, assigns, franchises, servants or agents commencing restaurant business by infringing the plaintiffs trademark "SANGEETHA", SVR SANGEETHA, SVR SANGEETHA VEG. RESTAURANT, SANGEETHA'S DESI MANE' and SANGEETHA (with a VEENA MARK) or by use of confusingly similar or any other mark deceptively and identically similar to the plaintiffs registered trademark SANGEETHA or in any other manner whatsoever;

(b) a permanent injunction restraining the defendants, their legal representatives, their successors in business, assigns, franchises, servants or agents commencing restaurant business by the name SANGEETHA and from committing the act of passing off and enabling others in passing off the restaurant business in the deceptively similar mark which is identical to the plaintiff's trademark in any manner whatsoever;

(c) the defendants be ordered to surrender to the plaintiff for destruction of all the packing containers, card board boxes, packing materials, plastic covers and carry bags, screen prints, bills, sign boards, billing software, menu cards and any other material in their

possession bearing the mark SANGEETHA which is identical to the plaintiffs mark SANGEETHA;

(d) the defendant be ordered to pay to the plaintiffs a sum of Rs.10,00,000/- (Rupees Ten Lakhs Only) as damages for their wrongful and illegal act by use of the trademark SANGEETHA;

(e) for cost of the suit.

For Plaintiff : Mr.L.Rajasekar

For Defendants : Mr.T.Sri Krishna Bhagavat for D1

: Mr.P.Subba Reddy for D2

J U D G M E N T

The suit has been filed for the following reliefs:

(a) a permanent injunction restraining the defendants, their legal representatives, their successors in business, assigns, franchises, servants or agents commencing restaurant business by infringing the plaintiffs trademark "SANGEETHA", SVR SANGEETHA, SVR SANGEETHA VEG. RESTAURANT, SANGEETHA'S DESI MANE' and SANGEETHA (with a VEENA MARK) or by use of confusingly similar or any other mark deceptively and identically similar to the plaintiffs registered trademark SANGEETHA or in any other manner

whatsoever;

(b) a permanent injunction restraining the defendants, their legal representatives, their successors in business, assigns, franchises, servants or agents commencing restaurant business by the name SANGEETHA and from committing the act of passing off and enabling others in passing off the restaurant business in the deceptively similar mark which is identical to the plaintiff's trademark in any manner whatsoever;

(c) the defendants be ordered to surrender to the plaintiff for destruction of all the packing containers, card board boxes, packing materials, plastic covers and carry bags, screen prints, bills, sign boards, billing software, menu cards and any other material in their possession bearing the mark SANGEETHA which is identical to the plaintiffs mark SANGEETHA;

(d) the defendant be ordered to pay to the plaintiffs a sum of Rs.10,00,000/- (Rupees Ten Lakhs Only) as damages for their wrongful and illegal act by use of the trademark SANGEETHA;

(e) for cost of the suit.

2. The learned counsel appearing for the second defendant filed an affidavit, dated 05.09.2019, stating that they will not use the plaintiff's trade mark "'SANGEETHA', SVR SANGEETHA, SVR SANGEETHA VEG. RESTAURANT, SANGEETHA'S DESI MANE AND SANGEETHA (with a VEENA MARK)" and they changed the name of their restaurant as "SREE NANDHI". The proof of the same has been attached with an affidavit. It is further stated in the affidavit that the name of the defendants firm has also been changed as "M/s. Sri Nandhi Kapila Venkata Padmavathi Foods" from "M/s. Sangeetha Kapila Venkatapadmavathi Foods".

3. Since the defendants have made a submission 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 it is the fit case, where the decree and judgment itself can be passed on the basis of the admission of the fact made before this Court through their counsel. Even the oral admission of the learned counsel for the defendant can also be taken note of. In view of the above, the admission of the

defendant's counsel taken on record and the suit is decreed.

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

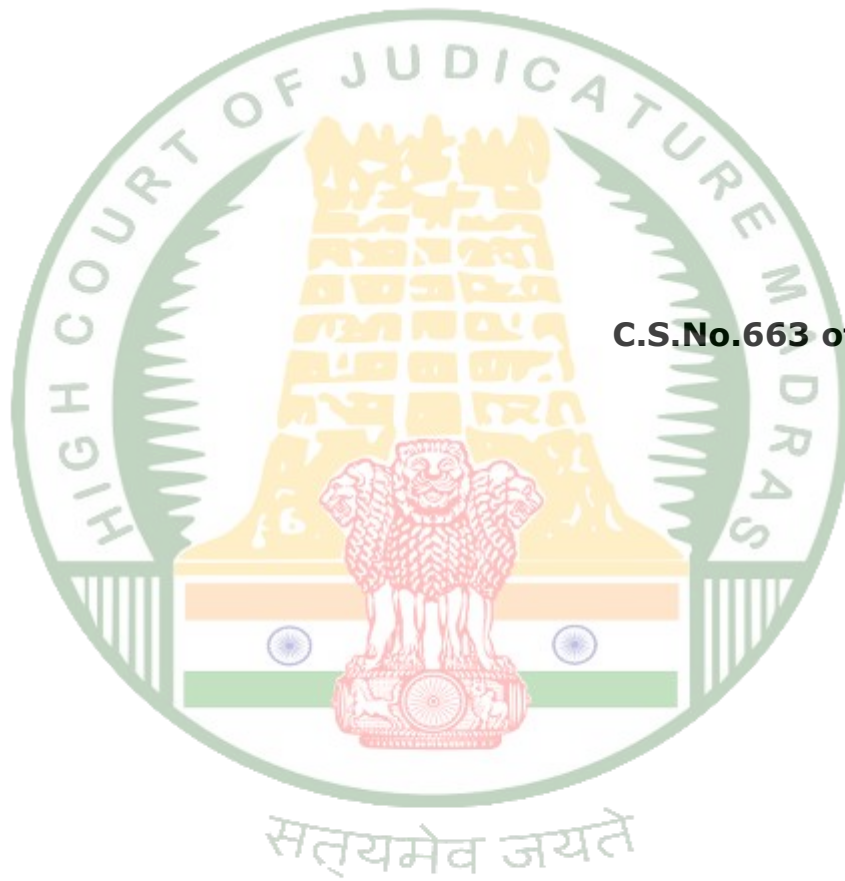
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N.SATHISH KUMAR, J.,
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