

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.03.2021

CORAM:

THE HONOURABLE MR. JUSTICE **C.V.KARTHIKEYAN**

C.S.No.925 of 2002

M/s.Gnanan Cottage Industries
Rep.by its Sole Proprietor,
Mr.S.Gnanayutham,
26, Raghavan Colony,
Govindan Road,
West Mambalam,
Chennai – 600 033.

.. Plaintiff

/versus/

Mr.B.Venkateswara Rao,
D.No.24-11-66/B, Isukavaghu Street,
Gundur – 522 003.
Andra Pradesh.

.. Defendant

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This Civil Suit is filed under Order VII Rule 1 of the Code of Civil Procedure, 1908 and Order IV Rule 1 of the Original Side Rules read with Section 105 of the Trade and Merchandise Marks Act, 1958, prayed for a Judgment and Decree:-

A.for a permanent injunction, restraining the defendant from using the trademark “BVR” Sandal Scented Powder in the product manufactured and marketed by him and further restraining him, his men, agents, servants or any other persons from manufacturing, formulating and/or marketing and passing off any product under the name “BVR” Sandal Scented Powder or any other name similar to “GSR” Sandal Scented Powder which is a trademark of the plaintiff and/or in the packing presently used by the defendant for the marketing of the product “BVR” Sandal Scented Powder and/or any other packing similar to or resembling the packing colour scheme and layout in which the plaintiff's product “GSR” Sandal Scented Powder is presently packed and marketed.

B.for delivery of and destruction of goods, packing, packages, labels, covers, cartons or other materials in the possession of the defendant, his men, agents, servants or employees which are used or proposed to be used for passing off the trademark of the defendant as that of the plaintiff and for marketing the products “BVR” Sandal Scented Powder is that of the plaintiff.

C.render a full, true and complete accounts of all the transactions relating to manufacture and sale of the products “BVR” Sandal Scented Powder and disclose the profits realised therefrom and account to the plaintiff for all such profits and pay, deliver the same of the plaintiff.

D.directing the defendant to pay the costs of this suit to the plaintiff.

For Plaintiff : M/s.Waraon & Sairams

For Defendant : Shrivatsan.

JUDGMENT

The suit had been filed under Section 105 of the Trade and Merchandise Mark Act, 1958, seeking to protect the plaintiff's trademark 'GSR' Sandal Scented Powder.

2.Since it is an assertion of Intellectual Property Right, the Commercial Division of this Court will have necessary jurisdiction to examine the issues raised under Section 2(1)(c)(xvii) of the Commercial Courts Act, 2015.

C.V.KARTHIKEYAN,J.

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3.It is informed that the defendant is also no more. The suit is pending from the year 2002.

4.The suit is therefore dismissed for non-prosecution. No order as to costs.

5.However, liberty is granted to the plaintiff to institute a fresh suit with a fresh cause of action with respect to the same trademark, if it is found that any person acting under the defendant or any third party is violating the mark.

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Internet : Yes / No

Index : Yes / No

Speaking Order : Yes / No

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