

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2021

CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.608 of 2001

SUN KNITTING COMPANY

Rep. by its Partner

R.Damodharan,

No.172, Dharapuram Road,

Tirupur – 639 608.

...Plaintiff

.Vs.

SHESHACHALA HOSIERY PVT LTD.,

Plot No.88, Seetharam Nagar,

R.K.Puram (P.O.)

Secunderabad – 500 056.

... Defendant

Plaint filed under Order IV Rule (1) of Original Side Rules, Section 27, 105 and 106 of the Trade and Merchandise Marks Act, 1958 and Section 55 of the Copyrights Act, 1957 seeking:

a) To grant a permanent injunction, restraining the defendant by themselves, its Directors, servants, licensees, agents, printers, distributors or anyone claiming through them from committing infringement of plaintiff's Registered Trade Mark 'SUN' and its distinctive device by

using the deceptively similar mark 'SON' or with deceptive get-up, device and colour combination in relation to the Hosiery goods.

b) To grant a permanent injunction, restraining the defendant by themselves, its Directors, servants, licensees, agents, printers, and distributors or anyone claiming through them from committing 'infringement of copyright' in the artistic work of plaintiff's distinctive device 'SUN' by publishing, distributing, printing or cause to be printed the impugned artistic work of the defendant's device 'SON'.

c) To grant a permanent injunction, restraining the defendant by themselves, its Directors, servants, licensees, agents, printers or any one claiming through them from committing the 'passing off' their Hosiery goods under the deceptive mark 'SON' as and for or being connected with the business of the plaintiff.

d) To direct the defendant to surrender to the plaintiff all the unused labels printed in cardboard, wrappers and other printed matters containing or consisting of the offending trade mark together with blocks used for the purpose of printing the same for destruction and

e) To direct the defendant to pay the plaintiff the cost of the suit.

For Plaintiff : No appearance

For Defendants : Mr.K.P.Ashok

J U D G M E N T

The suit has been filed seeking

a) To grant a permanent injunction, restraining the defendant by themselves, its Directors, servants, licensees, agents, printers, distributors or anyone claiming through them from committing infringement of plaintiff's Registered Trade Mark 'SUN' and its distinctive device by using the deceptively similar mark 'SON' or with deceptive get-up, device and colour combination in relation to the Hosiery goods.

b) To grant a permanent injunction, restraining the defendant by themselves, its Directors, servants, licensees, agents, printers, and distributors or anyone claiming through them from committing 'infringement of copyright' in the artistic work of plaintiff's distinctive device 'SUN' by publishing, distributing, printing or cause to be printed the impugned artistic work of the defendant's device 'SON'.

c) To grant a permanent injunction, restraining the defendant by themselves, its Directors, servants, licensees, agents, printers or any one claiming through them from committing the 'passing off' their Hosiery goods under the deceptive mark 'SON' as and for or being connected with the business of the plaintiff.

d) To direct the defendant to surrender to the plaintiff all the unused labels printed in cardboard, wrappers and other printed matters containing or consisting of the offending trade mark together with blocks used for the purpose of printing the same for destruction and

e) To direct the defendant to pay the plaintiff the cost of the suit.

2. The learned counsel appearing for the parties would submit that they are unable to contact their respective parties. The suit is of the year 2001. It is almost 20 years now and the relief sought for is one of permanent injunction in an infringement action.

3. In view of the disinterest shown by the plaintiff in not responding to its counsel, the suit is dismissed for non-prosecution. No costs.

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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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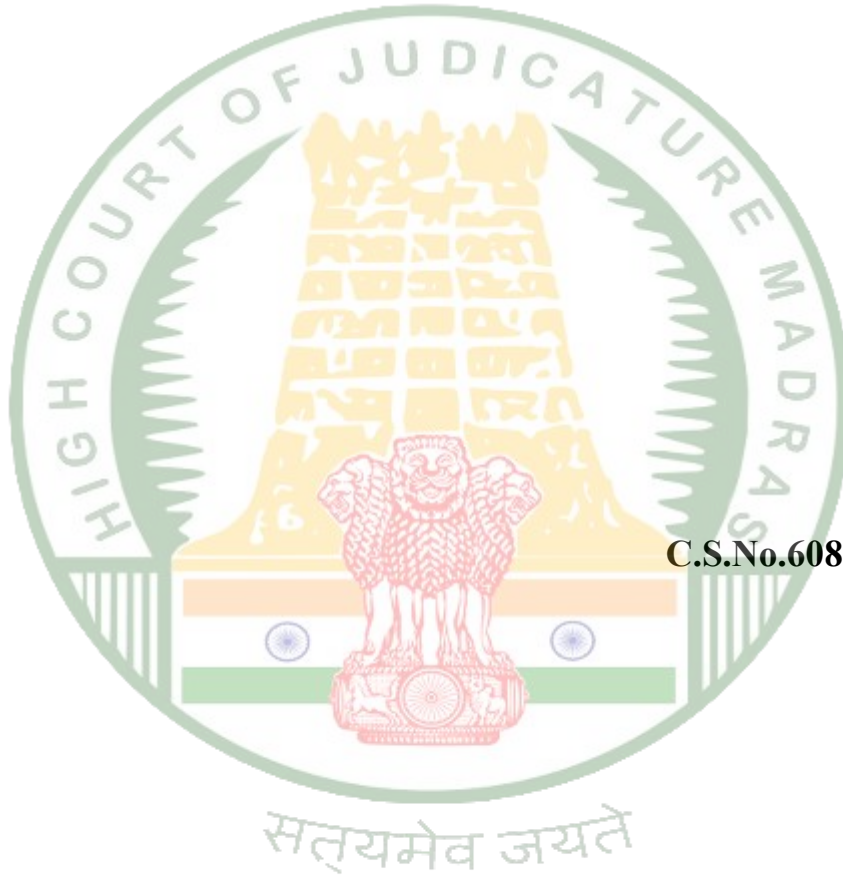


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