

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 28TH DAY OF JUNE 2019

THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

C.S.NO.799 OF 2014

M/s. Lion Dates Impex Pvt Ltd,
No.40, Sterling Road,
Nungambakkam, Chennai 600 034
Rep.by its Managing Director
P.Ponnudurai ...Plaintiff

-vs-

P.Mohammed Ibrahim,
Proprietor,
Lion Brand Sharbath Company,
New No.13(Old No.2)Middle Street,
Kailasapuram, Tiruvelveli 627 001
Tamil Nadu, India ..Defendant

This Civil Suit coming on this day before this court for hearing the court made the following order:

The learned counsel for plaintiff submitted that the issue involved in this suit is an infringement of Trademark which is a commercial dispute, falls under the provisions of Section 2(1)(c)(xvii) of the Commercial Courts, Commercial Division and

Commercial Appellate Division of High Courts Act, 2015 (in brevity, "Act") which is extracted hereinbelow:

"2. Definitions - (1) In this Act, unless the context otherwise requires, - (c) "Commercial dispute" means a dispute arising out of - (xvii) intellectual property rights relating to registered and unregistered trademarks, copyright, patent, design, domain names, geographical indications and semiconductor integrated circuits."

2. From a perusal of the above provision, it is seen that the dispute involved in this suit is infringement of Trademark which is commercial in nature and therefore, this Court is having the jurisdiction to entertain the present suit. Hence, this Commercial Division takes the present suit on record.

3. The learned counsel appearing for the defendant would submit that when the matter was posted before the learned Master on several occasions viz., 13.03.2018, 27.03.2018, 10.04.2018, 18.04.2018, 28.04.2018, 11.06.2018, 20.06.2018, 04.07.2018, 16.07.2018 & 27.07.2018, for Cross Examination of D.W.1, D.W.1 was not present, only because of the reason that D.W.1 was suffering from heart ailment and apart from that, D.W.1 is also a senior citizen. He further submitted that now the health

condition of D.W.1 is better and so he is in a position to depose the evidence. Therefore, the learned counsel prayed this Court to list the matter before the learned Master for Cross Examination of D.W.1.

4. Considering the submissions made by the defendant's counsel, the matter is posted before the learned Additional Master on 12.07.2019, for Cross Examination of D.W.1 and the said exercise shall be completed on or before 31.07.2019.

5. The learned Additional Master is directed to permit the plaintiff's counsel to cross examine the defendant's side witness (D.W.1) on the day-to-day basis.

6. After completing the Cross Examination of D.W.1, Registry is directed to post the matter before this Court.

सत्यमेव जयते

Sd/.K.R.J
28.06.2019

//Certified to be a true copy//
Dated this the day of 2019.

R.s/05.07.2019

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgement Decree in this format.