

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.07.2019

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The Honourable Mr.Justice KRISHNAN RAMASAMY

**C.S.No.716 of 2018
and
O.A.Nos.958 to 960 of 2018
& Application No.8155 of 2018**

Bharathi Consumer Care Products Pvt. Ltd.,
No.42, Bhavani Ellaianman Koil Street,
Otteri, Chennai - 600 012.
rep. by its Chairman-cum-Executive Director,
Mr.A.Manickavel

...Plaintiff

Versus

Mr.Suresh,
Trading as,
S.Lingam Kirana,
Daily Market,
Kamareddy - 503 111,
Kamareddy District,
Telangana State.

...Defendant

This suit is filed under Order IV Rule 1 of O.S.Rules and Order VII Rule 1 of CPC r/w. Sections 27, 28, 29, 134 and 135 of the Trademarks Act, 1999 & Sections 51, 54, 55 & 62 of the Copyrights 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 reliefs:

(a) a permanent injunction restraining the defendant by themselves, their directors, partners, legal representatives, successors in business, assigns, servants, agents, transporters, distributors, printers, stockists, wholesalers, dealers, retailers, advertisers or any one claiming through or

under them from infringing plaintiff's registered trademark XXX label by manufacturing, distributing, marketing, selling, offering for sale, advertising or in any other manner dealing in detergent powder, detergent cake, washing powder etc., or any other product bearing the almost identical XPRESS package, wrapper, container, carton, label with colour scheme, getup, layout which are similar to plaintiff's registered trademark XXX label along with distinctive trade dress in any manner whatsoever;

(b) a permanent injunction restraining the defendant by themselves, their directors, partners, their legal representatives, successors in business, assigns, servants, agents, transporters, distributors, printers, stockists, wholesalers, dealers, retailers or any one claiming through or under them from committing acts of copyright infringement by making substantial reproduction of the plaintiff's copyright in the artistic work XXX label by use of identical colour scheme of blue, red, white and yellow and the unique features for their XPRESS package/wrapper or in any manner whatsoever;

(c) a permanent injunction restraining the defendant by themselves, their directors, partners, legal representatives, successors in business, assigns, servants, agents, transporters, distributors, printers, stockists, wholesalers, dealers, retailers, advertisers or any one claiming through or under them from committing acts of passing off and enabling others to pass off by manufacturing, distributing, marketing, selling, offering for sale, advertising or in any other manner dealing in detergent powder, detergent cake, washing powder etc., or any other product bearing the almost identical XPRESS label, package, wrapper, container, carton, label with colour scheme, getup, layout which are similar to plaintiff's trade dress & get up in XXX package/wrapper in any manner whatsoever;

(d) the defendant be ordered to surrender to the plaintiff for destruction, all containers, pouches, prints, dies, blocks, moulds and plates, screen prints, packing and advertising material and any other

material in their possession, bearing the XPRESS label which is a substantial reproduction of the plaintiff's trade dress & get up and copyright in the artistic work XXX package/wrapper;

(e) a preliminary decree be passed in favour of the plaintiff directing the defendant to render account of profits made by use of trademark XPRESS label bearing the identical artistic work therein and final decree be passed in favour of the plaintiff for the amount of profits thus found to have been made by the defendant, after the latter have rendered accounts;

(f) for costs of the suit.

For Plaintiff : Ms.R.Prashanthi

For Defendant : No Appearance

J U D G M E N T

The learned counsel for plaintiff seeks the permission of this Court to withdraw the present suit and she has also made an endorsement to that effect.

2. In view of the submission coupled with an endorsement made by the plaintiff's counsel, this Civil Suit is dismissed as withdrawn. No costs. Consequently, connected Applications are closed.

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Index : Yes/No

KRISHNAN RAMASAMY, J.,

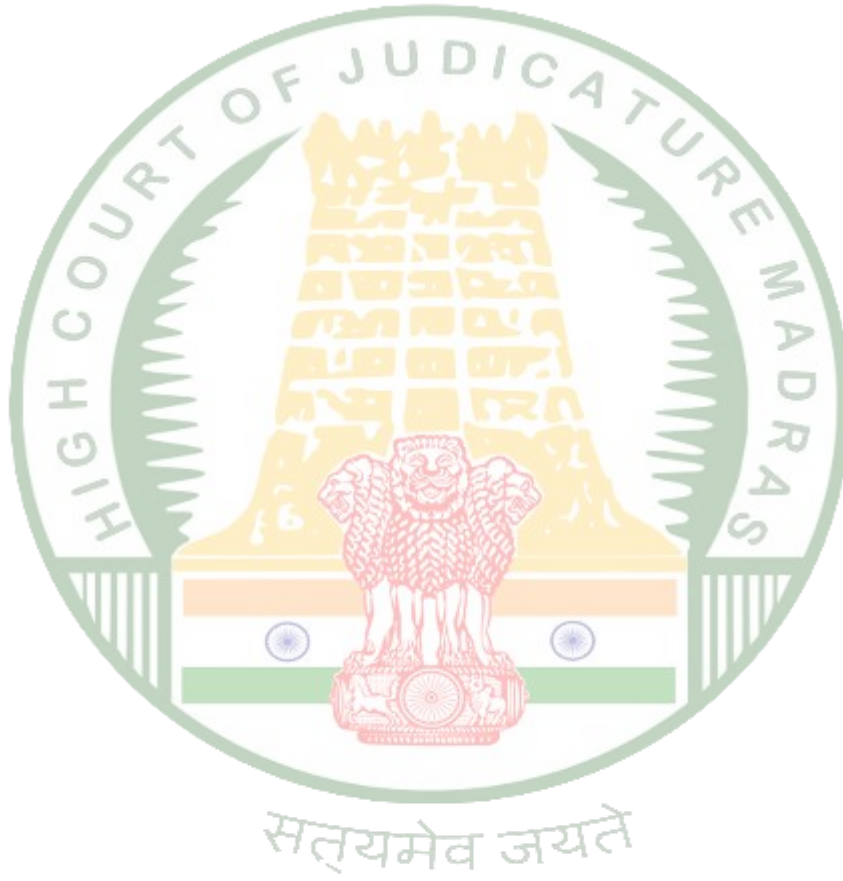
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