

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2021

CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.141 of 2000

M/s.ALLIED BUSINESS SOLUTIONS PRIVATE LIMITED,
No.13, Venkataraman Street,
T.Nagar, Chennai – 600 017.

...Plaintiff

.Vs.

1.M/s.AVAN-TEC MEDICAL SYSTEMS (P) LTD
No.31, C.N.K.Road,
Chepauk, Chennai – 600 005.

2.M.Achudhan,
Managing Director,
M/s.AVAN-TEC MEDICAL SYSTEMS (P) LTD
No.31, C.N.K.Road,
Chepauk, Chennai – 600 005.

... Defendants

Plaint filed under Order IV Rule 1 of the Original Side Rules and Order VII Rule 1 of the Code of Civil Procedure read with Section 51 and 55 of the Copyright Act, 1957 and 27, 105 and 106 of the Trade and Merchandise Marks Act, 1958 praying for a judgment and decree for:

a) Permanent Injunction restraining the defendants, their men, servants, agents or anyone claiming through or under them from in any

manner infringing the plaintiff copyright in the computer software “MEDIVEIW” by selling or offering for sale or hiring or offering for hire or in any manner producing or reproducing in whole or in part or in substantial reproduction of the plaintiff's software computer programme “MEDIVEIW”

b) Permanent injunction restraining the defendants, their men, servants, agents or anyone claiming through or under them from in any manner infringing the plaintiff's Trade Mark “MEDIVEIW” by using the offending Trade Mark “MEDIVEIW” or any other mark or marks which are similar or in any way deceptively similar to or a colourable imitation of the plaintiff's Trade Mark “MEDIVEIW” either by manufacturing or selling or offering for sale or in any manner advertising the same

c) Permanent injunction restraining the defendants, their men, servants, agents or anyone claiming through or under them from in any manner passing off their software programmes as that of the plaintiff's by using the offending Trade Mark “MEDIVEIW” as and for the celebrated Software programmes of the plaintiff with the Trade Mark “MEDIVEIW” or by using any other Trademark which is similar or deceptively similar to that of the plaintiff's trade mark “MEDIVEIW”

d) Directing the defendants to render a true and faithful account of the profits earned by them through the sale of software programmes either with or without the offending trade mark “MEDIVEIW” and directing payment of such profits to the plaintiff by way of damages

e) Directing the defendants to surrender to the plaintiff the entire software programs with the offending Trade mark “MEDIVIEW” together with brochures literatures, visual aids, manuals, etc, bearing the offending Trademark for destruction

f) Directing the defendants to return to the plaintiff:

i) 4 Nos. MEDIVIEW Demo Packages in C.D. from with 4 Nos HASP keys

ii) Image capturing cord-2Nos.

iii) Writable C.D.(Hewlett Packard)-1 No.

g) Directing the defendants to pay the plaintiff the costs of the suit.

For Plaintiff : Mr.Prasanna Venkat
for Mr.a.Prabhakara Reddy

For Defendants : No appearance

J U D G M E N T

The suit has been filed by the plaintiff seeking

a) Permanent Injunction restraining the defendants, their men, servants, agents or anyone claiming through or under them from in any manner infringing the plaintiff copyright in the computer software “MEDIVEIW” by selling or offering for sale or hiring or offering for hire or in any manner producing or reproducing in whole or in part or in

substantial reproduction of the plaintiff's software computer programme
“MEDIVEIW”

b) Permanent injunction restraining the defendants, their men, servants, agents or anyone claiming through or under them from in any manner infringing the plaintiff's Trade Mark “MEDIVEIW” by using the offending Trade Mark “MEDIVEIW” or any other mark or marks which are similar or in any way deceptively similar to or a colourable imitation of the plaintiff's Trade Mark “MEDIVEIW” either by manufacturing or selling or offering for sale or in any manner advertising the same

c) Permanent injunction restraining the defendants, their men, servants, agents or anyone claiming through or under them from in any manner passing off their software programmes as that of the plaintiff's by using the offending Trade Mark “MEDIVEIW” as and for the celebrated Software programmes of the plaintiff with the Trade Mark “MEDIVEIW” or by using any other Trademark which is similar or deceptively similar to that of the plaintiff's trade mark “MEDIVEIW”

d) Directing the defendants to render a true and faithful account of the profits earned by them through the sale of software programmes

either with or with out the offending trade mark “MEDIVEIW” and directing payment of such profits to the plaintiff by way of damages

e) Directing the defendants to surrender to the plaintiff the entire software programs with the offending Trade mark “MEDIVIEW” together with brochures literatures, visual aids, manuals, etc, bearing the offending Trademark for destruction

f) Directing the defendants to return to the plaintiff:

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g) Directing the defendants to pay the plaintiff the costs of the suit.

2. Mr.Prasanna Venkat, learned counsel appearing for the plaintiff

would submit that the defendants are no longer using the computer program called MEDIVIEW and he has instructions from the plaintiff to withdraw the suit with liberty to file a fresh suit, in the even if he comes across any infringement in future.

3. Reserving such right, the suit is dismissed as withdrawn. No costs.

24.06.2021

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Index : No

Internet : Yes

Speaking Order/ Non-speaking order

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

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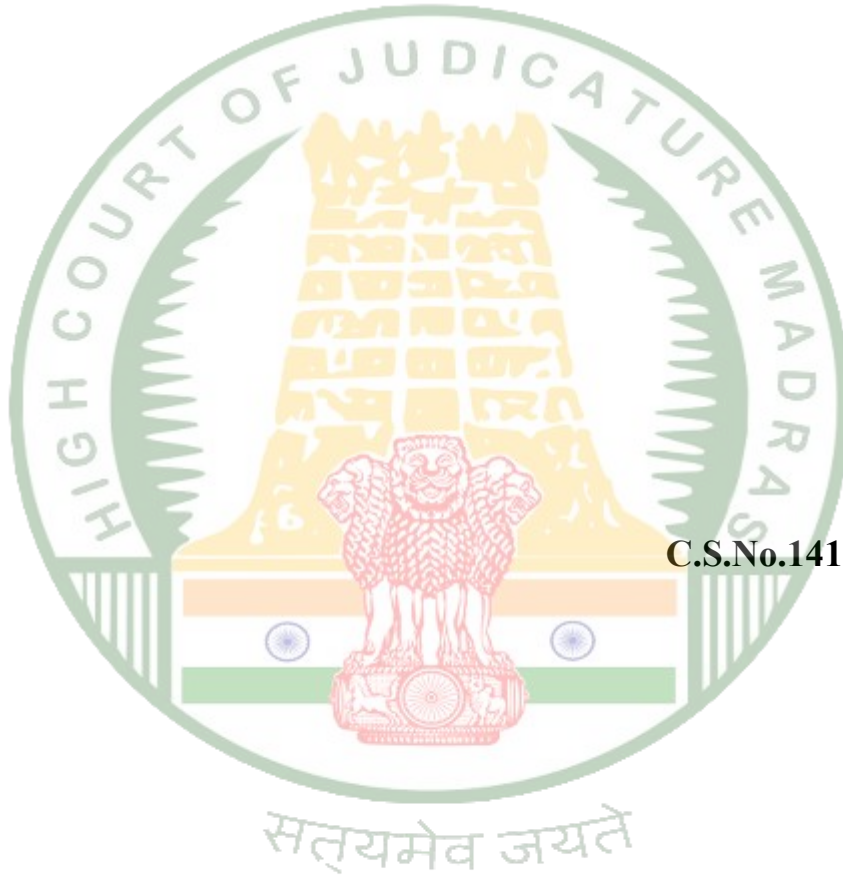
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