

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.10.2020

CORAM:

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

C.S.No.198 of 2017

and

O.A.Nos.257 & 258 of 2017

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 Food (P) Ltd.,

Old No.4, New No.181/1,
6th Avenue, Thangam Colony,
Anna Nagar,
Represented by its Director
Mr.Ashwin Pandian

.. Plaintiffs

/versus/

1.Aachi Ladies Hostel

No.5/1, Rajaji Street,
Ekkaduthangal,
Chennai – 600 097

And also at Nos.51 and 52,
New Colony, 16th Cross Street,
Chromepet, Chennai – 600 044

2.Aachi Chettinad Ladies Hostel

No.63, Nadu Street, Mylapore,
Chennai – 600 004

And also at No.12, VGP Selva Nagar,
Velachery, Chennai – 600 042

And at No.15/66, Madley Road,
T.Nagar, Chennai – 600 017.

.. Defendants

(Suit is dismissed as against the
2nd defendant by an order dated
01.08.2019)

This Civil Suit is filed under and Order IV Rule 1 of the O.S Rules and Order VII Rule 1 of the Code of Civil Procedure read with sections 27(2), 29, 134 and 135 of the Trade Marks Act, 1999, prayed for a Judgment and Decree:-

a).granting a permanent injunction, restraining the defendants, by itself, its servants, agents, distributors, or anyone claiming through them from using, advertising and offering for sale using same or similar or identical Trade Mark AACHI or any other similar trademark or in any media and use the same in name board, invoices, letter heads and visiting cards or by using any other trademark which is in any way visually or phonetically similar to the 1st plaintiff's registered Trademark AACHI and use the mark with respect to Ladies Hostels in name boards, invoices, letter heads and visiting cards or any other trade literature or by using any other trademark which is in any way visually, or phonetically similar to the plaintiffs' registered trademark Nos.838786, 922594,

922596, 976559, 1116254, 1318494, 1318495, 1334479, 1479158, 1479159, 1555564, 1557660, 1564085, 1567065, 1567066, 1567068, 1581011, 1595537, 1595538, 1595539, 1595540, 1595542, 1595543, 1595544, 1595545, 1604348, 1702840, 1702848, 1715718, 1720889 & 1843529 or in any manner infringe the 1st plaintiff's registered trademark.

b).granting a permanent injunction, restraining the defendants, by itself, its servants, agents, or anyone claiming through them from using, advertising and offering for sale using the mark AACHI / AACHI LADIES HOSTEL / AACHI CHETTINAD LADIES HOSTEL or any other similar trademark or in any media and use the same in name boards, invoices, letter heads and visiting cards or by using any other trade mark which is in any way visually or deceptively or phonetically similar to the plaintiffs' trademark AACHI or use the mark in name boards, invoices, letter heads and visiting cards or any other trade literature or by using any other trademark which is in any way visually, or phonetically similar to the plaintiffs' trademark AACHI or in any manner pass off the plaintiffs' goods and services.

c).directing the defendants to surrender to the plaintiffs all the packing material, cartons, advertisement materials and hoardings, letter-heads, visiting cards, office stationery and all other materials containing / bearing the name AACHI /AACHI LADIES HOSTEL / AACHI CHETTINAD LADIES HOSTEL or other visually or phonetically similar trade mark as used.

d).directing the defendants to render an account of profits made by them by the use of the impugned trademark AACHI / AACHI LADIES HOSTEL / AACHI CHETTINAD LADIES HOSTEL and decree the suit for the profits found to have been made by the defendants, after the defendants has rendered accounts.

e).directing the defendants to pay to the plaintiffs the costs to the suit, and

f).pass such further or other order, as this Court may deem fit and proper in the circumstances of the case.

For Plaintiffs : Mr.C.Daniel
For D1 : Mr.V.Ravi
For D2 : Mr.P.Ayyaswamy

JUDGMENT

A Memorandum of Compromise had been forwarded to the Registry, in which, the plaintiffs and 1st defendant have signed. It has also been signed by the learned counsels for the plaintiffs and the 1st defendant.

2.The terms of the Memorandum of Compromise are as follows:

“6.The 1st defendant undertakes to withdraw any application filed for registration of the trademark AACHI LADIES HOSTEL in relation to the Restaurant or with respect to or any other food preparation or on any other business the impugned trademark/name which is in any manner deceptively or phonetically confusingly similar to the plaintiffs' Trade Mark / name AACHI / AACHI LADIES HOSTEL or in any other manner pass off their hotel, business or goods as and for that of the plaintiffs.

7.The 1st defendant undertakes not to oppose the Applications filed by the plaintiffs for the registration of the trademark AACHI.

8.The 1st defendant has not adopted and shall not adopt any of the word or visual features of the plaintiffs' trademark AACHI in future.

9.The 1st defendant shall not use or make any application for registration of the trademark AACHI or its formative marks in future.

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10.The plaintiffs have no objection to the use of the trademark Priya Ladies Hostel by the 1st defendant in respect of its Ladies Hostel henceforth.”

3.Since both the parties have agreed to the terms of the Memorandum of Compromise, the same is recorded and the suit is decreed accordingly. No order as to costs. Consequently, connected Applications are closed. The Memorandum of Compromise shall form part of the decree.

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Internet : Yes / No

Index : Yes / No

Speaking Order : Yes / No

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