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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 28TH DAY OF OCTOBER 2021

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

C.S.No.593 of 1999

DINA MALAR

a Partnership Concern,
having Office at No.161,
Anna Salai, Chennai – 600 002.
represented by its Partners,

1. Mr. R. Venkitapathy,
2. Mr. R. Ragavan,
3. Mr. R. Sathyamurthy

... Plaintiff

-Vs-

1. Mr. K. Ramasubbu,
2. Mr. L. Ramasubbu,
3. Mr. K. Venkataraman
4. KAALAI MALAR PUBLICATIONS
Represented by its Owner, Mr.L.Adimoolam
5. Mr. V. Prabhakar
6. Mr. S.A. Perumal
Proprietor : Sree Ambika Press
7. N. Seshadri
Proprietor : m/s Graphico
8. P.A.Shanmugam,
Proprietor : Ganesan Achakam
9. R. Jayaraman,
Proprietor : Vivek Litho
10. V. Saravanan,
Proprietor : Gem Offset Press

... Defendants



Civil suit praying that this Hon'ble Court be pleased to pass a judgement and decree :

a) granting a perpetual injunction restraining the defendants by themselves, their directors, partners, servants, agents, distributors men and representatives from using the trade mark 'DINA MALAR' or any part thereof with the device of the lotus bud Blooming and / or any other trade Mark, device or symbol which are an imitation of and deceptively similar in any manner whatsoever to that of the plaintiff's Trade Mark 'DINA MALAR' in English or any other language, and in particular in Tamil so as to infringe the plaintiff's Trade Mark in Publications by using the same or any other trademark which is identical or deceptively similar in respect of the defendants publications, Dailies, supplements, magazines, Diwali Annual, Weekly editions, fortnightly editions, Calendars, Yearbooks, Stationery, Blocks, Boards and Advertisement material;

b) granting a perpetual injunction restraining the 4th defendant or any of the other defendants by themselves, their directors, partners, servants, agents, distributors men and representatives from using the trade mark 'DINA MALAR' or Kaalai Malar in the three dimensional stylistic lettering or any part thereof with the device of the lotus bud Blooming and/ or any

other trade mark, device or symbol which are an imitation of and



deceptively similar in any manner whatsoever to that of the plaintiff's trade mark 'DINA MALAR' in English or any other language, and in particular in Tamil so as to pass off the defendant's business name or trading style and in particular the 4th defendant's business name or trading style, Kaalai Malar Publications, as and for the plaintiff's Business DINAMALAR or as a unit or division thereof;

c) granting a perpetual injunction restraining the defendants by themselves, their directors, partners, servants, agents, distributors men and representatives from using the mark 'KAALAI MALAR' or any part thereof with the device of the lotus bud Blooming and or any other trade Mark, device or symbol which are an imitation of and deceptively similar in any manner whatsoever to that of the plaintiff's copyright in the work 'DINAMALAR' in English or any other language, and in particular in Tamil so as to infringe the plaintiff's copyright in the stylistic three dimensional lettering and placement of the words in the relation to the device which is identical or deceptively similar in respect of the defendants publications, Dailies, supplements, magazines, Weekly editions, fortnightly editions, Calenders, Yearbooks, Stationery, Blocks, Boards, Advertisement material, trading style or name;



d) The defendants be ordered to deliver up and surrender to the plaintiff all materials, stationery, Boards, dies, negatives, transparencies, blocks and advertisement materials bearing the trademark 'Malar' or 'Kaalai Malar' or any part thereof with the device of the lotus bud Blooming and / or any other trademark, device or symbol which are an imitation of and deceptively similar in any manner whatsoever to that of the plaintiff's trade mark 'DINAMALAR' in English or any other language, and in particular in Tamil

e) for costs of the suit.

This Civil Suit coming on this day before this court for hearing in the presence of Ms.Sumitha for Mr. S. Elambharathi, Advocate for the Defendants herein and the plaintiff herein, not appearing in person or by advocate and upon reading the plaint filed herein and Mr.Perumbulavil Radhakrishnan, learned counsel for the plaintiff would submit that the plaintiff had taken back the papers from him even during the year 2015 and it is seen that no new counsel had entered appearance, **it is ordered as follows:-**

That the suit C.S.No.593 of 1999 be and is hereby dismissed for non-prosecution.



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2. That there shall be no costs of this suit.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
28TH DAY OF OCTOBER 2021.

Sd/-
ASSISTANT REGISTRAR (Comm.Cases)

//Certified to be true copy//
Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)
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ED

09.11.2021

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C.S.No.593 of 1999

ORDER:

DATED : 28/10/2021

THE HON'BLE MR. JUSTICE
R. SUBRAMANIAN

FOR APPROVAL: 12/11/2021

APPROVED ON : 15/11/2021

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

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DATED : 28.10.2021**CORAM****THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN****C.S.No.593 of 1999****DINA MALAR****A Partnership Concern****having Office at No.161, Anna Salai,
Chennai – 600 002.****represented by its Partners,**

- 1. R.Venkitapathy**
- 2. R.Ragavan**
- 3. R.Sathyamurthy**

...Plaintiff**.Vs.**

- 1.K.Ramasubbu**
- 2.L.Ramasubbu**
- 3.K.Venkataraman**

4.KAALAI MALAR PUBLICATIONS**Represented by its Owner, L.Adimoolam****5.V.Prabhakar****6.S.A.Perumal****Proprietor : Sree Ambika Press****7.N.Seshadri****Proprietor: M/s.Graphico****8.P.A.Shanmugam,****Proprietor : Ganesan Achakam****9.R.Jayaraman****Proprietor : Vivek Litho****10.V.Saravanan,****Proprietor : Gem Offset Press****... Defendants**



Plaint filed under Order IV Rule 1 of the Original Side Rules read with Sections 105 and 106 of the Trade and Merchandise Marks Act, 1958 and Sections 55 and 62 of the Copyright Act praying for a judgment and decree:

a) granting a perpetual injunction restraining the defendants by themselves, their directors, partners, servants, agents, distributors men and representatives from using the trade mark 'DINA MALA' or any part thereof with the device of the lotus bud Blooming and / or any other trade Mark, device or symbol which are an imitation of and deceptively similar in any manner whatsoever to that of the plaintiff's Trade Mark 'DINA MALAR' in English or any other language, and in particular in Tamil so as to infringe the plaintiff's Trade Mark in Publications by using the same or any other trademark which is identical or deceptively similar in respect of the defendants publications, Dailies, supplemets, magazines, Diwali Annula, Weekly editions, fortnightly editions, Calendars, Yearbooks, Stationery, Blocks, Boards and Advertisement material;

b) granting a perpetual injunction restraining the 4th defendant or any of the other defendants by themselves, their directors, partners, servants, agents, distributors men and representatives from using the trade mark 'DINA MALAR' or Kaalai Malar in the three dimensional stylistic lettering or any part thereof with the device of the lotus bud Blooming and/ or any other trade mark, device or symbol which are an imitation of and deceptively similar in any manner whatsoever to that of the plaintiff's trade mark 'DINA MALAR' in English or any other language, and in particular in Tamil so as to pass off the defendant's business name or trading style and in particular the 4th defendant's business name or trading style, Kaalai Malar Publications, as and for the plaintiff's Business DINAMALAR or as a unit of division thereof;



c) granting a perpetual injunction restraining the defendants by themselves, their directors, partners, servants, agents, distributors men and representatives from using the mark 'KAALAI MALAR' or any part thereof with the device of the lotus bud Blooming and or any other trade Mark, device or symbol which are an imitation of and deceptively similar in any manner whatsoever to that of the plaintiff's copyright in the work 'DINAMALAR' in English or any other language, and in particular in Tamil so as to infringe the plaintiff's copyright in the stylistic three dimensional lettering and placement of the words in the relation of to the device which is identical or deceptively similar in respect of the defendants publications, Dailies, supplements, magazines, Weekly editions, fortnightly editions, Calenders, Yearbooks, Stationery, Blocks, Boards, Advertisement material, trading style or name;

d) The defendants be ordered to deliver up and surrender to the plaintiff all materials, stationery, Boards, dies, negatives, transparencies, blocks and advertisement materials bearing the trademark 'Malar' or 'Kaalai Malar' or any part thereof with the device of the lotus bud Blooming and / or any other trademark, device or symbol which are an imitation of and deceptively similar in any manner whatsoever to that of the plaintiff's trade mark 'DINAMALAR' in English or any other language, and in particular in Tamil and

e) for costs of the suit.

For Plaintiff : Mr.Perumbulavil Radhakrishnan
- No instructions

For Defendants : Ms.Sumitha
for Mr.S.Elambharathi



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J U D G M E N T

The suit is one for infringement of copyright, which qualifies as a commercial dispute as defined under Section 2(1)(c)(xvii) of the Commercial Courts Act, 2015. The jurisdiction is thus determined and this Commercial Division takes cognizance of the suit.

2. Mr.Perumbulavil Radhakrishnan, learned counsel appearing for the plaintiff would submit that the plaintiff had taken back the papers from him even during the year 2015 and it is seen that no new counsel had entered appearance.

3. Hence, this suit is **dismissed for non-prosecution.** No costs.

List of the witnesses examined on the side of the plaintiff: Nil

List of Exhibits marked on the side of the plaintiff : Nil

List of the witnesses examined on the side of the defendants: Nil

List of Exhibits marked on the side of the defendants: Nil

Sd./- R.S.M.J.
28.10.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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