



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY THE 22ND DAY OF MARCH 2021

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

C.S.No. 703 of 2001

M/s.Avant Tec Medical Systems Pvt. Ltd.,
rep. by its Managing Director,
M.Achudhan
having registered office at No.14
R.V.Nagar, Vth Cross, Anna Nagar (East)
Chennai 600 102.

... Plaintiff

..Vs..

1.Avantcare Medical Equipments Pvt. Ltd.,
rep. by its Managing Director,
K.Vijayasankar Raja
having its registered office at No.3
IInd Floor, Sindhoori Plaza,
Montieth Road, Chennai – 8.

2.K.Vijayasankar Raja
Carrying on business at No.3
IInd Floor, Sindhoor Plaza,
Montieth Road, Chennai 8.

3.T.Sureshkumar
Carrying on business at No.3
IInd Floor, Sindhoor Plaza,
Montieth Road, Chennai 8.

4.S.Easwari
Carrying on business at No.3
IInd Floor, Sindhoor Plaza,
Montieth Road, Chennai 8.

... Defendants



Civil suit praying that this Hon'ble Court be pleased to pass judgment

and decree:-

(a) granting permanent injunction, restraining the defendants, its directors, servants, sub-ordinates, representatives, agents, or any one claiming through them from committing an act of passing off their service in relation to maintenance and service of medical equipments under the deceptive name AVANT CARE as and for or being connected with the business of the plaintiff company.

(b) Directing the defendants to surrender to the plaintiff all the unused printed things and other printed materials and matters containing and consisting of the offensive trade service name together with blocks used for the purpose of printing the same for distribution.

(c) Directing the defendants to pay the plaintiff the cost of the suit.

This Civil suit coming on this day before this Court for hearing in the presence of Mr.Ethirajulu, Advocate for the Plaintiff herein and the defendants herein not appearing in person or by advocate and upon reading the plaint filed herein and it is stated that the relief sought had become infructuous, however, learned counsel requests liberty to file a fresh suit, if a fresh cause of action arises as against the defendants. **it is ordered as**

follows:-

That the suit in C.S.No.703 of 2001 be and is hereby dismissed as



infructuous.

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2. That the plaintiff herein shall be at liberty to file a fresh suit on a fresh cause of action either against the defendants or against anybody acting under the defendants or against any third party, in case there is a violation of passing off the two services names AVANT TEC and AVANT CARE.

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

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
22nd DAY OF MARCH 2021.

Sd./-

ASSISTANT REGISTRAR (COMM.CASES)

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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SK-09.04.2021

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C.S. No.703 of 2001

ORDER :-

DATED : 22.03.2021

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

FOR APPROVAL: 05.05.2021

APPROVED ON: 06.05.2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **22.03.2021**

CORAM:

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

C.S.No.703 of 2001

M/s.Avant Tec Medical Systems Pvt. Ltd.,
rep. by its Managing Director,
M.Achudhan

... Plaintiff

..Vs..

1.Avantcare Medical Equipments Pvt. Ltd.,
rep. by its Managing Director,
K.Vijayasankar Raja

2.K.Vijayasankar Raja

3.T.Sureshkumar

4.S.Easwari

... Defendants

PRAYER : Plaint filed under and Order IV Rule (1) O.S.Rules and Sections 27, 105 and 106 of the Trademark and Merchandise Act, 1958, prayed for a Judgment and Decree:-

(a) granting permanent injunction, restraining the defendants, its directors, servants, sub-ordinates, representatives, agents, or any one claiming through them from committing an act of passing off their service



in relation to maintenance and service of medical equipments under the deceptive name AVANT CARE as and for or being connected with the business of the plaintiff company.

(b) Directing the defendants to surrender to the plaintiff all the unused printed things and other printed materials and matters containing and consisting of the offensive trade service name together with blocks used for the purpose of printing the same for distribution.

(c) For costs of this suit.

For Plaintiff : Mr.Ethirajulu

For Defendants : No Appearance

J U D G M E N T

Heard the learned counsel for the plaintiff.

2. It is stated that the relief sought had become infructuous. However, learned counsel request liberty to file a fresh suit, if the fresh cause of action arises as against the defendants.

3. In view of the said representation, suit is dismissed as infructuous.

However, the plaintiff is granted liberty to file a fresh suit on a fresh cause of action either against the defendants or against anybody acting under the



defendants or against any third party, in case there is a violation of passing off the two services names AVANT TEC and AVANT CARE.

4. With the said observation, suit is dismissed as infructuous. No order as to costs.

Sd./-(C.V.K.J.,)

22.03.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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