

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2021

CORAM:

THE HON'BLE JUSTICE C.V.KARTHIKEYAN

C.S.No.867 of 2000

Golden Dragon,
represented by its Proprietor,
Fan Shantu,
Plot No.2866, 'Y' Block,
3rd Street, 12th Main Road,
Anna Nagar, Chennai - 40.
Plaintiff

...Vs...

M/s.Golden Foods Industries,
represented by its Proprietor,
Panneerselvam.

... Defendant

PRAYER : Plaintiff filed under and Order IV Rule 1 of Original Side Rules and Order VII Rule 1 of CPC, Sections 105 and 106 of the Trade and Mercandise Marks Act, 1958, prayed for a Judgment and Decree:-

(a) Granting a permanent injunction restraining the defendant by itself, its servants, agents, assigns or any one else claiming through it from in any manner infringing the Registered Trade Mark "Golden Dragon" by using

the offending device of Dragon by using noodles in a bowl and colour scheme or mark which are in any way identical or colourable imitation of the plaintiff's Registered Trade mark, "Golden Dragon".

(b) Granting a permanent injunction restraining the Defendant herein by itself, its servants, agents, assigns or any one else claiming through it from in any manner passing off its Egg and Vegetarian noodles through their packets bearing the offending artistic work and design and colour scheme of the well established Trade Mark of the plaintiff "Golden Dragon" either through sale or in any manner advertising the same.

(c) Directing the Defendant herein to render true and faithful accounts relating to the business during the use of the offending Trade Mark and the artistic work "Golden Dragon", and directing payment of such profits to the plaintiff for the "passing off" committed by the Defendant herein.

(d) For costs of this Suit.

For Plaintiff : M/s.M.Balasubramanian

For Defendant : No Appearance

J U D G M E N T

Suit had been filed by the plaintiff under Sections 105 and 106 of the Trade of Mercandise Marks Act, 1958, seeking protection of the Trademark "Golden Dragon". Since, the issue raised is an assertion of the Intellectual Property Right, the lis can be termed as a Commercial Dispute and the Commercial Division of this Court will have jurisdiction to examine the issues under Section 2(1)(c)(xvii) of the Commercial Courts Act, 2015.

2. On perusal of the records it is seen that the matter had been pending for the past more than 20 years. There has been no effective progress in the suit. It had been earlier listed on 02.03.2021. Today again there is a representation by the learned counsel for the plaintiff that he would like to get some instructions of the plaintiff. However, keeping a suit two decades old, on record will be of no benefit to anyone.

C.V.KARTHIKEYAN, J

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3. The suit is dismissed for non prosecution. The plaintiff can always institute a fresh suit, if a fresh cause of action arises against the defendant or against any third party with respect to the copyright.

4. With the said observation, suit is dismissed for non prosecution.

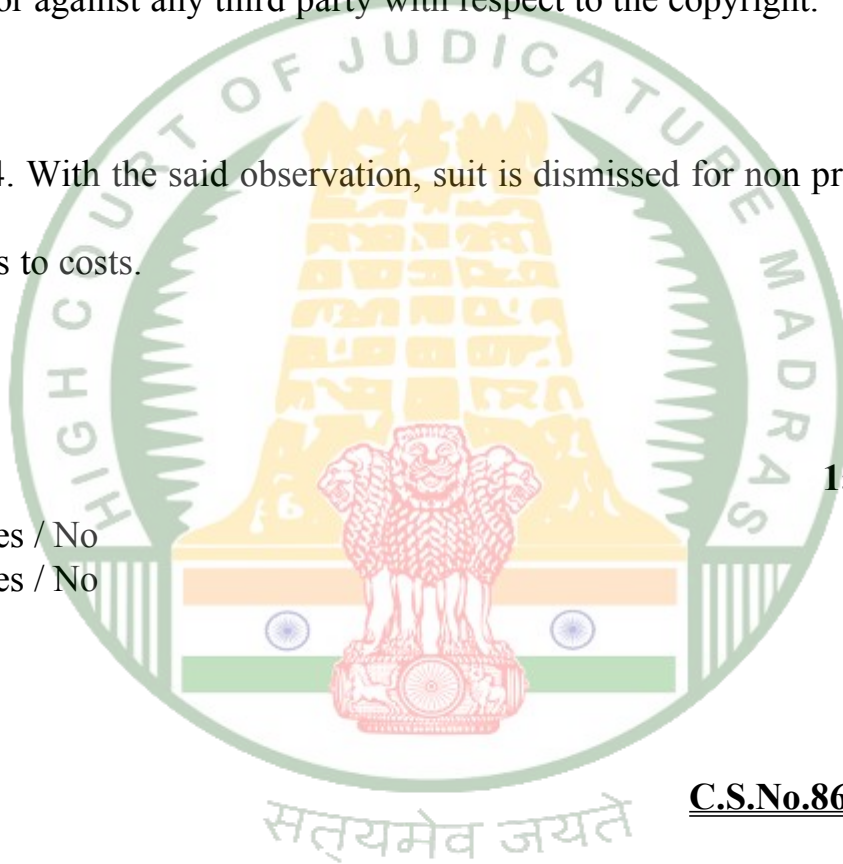
No order as to costs.

15.03.2021

Index : Yes / No

Web : Yes / No

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