

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.144 of 1999

M/s.6 Number Scented Tobacco Co.,
also trading as Aaram Number & Co.,
160, Bypass Road, Darapuram – 638 656.

...Plaintiff

Vs.

M.Durai Raj,
trading as Sri Pasu Mark – 116 No.,
Scented Tobacco Company,
No.7, Vengettipalayam,
Ellis Nagar P.O. Dharapuram.

...Defendant

Prayer: Plaintiff filed under Order VII Rule 1 of C.P.C., r/w. Order IV Rule 1 of the Original Side rules and Sections 105 & 106 of the Trade & Merchandise Marks Act, 1958 and under Sections 55 & 62 of the Copyright Act, 1957, praying as follows:-

a) granting a permanent injunction restraining the defendants abovenamed by themselves, their servants, agents or anyone claiming through them from in any manner infringing the Plaintiffs' registered trade mark labels, both yellow and white, "6 Number" with a peculiar colour scheme and get up by using the offending trade mark labels, both yellow and white, "116 Number" with an identical colour scheme and get up in respect of scented tobacco or any other mark or marks which are deceptively similar

to or identical to the plaintiffs' registered trade mark labels, both yellow and white, "6 Number";

b) granting a permanent injunction restraining the defendants abovenamed by themselves, their servants, agents or anyone claiming through them from in any manner infringing the plaintiffs' registered copyright over the artistic works, both yellow and white, "6 Number" with a peculiar colour scheme and get up by using the offending artistic work labels, both yellow and white, "116 Number" with an identical colour scheme and get up in respect of scented tobacco or any other work or works which are deceptively similar to or identical to the plaintiffs' registered artistic work labels, both yellow and white, "6 Number";

c) granting a permanent injunction restraining the Defendants abovenamed, their servants, agents or anyone claiming through them from in any manner passing off of their scented tobacco bearing the offending artistic works and trade mark label "116 Number", both yellow and white, with an identical colour scheme and get up as and for the Plaintiffs' well established scented tobacco sold under the copyrighted artistic works registered trade mark labels "6 Number" both yellow and white, either by selling or offering for sale or in any manner advertising the same;

d) directing the Defendants herein to surrender to the plaintiffs the entire stock of unused offending labels bearing the offending trade mark and the artistic work "116 Number" together with identical colour scheme and get up along with the blocks and dyes for destruction;

e) directing the defendants to render a true and faithful account of the profits earned by the Defendants through the sale of scented tobacco sold under the offending trade mark labels, both yellow and white, "116 Number" and directing payment of such profits to the Plaintiffs for the passing off committed by the Defendants;

f) directing the Defendants to pay the costs of the suit.

For Plaintiff : Mr.S.Rajesh Ramanathan

For Defendant : Mr.R.Asokan

J U D G M E N T

Mr.S.Rajesh Ramanathan, learned counsel appearing for the plaintiff would submit that his all efforts to contact the plaintiff have failed. The suit is of the year 1999. Since the learned counsel expresses his inability to contact the plaintiff, this suit is dismissed for non-prosecution. No costs.

सत्यमेव जयते

06.10.2021

kkn

Internet:Yes/No

Index:Yes/No

Speaking / Non-Speaking

WEB COPY

List of witness and documents filed on the side of the plaintiff:

Nil

List of witness and documents filed on the side of the defendant:

Nil

kkn

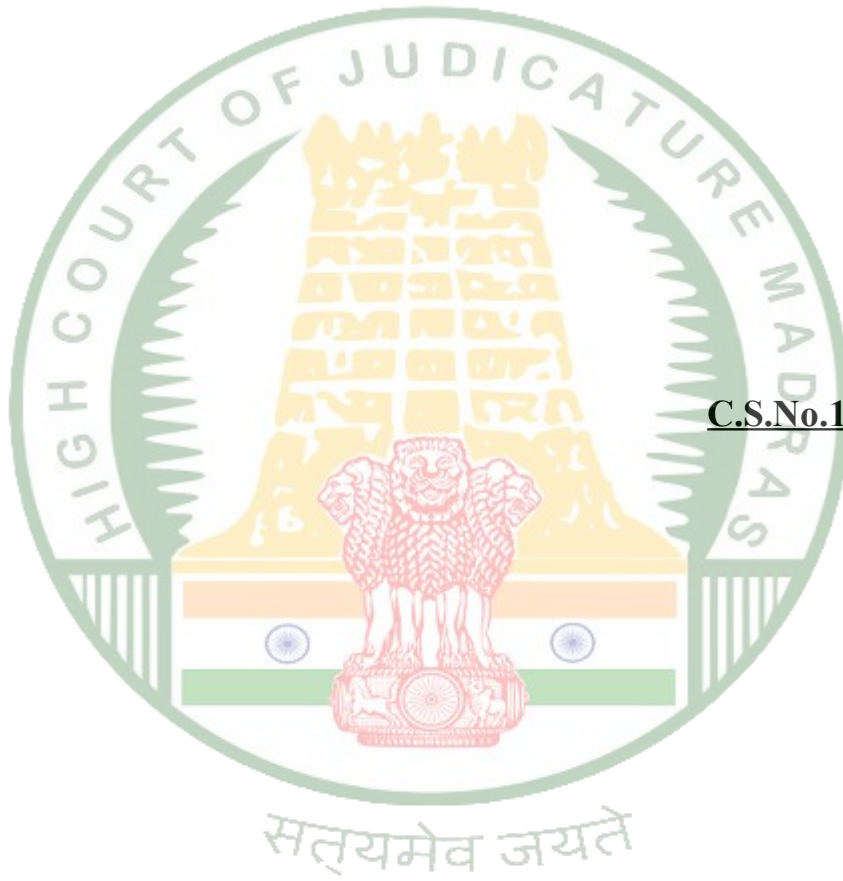
06.10.2021



WEB COPY

R.SUBRAMANIAN, J.

KKN



C.S.No.144 of 1999

WEB COPY

06.10.2021