

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2021

CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.791 of 2000

Mohammed Idris Brothers Pvt. Ltd.,
Rep. by its Joint Managing Director,
K.M.Akbar Ali

...Plaintiff

.Vs.

1.K.M.Hameed Sultan

2.K.M.Mohammed Yusuf

3.K.M.Umar Farook

4.V.M.Kamal Batcha

... Defendants

Plaint filed under Order VII Rule 1 of Civil Procedure Code read with Sections 105 and 106 of the Trade and Merchandise Marks Act read with Order IV Rule 1 of the Madras High Court Original Side Rules praying for a judgment and decree as follows :

a) pass a decree of permanent injunction restraining the defendants 1 to 4 their men, agents, assignees, successors, heirs, legal representatives and anyone claiming under or through them from in any manner infringing the trade mark, logo, name and emblem of the plaintiff under the name of style of KIBS as found in the registration of trade mark No.268909 (B) in the name of Mohammed Idris Brother Pvt. Ltd., or any other name or trade mark deceptively similar or identical to the trade mark and name KIBS of the plaintiff in the course of their respective and collective trades

b) pass a decree of the mandatory direction directing the defendants to surrender the offending a prints, dies, etc., involving the trade mark of the plaintiff or any trade mark identical with or deceptively similar to the same of the plaintiff for destruction and

c) award the costs of the suit of the plaintiff.

For Plaintiff : Mr.R.Srinivas

For Defendants : Mr.Prasanna Venkat
for Mr.A.Prabhakara Reddy

J U D G M E N T

The suit has been filed by the plaintiff for a decree and judgment:

a) for a permanent injunction restraining the defendants 1 to 4 their men, agents, assignees, successors, heirs, legal representatives and anyone claiming under or through them from in any manner infringing the trade mark, logo, name and emblem of the plaintiff under the name of style of KIBS as found in the registration of trade mark No.268909 (B) in the name of Mohammed Idris Brother Pvt. Ltd., or any other name or trade mark deceptively similar or identical to the trade mark and name KIBS of the plaintiff in the course of their respective and collective trades

b) for a mandatory direction directing the defendants to surrender the offending a prints, dies, etc., involving the trade mark of the plaintiff or any trade mark identical with or deceptively similar to the same of the plaintiff for destruction and

c) for costs of the suit of the plaintiff.

2. Mr.R.Srinivas, learned counsel appearing for the plaintiff would submit that he has no instructions from the plaintiff.

3. Mr.Prasanna Venkat, learned counsel appearing for the defendants 1 to 4 would submit that the defendants 1 and 2 are no more and the 3rd defendant is the Director of the plaintiff Company. The 4th defendant is the Dealer having a retail outlet. Therefore, nothing survives to be adjudicated in the suit.

4. The statement of the counsel is recorded and the suit is dismissed under Rule 3(a) of Order XIII A of the Code of Civil Procedure as amended by the Commercial Courts Act, 2015 on the ground that in view of the subsequent events, the plaintiff has no chance of succeeding in the suit. No costs. It is always open to the plaintiff to initiate fresh proceedings if there is any violation in future.

08.07.2021

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Index : No
Internet : Yes
Non-Speaking order

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

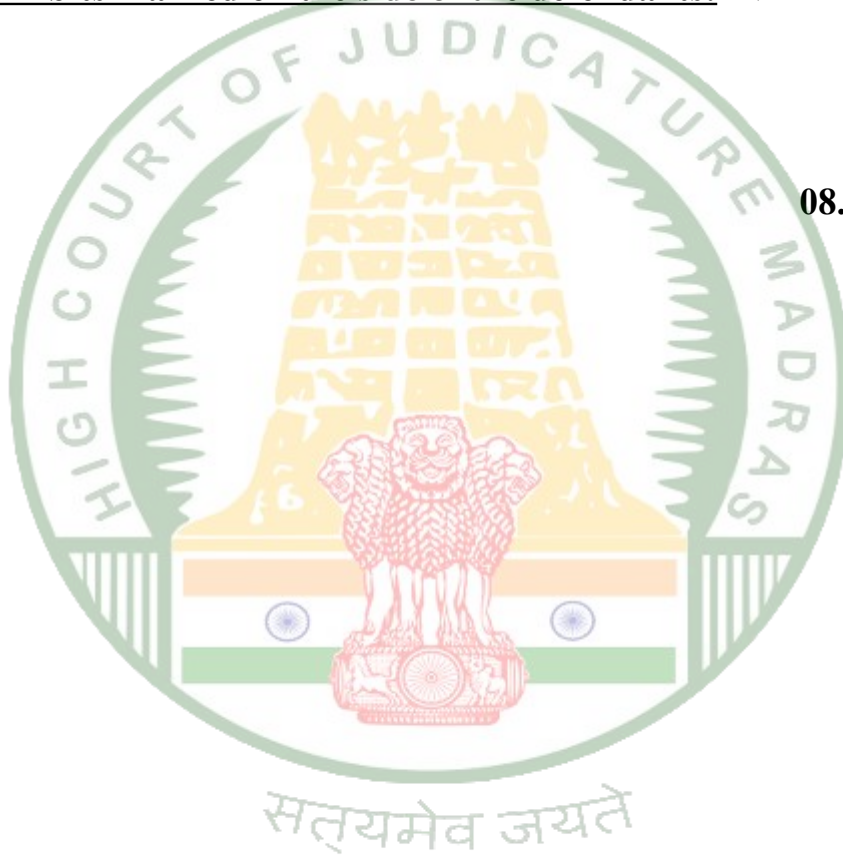
List of Exhibits marked on the side of the plaintiff : Nil

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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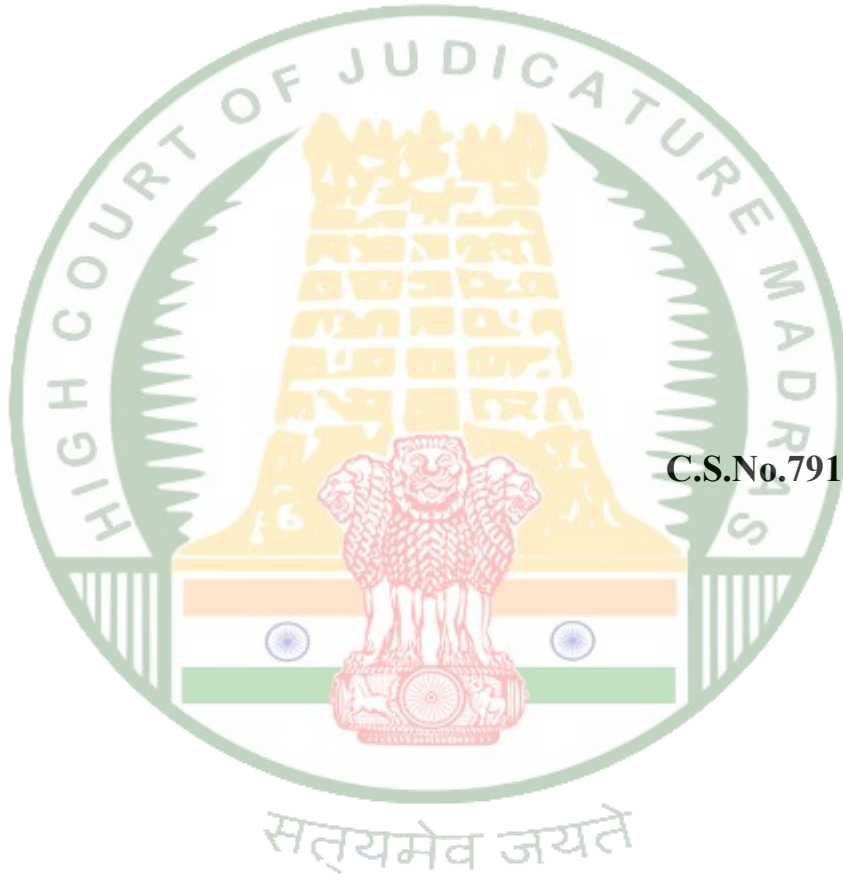


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R.SUBRAMANIAN, J.

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