

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.07.2020

CORAM:

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

C.S.No.301 of 2019

1.M/s.Lifestyle International Pvt.Ltd.,
9/8, Dwaraka Colony,
Brindavan Street, Mylapore,
Chennai - 600 004.
represented by its
Authorized Signatory
Mr.K.Ravi

2. RNA Intellectual Property Limited,
Level 1, Palm Grove House,
Wickhams Cay, Road Town,
Tortola, British Virgin Islands,
represented by its
Authorized Signatory,
Mr.K.Ravi

.. Plaintiff

/versus/

Sharafdeen
Proprietor,
M/s.Kalluvila Home Center,
Thiruvananthapuram Road,
Ayur, Kollam-691 533.
Kerala.

.. Defendant

This Civil Suit is filed under Order IV Rule 1 O.S. Rules read with Order VII Rule 1 CPC, Sections 51,55 and 62 of the Copyrights Act, 1957, Sections 27,28,29,134 and 135 of the Trade Marks Act, 1999 and Section 7 of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, No.4 of 2016, prayed for

(a) A permanent injunction restraining the defendant, themselves, their respective proprietors/directors/partners as the case may be, successors-in-business, servants, agents, distributors, dealers, stockists, shop keepers, wholesalers, retailers, representatives, assigns and all other persons claiming through or under them from infringing the registered trade mark/label HOME CENTRE of the plaintiffs by establishing retail stores, manufacturing, selling and/or distributing home ware and kitchen ware products under the almost identical mark/trade name/label HOME CENTRE or any other similar or identical or deceptively similar mark and artistic work and in any other manner whatsoever;

(b) a permanent injunction restraining the defendant, themselves, their respective proprietors,directors/partners as the case may be, successors-in-business, servants, agents, distributors, dealers, stockists, shop keepers, wholesalers, retailers, representatives, assigns

and all other persons claiming through or under them from establishing retail stores/outlets under the mark HOME CENTER and/or manufacturing, selling, offering for sale and/or distributing furniture through the identical name of the retail store HOME CENTER which would amount to passing off their goods and services as and for the goods and services of the plaintiffs or as being in some way connected with the plaintiffs by using the mark/label HOME CENTER or any other mark similar or identical or deceptively similar to the plaintiffs' trade mark/label HOME CENTRE and artistic work and in any other manner whatsoever;

(c) a permanent injunction restraining the defendant, themselves, their respective proprietors/directors/partners as the case may be, successors-in-business, servants, agents, distributors, dealers, stockists, shop keepers, wholesalers, retailers, representatives, assigns and all other persons claiming through or under them from providing services under the identical trade name/trade mark with identical label HOME CENTER from committing acts of copyright infringement by making substantial reproduction of the plaintiffs' copyright in the artistic work HOME CENTER label by use of identical colour scheme or any other label similar or identical or deceptively similar thereto and in any other manner whatsoever;

(d) the defendants be ordered to surrender to the plaintiffs for destruction of all goods viz., labels, cartons, dyes, blocks, screen prints,

advertisement materials, packing materials and other goods containing the trade mark/trade name/label or any other work similar or identical or deceptively similar to plaintiffs' registered trade mark/trade name/label HOME CENTRE;

(e) the defendants be ordered to pay, jointly and severally, to the plaintiff a sum of Rs.1,00,000/- (Rupees One Lakh only) as damages for committing acts of infringement of trade mark, copyright and passing off;

(f) a preliminary decree be passed in favour of the plaintiff directing the defendants to render true and faithful account of profits earned by them by use of trade mark HOME CENTER for furniture retail store, which is deceptively similar to the plaintiffs trade mark HOME CENTER and a final decree be passed in favour of the plaintiffs for the amount of profits thus found to have been made by the defendants after the latter have rendered accounts;

(g) for entire costs of the suit

For plaintiffs : Mr. Arun C. Mohan

For Defendant : Mr. S.Haseem Muhammed

JUDGMENT

The learned counsel for the plaintiffs is present.

2. Perusal of the notes paper revealed that Mr. S. Haseem Muhammed, learned counsel had entered appearance for the defendant by filing vakalath in Diary No.18512/19. However, the Registry had returned the vakalath. Thereafter, since the defendant had been served, and had not taken any further effective steps to be represented in the judicial proceedings, the defendant had been set exparte on 26.09.2019. The plaintiff appears to have entered into a memo of compromise with the defendant and a signed copy of the compromise has been exhibited on screen through video conferencing. It has also been signed by the defendant.

3. The learned counsel for the plaintiffs stated that since the plaintiff/defendant could not physically meet each other, the plaintiff has independently signed another copy of the compromise document. The learned counsel stated that the copy of the same has been sent through E-mail to the J.R(OS) and has also made arrangements to drop physical

hard copy of the compromise in the drop box arranged by the High Court.

4. Since the matter has been settled between the parties, the suit is decreed in terms of the compromise, particularly with respect to the grant of permanent injunctions as sought, in favour of the plaintiff.

5. The two copies of the compromise memo which have independent signatures of the plaintiff and the defendant shall form part of the decree.

6. Suit is decreed in the terms of the compromise. No order as to costs.

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Speaking Order / Non-Speaking Order
Internet : yes/no

C.V.KARTHIKEYAN,J.

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