



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 28TH DAY OF SEPTEMBER 2021

THE HON'BLE MR. JUSTICE R. SUBRAMANIAN

C.S.No. 289 of 2000

Wisdom Publications,
Represented by its Partner,
No.9, Desika Road,
Mylapore,
Chennai – 600 004.

... Plaintiff

-Vs-

Ms. Shail K. Ojha,
Editor, Publisher, Printer and Owner,
Wisdom Today,
310 Magnum House
1, Karampura Commercial Complex,
New Delhi – 110 015.

... Defendant

Civil suit praying that this Hon'ble Court be pleased to pray for a judgment and decree :

a) granting a permanent injunction restraining the defendant, either by herself, her servants, agents or any one claiming through or under the defendant from committing infringement of the plaintiff's Registered Trade Marks WISDOM PUBLICATIONS registered under Nos.363411 B and 477728 for publications in Class 16 by the use of the mark WISDOM TODAY or any other trade mark deceptively or confusingly similar to the plaintiff's aforementioned registered trade mark or by printing, publishing,



selling any magazine or other publication bearing the mark WISDOM Today or any other mark deceptively or confusingly similar to the aforementioned Registered Trade Mark of the plaintiff.

b) granting a permanent injunction restraining the defendant, by herself, her servants or agents or anyone claiming through or under the defendant from passing off the magazine bearing the mark WISDOM TODAY as or for the well known and reputed magazine bearing the trade mark WISDOM of the plaintiff by the use of the mark WISDOM TODAY or any other trade mark deceptively or confusingly similar to the plaintiff's aforementioned trade mark or by printing, publishing, selling any magazine or other publication bearing the mark WISDOM TODAY or any other mark deceptively or confusingly similar to the aforementioned Trade Mark of the plaintiff.

c) granting a permanent injunction restraining the defendant either by herself, her servants, agents or any one claiming through or under the defendant from infringing the copyright in the work pertaining to the plaintiff's magazine in regard to the getup, layout and arrangement of the plaintiff's said magazine.

d) directing the defendant to surrender to the plaintiff, for destruction, all copies of magazines bearing the mark WISDOM TODAY together with all blocks, dies and other implements used for printing the said copies.



e) directing the defendant to pay to the plaintiff a sum equivalent to the profits earned by the defendant through the sale of the said offending magazine.

f) in the alternative, directing the defendant to pay to the plaintiff such sum as this Hon'ble Court may determine by way of damages for the aforementioned wrongs committed by the defendant.

g) directing the defendant to pay to the plaintiff the costs of this suit.

This Civil Suit coming on this day before this Court for hearing in the presence of Mr.S.Udayakumar, Advocate for the plaintiff herein and the defendant herein, not appearing in person or by advocate and the said defendant herein having been set exparte and upon reading the plaint filed herein in C.S.No. 289 of 2000 and the other exhibits therein referred to and upon perusing the evidence adduced therein, **it is ordered and decreed as follows:-**

That Ms.Shail K. Ojha, the defendant herein either by herself, her servants, agents or any one claiming through or under the defendant, be and is hereby restrained by an order of permanent injunction from (a) committing infringement of the plaintiff's Registered Trade Marks WISDOM PUBLICATIONS registered under Nos.363411 B and 477728



any other trade mark deceptively or confusingly similar to the plaintiff's aforementioned registered trade mark or by printing, publishing, selling any magazine or other publication bearing the mark WISDOM TODAY or any other mark deceptively or confusingly similar to the aforementioned Registered Trade Mark of the plaintiff (b) passing off the magazine bearing the mark WISDOM TODAY as or for the well known and reputed magazine bearing the trade mark WISDOM of the plaintiff by the use of the mark WISDOM TODAY or any other trade mark deceptively or confusingly similar to the plaintiff's aforementioned trade mark or by printing, publishing, selling any magazine or other publication bearing the mark WISDOM TODAY or any other mark deceptively or confusingly similar to the aforementioned Trade Mark of the plaintiff (c) infringing the copyright in the work pertaining to the plaintiff's magazine in regard to the getup, layout and arrangement of the plaintiff's said magazine.

2. That the defendant herein, be and is hereby directed to surrender to the plaintiff herein, for destruction, all copies of magazines bearing the mark WISDOM TODAY together with all blocks, dies and other implements used for printing the said copies.

3. That the defendant herein, be and is hereby directed to pay to the



plaintiff a sum equivalent to the profits earned by the defendant through the sale of the said offending magazine.

4. That the defendant herein, do pay to the plaintiff herein, the costs of this suit, as and when taxed by the taxing officer of this Court noted in the margin thereof.

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

Sd/-

ASSISTANT REGISTRAR (Comm.Cases)

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.



ED
WEB COPY 12.01.2022

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C.S.No. 289 of 2000

DECREE:

DATED : 28/09/2021

THE HON'BLE MR. JUSTICE
R. SUBRAMANIAN

FOR APPROVAL: 12.01.2022

APPROVED ON : 24.01.2022



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.289 of 2000

Wisdom Publications,
represented by its Partner,
No.9, Desika Road, Mylapore,
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...Plaintiff

Vs.

Ms.Shail K.Ojha
Editor, Publisher, Printer and Owner:
Wisdom Today
310, Magnum House,
1, Karampura Commercial Complex,
New Delhi – 110 015.

...Defendant

Prayer: Complaint filed under Order VII Rule 1 of the Civil Procedure Code and Sections 27(2), 29, 105 & 106 of the Trade & Merchandise Act, 1958 and Section 62 of the Copyright Act, 1957:-

a) granting a permanent injunction restraining the defendant, either by herself, her servants, agents or any one claiming through or under the defendant from committing infringement of the plaintiff's Registered Trade Marks WISDOM PUBLICATIONS registered under Nos.363411 B and 477728 for publications in Class 16 by the use of the mark WISDOM TODAY or any other trade mark deceptively or confusingly similar to the plaintiff's aforementioned registered trade mark or by printing, publishing, selling any magazine of any other mark deceptively or confusingly similar to the aforementioned Registered Trade Mark of the plaintiff.



b) granting a permanent injunction restraining the defendant, by herself, her servants or agents or anyone claiming through or under the defendant from passing off the magazine bearing the mark WISDOM TODAY as or for the well known and reputed magazine bearing the trade mark WISDOM of the plaintiff by the use of the mark WISDOM TODAY or any other trade mark deceptively or confusingly similar to the plaintiff's aforementioned trade mark or by printing, publishing, selling any magazine or other publication bearing the mark WISDOM TODAY or any other mark deceptively or confusingly similar to the aforementioned Trade Mark of the plaintiff.

c) granting a permanent injunction restraining the defendant either by herself, her servants, agents or any one claiming through or under the defendant from infringing the copyright in the work pertaining to the plaintiff's magazine in regard to the getup, layout and arrangement of the plaintiff's said magazine.

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f) in the alternative, directing the defendant to pay to the plaintiff such sum as this Hon'ble Court may determine by way of damages for the aforementioned wrongs committed by the defendant.

g) directing the defendant to pay to the plaintiff the costs of this



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For Plaintiff : Mr.S.Udayakumar

For Defendant : Set Exparte

J U D G M E N T

The plaintiff, a publishing house, publishing an international monthly magazine titled “WISDOM” seeks injunctive reliefs restraining the defendant from in any manner infringing the trademark “WISDOM” by using a deceptively similar mark “WISDOM TODAY” and also passing off of its publication as that of the plaintiff's.

2.According to the plaintiff, the plaintiff carries on business from the year 1973 and it had obtained valid registration of its trademark “WISDOM” depicted in a particular manner as early as in 1980. The plaintiff would claim that its turnover for the years 1988-1989 was Rs.67.31 Lakhs and the total sales turnover of the Magazine for the period between 1980 to 1998 is Rs.4.68 Crores. It is also claimed that the plaintiff has spent nearly a sum of Rs.16.13 lakhs for advertisements and promotion of the Magazine.

3.Despite service, the defendant has not chosen to appear either in



20.07.2021 and the suit was referred to the learned Additional Master for recording of evidence.

4. One Mr.K.V.S.Vijaya Kumar has been examined as P.W.1. He has filed a proof affidavit setting out the facts stated in the plaint and according to him, the use of the name “WISDOM TODAY” by the defendant would amount to infringement of trademark as the same is deceptively similar to the plaintiff's mark “WISDOM”. The certificate of registration of the trademark has been produced as Ex.P2. The legal user certificate has been filed as Ex.P6 and the certificates of renewal of the trademark have been filed as Exs.P4 and P5.

5.I have gone through the pleadings and the evidence on record. The documents produced would demonstrate that the plaintiff is a registered proprietor of the trademark “WISDOM” and the registration is alive as of today. On the examination of the offending mark namely, “WISDOM TODAY” in comparison with the plaintiff's mark would clearly show that the defendant's usage of the mark would definitely amount to infringement of the plaintiff's mark. The manner, in which the words are written is also quite similar to that of the plaintiff's mark. The layout of the Magazine of the defendant is also substantially similar to that of the plaintiff's magazine.



I therefore, find that the plaintiff has made out a case for grant of reliefs as prayed for. The suit is therefore, decreed as prayed for with costs.

List of witness examined on the side of the plaintiff:

Mr.K.V.S.Vijaya Kumar (P.W.1)

List of documents filed on the side of the plaintiff:-

<i>S.No</i>	<i>Description of Documents</i>	<i>Exhibits</i>
1	The original Wisdom Magazine to plaintiff.	Ex.P1
2	The photocopy of the Certificate of Registration Trademark No.363411B to Registrar of Trade Marks and Plaintiff dated 03.07.1980. (Original is produced, Compared and it is undertaken by the plaintiff that it can be produced as and when required.)	Ex.P2
3	The photocopy of the certificate of Regn. Trade Mark No.477728 to Registrar of Trade Marks and Plaintiff dated 02.09.1987. (Original is produced, Compared and it is undertaken by the plaintiff that it can be produced as and when required.)	Ex.P3
4	The photocopy of the certificate of renewal of Trademark. No.363411B to Registrar of Trademarks dated 18.04.1994. (Original is produced, Compared and it is undertaken by the plaintiff that it can be produced as and when required.)	Ex.P4
5	The photocopy of the certificate of Renewal of Trademark No.477728 to Registrar of Trade Marks dated 18.04.1994. (Original is produced, Compared and it is undertaken by the plaintiff that it can be produced as and when required.)	Ex.P5
6	The photocopy of the Certified copy Trademark No.363411B to Registrar of Trade Marks dated 18.06.1994. (Original is produced, Compared and it is undertaken by the plaintiff that it can be produced as and when required.)	Ex.P6
7	The photocopy of the certified copy of the Trademark No.477728B to Registrar of Trademarks dated 11.01.2000. (Original is produced, Compared and it is undertaken by the plaintiff that it can be produced as and when required.)	Ex.P7
8	The original Wisdom Today Magazine to Defendant dated-March 2000.	Ex.P8



S.No	Description of Documents	Exhibits
9	The Original Legal Notice to Plaintiff to Defendant dated 13.07.1998.	Ex.P9
10	The original reply notice to Defendant to plaintiff dated 19.08.1998.	Ex.P10
11	The photocopy of the Letter from Plaintiff to Plaintiff Registrar of Newspapers dated 29.06.1998. (Original is produced, Compared and it is undertaken by the plaintiff that it can be produced as and when required.)	Ex.P11
12	The photocopy of the Letter from Plaintiff to Plaintiff Registrar of Newspapers dated 28.08.1998. (Original is produced, Compared and it is undertaken by the plaintiff that it can be produced as and when required.)	Ex.P12
13	The photocopy of the letter from Plaintiff to Plaintiff and Press Regn., Appellate Board dated 31.12.1998. (Original is produced, Compared and it is undertaken by the plaintiff that it can be produced as and when required.)	Ex.P13
14	The photocopy of the Order of Press & Regn., Appellate Board to Plaintiff and press Regn., Appellate Board dated 01.03.1999. (Original is produced, Compared and it is undertaken by the plaintiff that it can be produced as and when required.)	Ex.P14
15	The Office copy of the petition by Plaintiff to Plaintiff and DCP dated 11.03.1999.	Ex.P15
16	The Office copy of the Appeal by Plaintiff to Plaintiff and Press Regn., Appellate Board dated 30.07.1999.	Ex.P16
17	The photocopy of the Order of Press Regn., Appellate Board to Plaintiff and Press Regn., Appellate Board dated 29.11.1999.(Original is produced, Compared and it is undertaken by the plaintiff that it can be produced as and when required.)	Ex.P17

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

Nil

Sd./- R.S.M.J.
28.09.2021

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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