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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 18th DAY OF MARCH 2021

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

C.S.No.87 of 2002

1.M/s.Bharani Silk Centre,
a partnership firm represented
by its Partners,
carrying on business at
No.67, R.K.V.Road,
Erode - 638 001.

2.N.Nallathambi,
No.82, Eranian Street,
Solar, Erode 638 002.

3.K.S.Shanmugha Sundaram,
No.36, Gandhi Nagar, Erode.

4.K.S.Mahalingam,
No.4, Gandhi Nagar - II, Erode.

5.K.S.Mahadevan,
No.5, Gandhi Nagar - II, Erode Town.

... Plaintiffs

..Vs..

M/s.Bharani Silks and Readymades,
No.558 - 559, Dr.Nanjappa Road,
Opp. Town Bus Stand,
Gandhipuram,
Coimbatore - 641 018.

... Defendant

Civil Suit praying that this Hon'ble Court may be pleased to pass a

decree and judgement in favour of the plaintiffs:-

(a) For grant of a permanent injunction restraining the defendant



by themselves, their servants, agents or any one claiming through them from in any manner infringing plaintiff's registered trademark BHARANI or any other marks, labels or device which is identical or in any manner similar or deceptively similar as colourable imitation of the plaintiff's registered trademark BHARANI either as trademark or trading style in any of their manufacturing activities, goods, bill, invoices, price list, name tags, calendars, name boards, signboards, packing materials or complimentary items, advertisements in newspapers, magazines, television, hoardings etc.

(b) For a permanent injunction restraining the defendant by themselves, their servants, agents or any one claiming through them from in any manner passing off their goods as that of the plaintiff's by using the offending trademark BHARANI or any other mark, labels or device which is identical or in any manner similar or deceptively similar as colourable imitation of the plaintiff's registered trademark BHARANI either as a trademark or trading style for any of their manufacturing activities.

(c) Directing the defendant to render a true and proper account of profits earned by them through the manufacture and / or sale of the products using the offending trademark BHARANI and directing the defendant to pay to the plaintiffs the said profits so earned by them using the offending trademark BHARANI.

(d) Directing the defendant to surrender to the plaintiff the entire



stock of unused offending BHARANI marks, labels, cartons, boxes and any other printed materials, blocks, advertisements with literature and any other materials containing and consisting of the offending trademark BHARANI for destruction.

(e) 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.Md.Asghar Ali, Advocate for the Defendant herein and upon reading the plaint filed herein and the plaintiff filed an affidavit dated 16.03.2021 morefully set out in the schedule hereunder,

it is ordered as follows:-

That the suit in C.S.No.87 of 2002, be and is hereby dismissed.

2. That the plaintiff herein, shall be at liberty to institute a fresh suit on a fresh cause of action as against the defendant herein or as against anybody else acting under the defendant or as against any third party.

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

(Schedule – Affidavit)



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10.05.2021

C.S.No.87 of 2002

ORDER

DATED : 18.03.2021

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

FOR APPROVAL: 23/07/2021

APPROVED ON: 26/07/2021



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2021

CORAM:

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

C.S.No.87 of 2002

1.M/s.Bharani Silk Centre,
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Plaintiffs

...

..Vs..

M/s.Bharani Silks and Readymades,
No.558 - 559, Dr.Nanjappa Road,
Opp. Town Bus Stand,
Gandhipuram,
Coimbatore - 641 018.

... Defendant

PRAYER : Plaint filed under and Order VII Rule 1 of CPC read with



prayed for a Judgment and Decree:-

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(a) For grant of permanent injunction restraining the defendant by themselves, their servants, agents or any one claiming through them from in any manner infringing plaintiff's registered trademark BHARANI or any other marks, labels or device which is identical or in any manner similar or deceptively similar as colourable imitation of the plaintiff's registered trademark BHARANI either as trademark or trading style in any of their manufacturing activities, goods, bill, invoices, price list, name tags, calendars, name boards, signboards, packing materials or complimentary items, advertisements in newspapers, magazines, television, hoardings etc.

(b) For a permanent injunction restraining the defendant by themselves, their servants, agents or any one claiming through them from in any manner passing off their goods as that of the plaintiff's by using the offending trademark BHARANI or any other mark, labels or device which is identical or in any manner similar or deceptively similar as colourable imitation of the plaintiff's registered trademark BHARANI either as a trademark or trading style for any of their manufacturing activities.

(c) Directing the defendant to render a true and proper account of



profits earned by them through the manufacture and / or sale of the products using the offending trademark BHARANI and directing the defendant to pay to the plaintiffs the said profits so earned by them using the offending trademark BHARANI.

(d) Directing the defendant to surrender to the plaintiff the entire stock of unused offending BHARANI marks, labels, cartons, boxes and any other printed materials, blocks, advertisements with literature and any other materials containing and consisting of the offending trademark BHARANI for destruction.

(e) For costs of this Suit.

For Plaintiffs : Mr.Madhan Babu

For Defendant : Mr.A.Md.Asghar Ali

J U D G M E N T

An affidavit had been filed by N.Nallathambi the second defendant and the partner of the first plaintiff dated 16.03.2021. In the affidavit it had been stated as follows:



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"3. The plaintiff states that a verification undertaken recently has revealed that the defendant has ceased the infringing activity complained of in the suit.

4. Since the cause of action for filing the suit does not continue as on date, the plaintiffs are willing to withdraw the present suit with liberty to initiate fresh action against the defendants if the infringing acts complained of in the suit should be commenced by the defendant."

2. In view of the said statement made in the affidavit, suit is dismissed. However, liberty is granted to the plaintiff to institute a fresh suit on a fresh cause of action as against the defendant herein or as against anybody else acting under the defendant or as against any third party.

3. With the said observation, suit is dismissed. No order as to costs. The affidavit shall form part of the Decree.

Sd./- C.V.K.J
18.03.2021

//Certified to be true copy//
Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)
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