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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 21ST DAY OF SEPTEMBER 2021

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

C.S.No.336 of 2001

C.S.No.336 of 2001:-

In the matter of the registered Trade Mark No.474088 in Class – 3 for detergent cake in the name of Kishore – Sons Detergent (P) Ltd., 14-6-86, Chudi Bazar, Hyderabad – 500 012. Andhra Pradesh.

Kishore – Sons Detergent (P) Ltd.,
14-6-86, Chudi Bazar,
Hyderabad – 500 012.

... Plaintiff

Versus

S.S.Detergents,
Tadpatni – 515 411.

... Defendant

Civil Suit praying that this Hon'ble Court be pleased to pass a judgement and Decree:-

(a) granting a permanent injunction restraining the defendant by themselves, their servants, agents or anyone claiming through them from manufacturing and selling and offering for sale using the offending trademark as found in Document No.3 (ETA wrapper) in any colour or any other Trade Mark which is in any way deceptively/phonetically similar to or a colourable imitation of the trademark found in Plaintiff's registered Trade



Mark No.474088 filed as Document NO.2 herein or infringing any of the essential feature of the trademark found in the registered trademark of the Plaintiff's or in any manner infringing the plaintiffs registered Trade Mark No.474088 in class 3 for detergent cake.

(b) directing the defendant to render a true and faithful accounts of the profits earned by them through the manufacture and sale of the offending trademark Document No.3 and directing such profits to be paid to the Plaintiff's by way of damages for the infringement and passing off committed by the Defendant.

(c) directing the defendant to surrender to the Plaintiffs all the cartons, labels and any other printed matters containing or consisting of the trademark Document No.3 together with blocks used for the purpose of printing the same for destruction.

(d) directing the defendant to pay to the Plaintiffs the costs of the suit.

This Civil Suit coming on this day before this court for hearing in the presence of Mrs.Gladys Daniel, Advocate for the plaintiff herein and upon reading the plaint filed herein and this court having observed that the learned counsel appearing for the plaintiff would seek permission to withdraw the suit with liberty to file a fresh suit, if cause of active arise in future, and this court observing that the suit being one for infringement of

the trade mark which has a continuous cause of action, the request of the



counsel is acceded and **it is ordered as follows:-**

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(i) That the Civil Suit No.336 of 2001 be and is hereby dismissed as withdrawn with liberty to file a fresh suit, if there is a fresh cause of action.

(ii) That there shall be no costs of this suit.

WITNESS, THE HON'BLE MR.JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS
THE 21TH DAY OF SEPTEMBER 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.



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01/10/2021

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C.S.No.336 of 2001

ORDER

DATED :21/09/2021

THE HON'BLE MR.JUSTICE
R.SUBRAMANIAN

FOR APPROVAL: 11/10/2021

APPROVED ON:20/10/2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.336 of 2001

Kishore – Sons Detergent (P) Ltd.,
14-6-86, Chudi Bazar,
Hyderabad – 500 012.

...Plaintiff

Vs.

S.S.Detergents,
Tadpatni – 515 411.

...Defendant

Prayer: Complaint filed under Order VII Rule 1 of the Code of Civil Procedure, Order IV Rule 1 of the Original Side rules and Sections 105 & 106 of the Trade and Merchandise Marks Act, 1958, praying as follows:-

a) granting a permanent injunction restraining the defendant by themselves, their servants, agents or anyone claiming through them from manufacturing and selling and offering for sale using the offending trademark as found in Document No.3 (ETA wrapper) in any colour or any other Trade Mark which is in any way deceptively / phonetically similar to or a colourable imitation of the trademark found in Plaintiffs registered trademark No.474088 filed as Document No.2 herein or infringing any of the essential feature of the trademark found in the registered trademark of



Mark No.474088 in class 3 for detergent cake.

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b) directing the defendant to render a true and faithful accounts of the profits earned by them through the manufacture and sale of the offending trademark Document No.3 and directing such profits to be paid to the plaintiffs by way of damages for the infringement and passing off committed by the Defendant.

c) directing the Defendant to surrender to the Plaintiffs all the cartons, labels and any other matters containing or consisting of the trademark Document No.3 together with blocks used for the purpose of printing the same for destruction.

d) directing the defendants to pay to the plaintiffs the costs of the suit.

For Plaintiff : Mrs.Gladys Daniel

For Defendant : Unserved

J U D G M E N T

Despite attempts, service on the defendant could not be completed. Mrs.Gladys Daniel, learned counsel appearing for the plaintiff would seek permission to withdraw the suit with liberty to file a fresh suit, if cause of action arise in future.



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2.The suit being one for infringement of the trademark, which has a continuous cause of action, the request of the counsel is acceded to and this suit is dismissed as withdrawn with liberty to file a fresh suit, if there is a fresh cause of action. No costs.

Sd./-R.S.M.J
21.09.2021

List of witness and documents filed on the side of the plaintiff:

Nil

List of witness and documents filed on the side of the defendant:

Nil

Sd./-R.S.M.J
21.09.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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