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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 8TH DAY OF SEPTEMBER 2020

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

A.Nos.263 to 265 of 2020

in

C.S.No.131 of 2015

1. Mr. A.D.Padmasingh Isaac
Trading as Aachi Spices and Foods
Old. No. 4, New No.181/1,
6th Avenue, Thangam Colony,
Anna Nagar,
Chennai – 600 040

2. M/s. Aachi Masala Foods (P) Ltd.,
Old. No. 4, New No.181/1,
6th Avenue, Thangam Colony,
Anna Nagar,
Chennai – 600 040.
Represented by its Director
Mr. Ashwin Pandian.

.. Applicants / Plaintiffs
(in all the applications)

Versus

M/s. Sruthi's Food Products,
No. 14, 5th Street, 7th Cross Street,
V.R.Puram,
Saligramam,
Chennai – 600 093.

..Respondent /Defendant
(in all the applications)

A.No.263 of 2020:

Application praying that the Hon'ble Court be pleased to frame a preliminary issue regarding the invalidity of the Respondent's device mark registration No.1759431.



A.No.264 of 2020:

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Application praying that the Hon'ble Court be pleased to grant leave to the Applicants/Plaintiffs to continue the Rectification proceedings having No.ORA/230/2015/TM/CH which is pending on the file of the Hon'ble Intellectual Property Appellate Board.

A.No.265 of 2020:

Application praying that the Hon'ble Court be pleased to stay the suit proceedings until the rectification proceedings having No.ORA/230/2015/TM/CH which is pending before the Hon'ble Intellectual Property Appellate Board against the Respondent is disposed.

These Applications coming on this day before the court for hearing, the Court made the following order:

A memo was originally filed by the learned counsel for the defendant stating as follows:-

"6. The crux of the three aforementioned applications is the registration is the registration standing in the name of the Defendant under no.1759431 in class 30. We, under instructions from the Defendant, hereby submit before this Hon'ble Court that the Defendant is no longer interested in maintaining the registration and is willing to withdraw / relinquish the registration with the Trademarks Registry. The Defendant hereby undertakes to withdraw the said registration within a period of two weeks. In view of the above, the three applications as mentioned above may also be disposed off.

7. We humbly request the Hon'ble Court to take on record the above and pass such appropriate orders as it



deems fit and thereby render justice."

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2. Thereafter, a further memo had been filed which is dated 17.08.2020 in which it had been stated as follows:-

"4. Hence, as the Defendant has withdrawn / relinquished his registration for their label under no. 1759431 in class 30, the proceedings before IPAB being ORA/230/2015/TM/CH filed by the plaintiffs seeking to cancel the said registration becomes redundant. Consequently applications before this Hon'ble Court, being A.Nos.263, 264 and 269 of 2020, filed by the plaintiffs herein in relation to the said cancellation proceeding also becomes infructuous and therefore may be disposed off as such.

5. We humbly request the Hon'ble Court to take on record the above and pass such appropriate orders as it deems fit and thereby render justice."

3. These 3 applications, have been filed to frame a preliminary issue with respect to invalidity of the defendant's registration No.1759431 and consequently to grant leave to the plaintiffs to continue the proceedings with the Intellectual Property Appellate Board and in consequence of that, to stay the proceedings.

4. Heard both the learned counsels for the applicant/plaintiff and also for the respondent/defendant.

5. In view of the categorical statement by the learned counsel for the defendant, which statement had also been reduced in writing and



presented in the form of memo before the Court, that the defendant has withdrawn / relinquished their registration for their label under Registration no.1759431 in under class 30, I hold that nothing further survives in these 3 applications.

6. Applications are closed as infructuous. However, liberty is granted to plaintiff to revive the applications is necessity arises.

7. List the matter under the caption 'for filing affidavit regarding Admission/Denial of the documents' on 05.10.2020.

Sd./-C.V.K.J
08.09.2020

//Certified to be true copy//

Dated at Madras this the day of 2020.

JJ 10/09/2020

COURT OFFICER(O.S.)

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