



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 22ND DAY OF MARCH 2021

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

C.S. No.750 of 2002

Mr.Chinnamswami,
Proprietor,
M/s.Assam Tea Corporation,
27/II/1521-1, Balaji Nagar,
Nellore - 524 002.
Andhra Pradesh.

... Plaintiff

..Vs..

1.M/s.Balaji Consumer Products of India,
62/2, Mc Nichols Road,
Chetpet, Chennai 600 031.

...Defendant -1

2.M/s.Bell Consumer Care (India) Ltd.,
62/2, Mc Nichols Road,
Chetpet, Chennai 600 031.

... Defendants - 2

Civil Suit praying that this Hon'ble Court be pleased to grant a
Judgment and decree.

(a) A perpetual injunction restraining the Defendants, by themselves,
their men, servants, agents, distributors, stockists, representatives or any of
them from in any manner infringing the plaintiff's registered trademark

"FIVE STAR" LABEL by use of the trademarks "5 STAR" LABEL or any
mark similar to plaintiff's registered trademarks or in any other manner



whatsoever;

WEB COPY

(b) A perpetual injunction restraining the Defendants, by themselves, their men, servants, agents, distributors, stockists, representatives or any of them from in any manner passing off and enabling others to pass off the defendants tea as and for the plaintiff's tea by use of the trademark "5 STAR" LABEL or any other mark deceptively similar to the plaintiff's trademark "FIVE STAR" LABEL in identical colour scheme, get up and layout or in any other manner whatsoever;

(c) A perpetual injunction restraining the Defendants, by themselves, their men, servants, agents, distributors, stockists, representatives or any of them from in any manner committing acts of copyright infringement by printing stocking and using "5 STAR" LABEL which is a substantial reproduction of plaintiff's "FIVE STAR" LABEL in colour scheme, get up and layout or in any other manner whatsoever;

(d) The defendants be ordered to surrender to plaintiff for destruction all packed tea, labels, dyes, blocks, moulds, screen prints, packing materials and other materials bearing the trademark "5 STAR" LABEL or any mark deceptively similar to plaintiff's trademark and artistic work "FIVE STAR" LABEL;

(e) A preliminary decree be passed in favour of the plaintiff directing

the defendants to render account of profits made by use of trademark and



copyright "5 STAR" LABEL and a final decree be passed in favour of the plaintiff for the amount of profits thus found to have been made by the defendants after the latter have rendered accounts;

(f) The defendants be ordered and decreed to pay to the plaintiff a sum of Rs.1,00,000/- as damages for acts of infringement of trademark, passing off and infringement of copyright committed by the defendants by manufacture and sale of tea bearing the trademark and artistic works "5 STAR" LABEL;

(g) For costs of this suit.

This suit coming on this day before this court for hearing in the presence of Mr.Madhan Babu, Advocate for the plaintiff herein and Mr.A.Prabakara Reddy, Advocate for the defendants herein, and upon reading the plaint filed herein and this court having observed that the order of dismissal of the present suit would not stand in the way of the plaintiff seeking protection of his registered trademark on his subsequent cause of action and if a fresh cause of action arises, it is ordered as follows:-

That the suit in C.S.No.750 of 2002, be and is hereby dismissed.

2) That the plaintiff herein, shall be at liberty to institute a fresh suit, in case there is any violation of the said trademark, either by the defendants or by anybody acting under the defendants or by any third party.



3) That there shall be no order as to costs of this suit.

WEB COPY WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
22nd DAY OF MARCH 2021.

Sd/-

ASSISTANT REGISTRAR (Comm. Cases)

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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



Skg

06.05.2021

C.S. No.750 of 2002

ORDER:

DATED: 22.03.2021

THE HON'BLE MR. JUSTICE
C.V.KARTHIKEYAN

FOR APPROVAL: 25/07/2021

APPROVED ON: 22/07/2021



WEB COPY

6

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **22.03.2021**

CORAM:

THE HON'BLE MR.JUSTICE **C.V.KARTHIKEYAN**

C.S.No.750 of 2002

Mr.Chinnamswami,
Proprietor,
M/s.Assam Tea Corporation,
27/II/1521-1, Balaji Nagar,
Nellore - 524 002.
Andhra Pradesh.

... Plaintiff

..Vs..

1.M/s.Balaji Consumer Products of India,
62/2, Mc Nichols Road,
Chetpet, Chennai 600 031.

2.M/s.Bell Consumer Care (India) Ltd.,
62/2, Mc Nichols Road,
Chetpet, Chennai 600 031.

... Defendants

PRAYER : Plaint filed under and Order VII Rule 1 CPC and Order IV Rule 1 of the Original Side Rules read with Sections 27, 28, 29, 105, 106 of the Trade and Merchandise Marks Act, 1958 Sections 51, 55 and 62 of the Copyright Act, 1957, prayed for a Judgment and Decree:-

(a) A perpetual injunction restraining the Defendants, by themselves,

their men, servants, agents, distributors, stockists, representatives or any of



them from in any manner infringing the plaintiff's registered trademark FIVE STAR LABEL by use of the trademarks "5 STAR" LABEL or any mark similar to plaintiff's registered trademarks or in any other manner whatsoever;

(b) A perpetual injunction restraining the Defendants, by themselves, their men, servants, agents, distributors, stockists, representatives or any of them from in any manner passing off and enabling others to pass off the defendants tea as and for the plaintiff's tea by use of the trademark "5 STAR" LABEL or any other mark deceptively similar to the plaintiff's trademark FIVE STAR LABEL in identical colour scheme, get up and layout or in any other manner whatsoever;

(c) A perpetual injunction restraining the Defendants, by themselves, their men, servants, agents, distributors, stockists, representatives or any of them from in any manner committing acts of copyright infringement by printing stocking and using "5 STAR" LABEL which is a substantial reproduction of plaintiff's FIVE STAR LABEL in colour scheme, get up and layout or in any other manner whatsoever;

(d) The defendants be ordered to surrender to plaintiff for destruction all packed tea, labels, dyes, blocks, moulds, screen prints, packing materials and other materials bearing the trademark "5 STAR" LABEL or any mark deceptively similar to plaintiff's trademark and artistic work FIVE STAR



LABEL;

WEB COPY

(e) A preliminary decree be passed in favour of the plaintiff directing the defendants to render account of profits made by use of trademark and copyright "5 STAR" LABEL and a final decree be passed in favour of the plaintiff for the amount of profits thus found to have been made by the defendants after the latter have rendered accounts;

(f) The defendants be ordered and decreed to pay to the plaintiff a sum of Rs.1,00,000/- as damages for acts of infringement of trademark, passing off and infringement of copyright committed by the defendants by manufacture and sale of tea bearing the trademark and artistic works "5 STAR" LABEL;

(g) For costs of this suit.

For Plaintiff : M/s.Madhan Babu

For Defendants : M/s.A.Prabakara Reddy

J U D G M E N T

Heard Mr.Madhan Babu, learned counsel for the plaintiff stated that a status report has been filed.

2. The suit had been pending from the year 2002. The plaintiff M/s.Chinnamswami, Proprietor, Assam Tea Corporation was granted protection from any infringement of his registered trademark FIVE STAR



LABEL. There has been no effective progress. The suit is dismissed.

However, the plaintiff is granted liberty to institute a fresh suit, in case there is any violation of the said trademark, either by the defendants or by anybody acting under the defendants or by any third party.

3. The order of dismissal of the present suit would not stand in the way of the plaintiff seeking protection of his registered trademark on his subsequent cause of action and if a fresh cause of action arises.

4. With the above observation, suit is dismissed. No order as to costs.

Sd./- C.V.K.J.
22.03.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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