

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.01.2020

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Civil Suit No.195 of 2013

and

A.No.2073 of 2015

M/s.Wooltop Design Private Limited,
F72, Anna Nagar East,
Opposite Chintamani Super Market,
Chennai 600 102.

Represented by its Director,
Mr.N.Jayaraman

.. Plaintiff

/versus/

1.M/s Inovative Dezines,
Represented by its Partners, Defendants 2 to 4
No.10/11, Rutland Gate 5th Street,
Nugambakkam, Chennai-600 096.

2.Mrs.A.D.Subapradha A.D.
D/o.Vasudevan Aged 38 years,
A-2, 9 3rd Floor Green Acres,
Kamaraj Nagar, Kanthanchavadi,
Perungudi, Chennai 600 096.

3.Mr.Riaz Razzack,
S/o.Razzack Aged 35 years,
No.976, Poonamalle High Road,
Chennai 600 094.

4.Ms.Rafia Razzack
S/o.Razzack, Aged 31,
No.976, Poonamalle High Road,

Chennai 600 094.
5.Mrs.A.Sreedevi
W/o.D.Akash Kumar, 36 years,
No.22, Jagannathan Street,
Agaram, Chennai 600 082.

6.Mr.Baranidharan,
S/o.N.Rajamani,
5/237, 5th Block,
Mugappiar East,
Chennai 600 037.

... Defendants

This Civil Suit is filed under Order VII Rules 1 and 2 of Civil Procedure Code and Order IV Rules 1 and 2 of Original Side Rules read with Order VII Rule 1 of CPC and under Sections 55, 56, 57, 58 and 62 of the Copy Right Act, 1957, praying to pass a judgment and decree: (a)for a declaration that the plaintiff is the sole and absolute owner having copyright in and having exclusive rights to deal in any manner, the products more particularly set out in Annexure A to the plaint; (b)for permanent injunction restraining the defendants jointly and severally, their agents, representatives, men and all and every person claiming through them from in any manner infringing upon the plaintiff's copyright in the products and samples of the plaintiff including the products more particularly set out in the Annexure A to the plaint including by way of selling and/or exporting the products to buyers, modifying the product design, using the samples including displaying, recreating, modifying the samples and/or procuring orders from the samples; (c)for permanent injunction restraining the defendants jointly and severally their agents, representatives, men and all and every other person claiming through them from in any manner dealing with the customers of the plaintiff namely the companies 1) M/s MAISON DU

MONDE, France 2) M/s LUDVIK ILEBEKK AS, Norway, 3) M/s FESTIVAL AS, Norway, 4) M/s FILIGREE HOLDINGS LIMITED, United Kingdom, 6) M/s KIKA ISRAEL LIMITED, Israel, and 7) M/s SAMKJOP BA, Norway including by way of exporting products to the said companies and directly or indirectly doing any business competitive to that of the plaintiff's business and; (d)for a direction to the defendants jointly and severally, their agents, representatives, men and all and every other person claiming through them to hand over to the plaintiff the samples of the plaintiff company including the samples corresponding to the products as set out in Annexure A to the plaint, copies of the samples, counter samples, finished products made out of the samples, work in progress using the samples and products manufactured based on the variations of the plaintiff's samples; (e)for a direction to the defendants jointly and severally, their agents, representatives, men and all and every person claiming through them to account for and pay the plaintiff the profits made in the 1st defendant company.

For plaintiff : Ms.M.Vidya

For Defendants : Mr.Aditya Mukerjee
for M/s BFS Legal
for D1 to D4

J U D G M E N T

This suit is filed for declaration and injunction on the premise that the designs of the plaintiff's product has been stolen by the defendants, when they were under the employment of the plaintiff and they have enticed the consumers of the plaintiff. The

suit is filed in the year 2013 as a regular suit and thereafter, on advent of the Commercial Court Act, the jurisdiction was determined as Commercial Dispute and the procedure and time frame as contemplated under the Commercial Courts Act were applied. Thereafter, since 31.10.2018, inspite of several opportunities for the plaintiff to inspect the document and file an affidavit of admission and denial of the documents, there was no progress. On 19.12.2019, the learned counsel appearing for the plaintiff made an oral submissions before this Court that the plaintiff failed to contact her and she reports "no instruction". Hence, this Court adjourned the matter to file written memo to that effect. Accordingly, the plaintiff has filed a memo reporting "no instructions".

2. In view of the said memo and non-prosecution of the suit, this Civil Suit is dismissed for default. No order as to costs. Consequently, connected application is closed.

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28.01.2020

Speaking Order / Non-Speaking Order
Index : yes/no
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Dr.G.JAYACHANDRAN,J.

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