

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2021

CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.901 of 2002

and

O.A.Nos.904 to 906 of 2002

M/s.CREAMLINE DAIRY PRODUCTS LTD.,
1-11-252/11/1, Motilal Nagar,
Begumpet, Secunderabad – 500 016,
Rep. by its Director (Southern Operations)
E.Nageshwar Rao

...Plaintiff

.Vs.

M/s.S.V.MILK DAIRY FARM,
having Marketing Office at
10/958, Pachayappa Street,
Mogappair East,
Chennai – 600 050.

... Defendant

Plaint filed under Order VII Rule 1 of the Code of Civil Procedure read with Order IV Rule 1 of the Original Side Rules read with Sections 27, 105 and 106 of Trade and Merchandise Marks Act, 1958 and read with Section 55 and 62 of Copyright Act, 1957 praying for a judgment and decree against the defendant granting:

a) permanent injunction restraining the defendant, its men, agents, servants or any one claiming through him from in any manner infringing the plaintiff's trade mark JERSEY along with the logo, colour scheme,

getup, layout, pattern, design, etc., by using the offending trade mark and trade mark label 'ABINAYA' along with the identical and similar vertical and horizontal lines, colour scheme, logo, getup, layout, pattern, design, etc., or any other trade mark or label or logo which is identical or deceptively similar to or a colourable imitation of the plaintiff's trade mark and trade mark label JERSEY;

b) permanent injunction restraining the defendant, its men, agents, servants or any one claiming through him from in any manner infringing the plaintiff's copy right vested on the artistic work of the trade mark JERSEY along with the logo, vertical and horizontal lines, colour scheme, getup, layout, pattern, design, etc., by using the offending trade mark and trade mark label 'ABINAYA' along with the identical and similar vertical and horizontal lines colour scheme, logo, getup, layout, pattern, design, etc., or any other trade mark or label or logo which is identical or deceptively similar to or a colourable imitation of the plaintiff's copy right.

c) a permanent injunction restraining the defendant, its men, agents, servants, or any one claiming through him from in any manner passing off its goods as that of the plaintiff's by using the offending trade mark label 'ABINAYA' as and for those of the plaintiff's products or any other trade mark label or logo which is similar or deceptively similar to that of the plaintiff's trade mark JERSEY which includes the vertical and horizontal lines, colour scheme, logo, getup, pattern, design etc., either by manufacturing or offering for sale or in any manner advertising the same;

d) directing the defendant to surrender to the plaintiff the entire

stocks, with the infringing trade mark sachets 'ABINAYA' which is similar and identical to the plaintiff's trade mark label JERSEY which includes the vertical and horizontal lines, colour scheme, logo, getup, pattern, design etc. and unused offending trade mark label 'ABINAYA' together with blocks and dyes for destruction;

d) directing the defendant to render a true and faithful account of the profits earned by them through the sale of their products bearing the offending trade mark label 'ABINAYA' which is similar and identical to plaintiff's trade mark label JERSEY which includes the vertical and horizontal lines, colour scheme, logo, getup, pattern, design etc. and directing the payment of such profits to the plaintiff and

e) directing the defendants to pay the costs of the suit to the plaintiff.

For Plaintiff : Mr.Prasanna Venakt
for Mr.K.Ravindranath

JUDGMENT

Mr.Prasanna Venakt, learned counsel representing Mr.K.Ravindranath for the plaintiff would seek permission to withdraw the suit.

2. Permission is granted and the suit is dismissed as withdrawn, liberty is reserved to the plaintiff to sue if there is any subsequent cause of action. No costs. Consequently, the connected original applications are

closed.

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Index : No

Internet : Yes

Non-speaking order

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

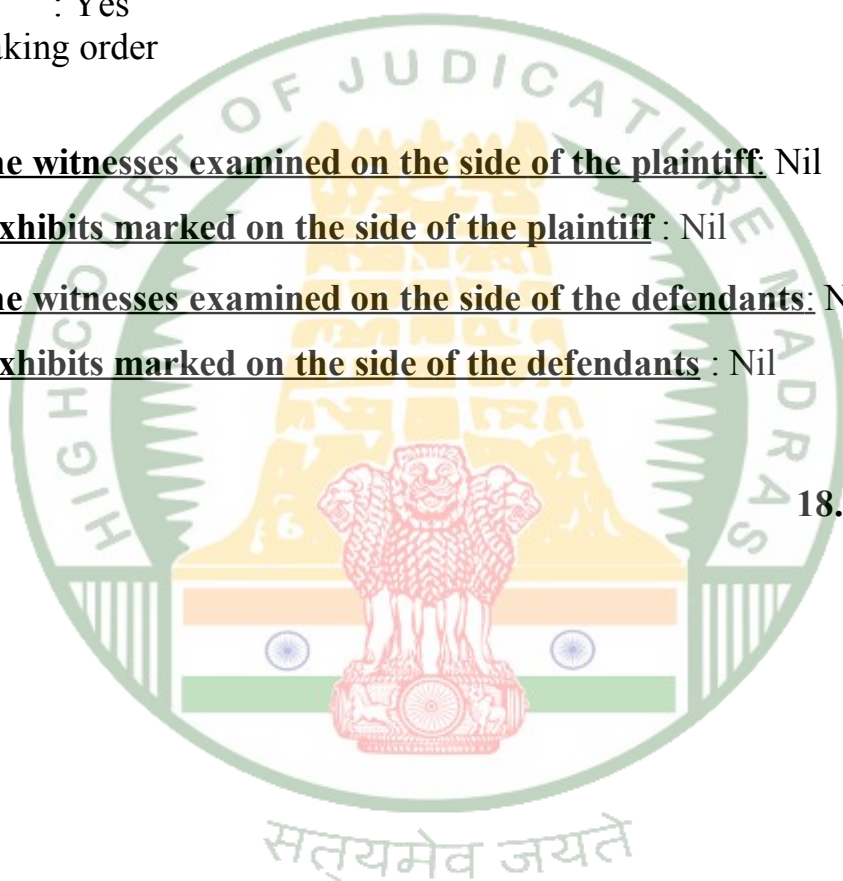
List of Exhibits marked on the side of the plaintiff : Nil

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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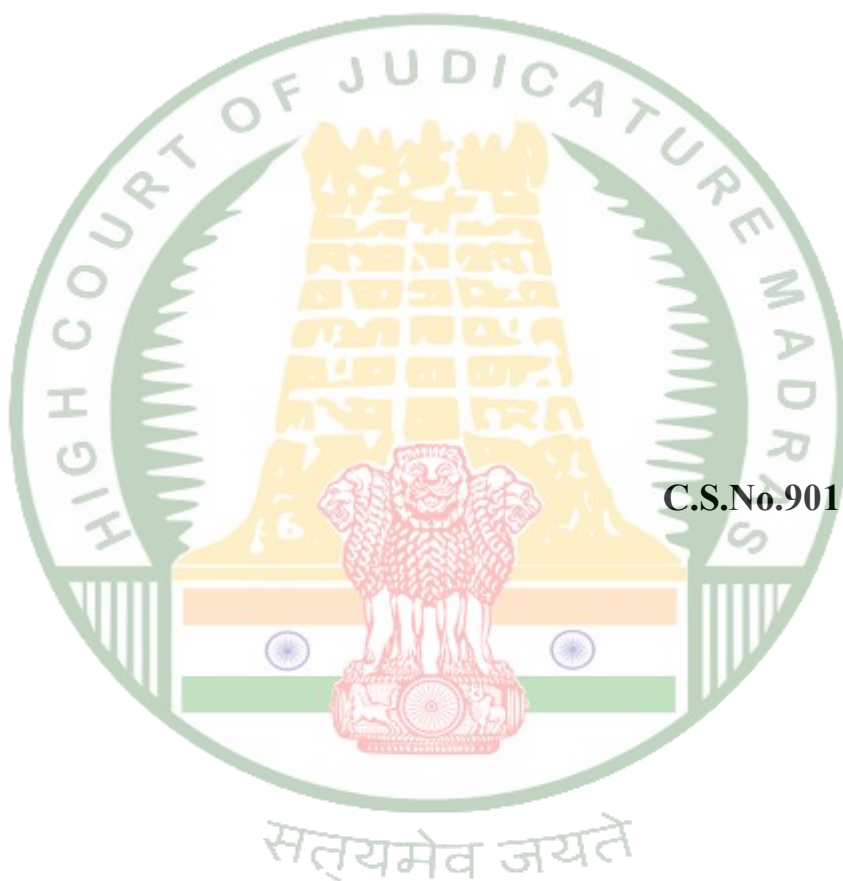


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