



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 29TH DAY OF JULY 2021

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

C.S. No.782 of 2008

M/s. NUTRINE CONFECTIONERY CO. LTD.,
A company registered under the Indian Companies,
Act,1956, having its Registered office at
Pirojshanagar, Eastern Express Highway,
Vikhroli(E), Mumbai-400 079 and
Marketing Office at
New No.102 (Old No.81), Chamiers Road,
Chennai-600 028.
Represented by constituted Attorney
Dattaram P.Shinde

... Plaintiff

Versus

1. M/s. ICON HOUSEHOLD PRODUCTS PVT LTD.,
A-103, Pipdic Industrial Estate,
Mettupalayam,
Puducherry-605 009 and
No.5, Sterling Avenue,
Nungambakkam,
Chennai-600 034.

2. M/s. ITC LTD.,
37, J.L.Nehru Road,
Kolkata-700 071 and
No.760, Anna Salai,
Chennai- 600 002.

... Defendants

Civil suit praying that this Hon'ble Court be pleased to pass a
judgment and decree against the defendants granting; (a) Permanent



claiming through them from in any manner infringing the Plaintiff's Trade Mark "LACTO" as contained in the registered trademark under no; No.538724 – 'LACTO SUPER' and no.1256412 – MAHA LACTO, 1337959 - "LACTAIRE" by using the offending Trade Mark 'LACTO' or any other Trade Mark Label which is identical, similar or colourable and substantial reproduction of the Plaintiff's Trade Mark "LACTO".

(b) permanent injunction restraining the defendants their men, agents, servants or any one claiming through them from in any manner passing off their goods as that of the Plaintiff's by using the offending Trade mark LACTO which is similar to the plaintiff's trade marks as contained in plaintiff's trade mark label in 'LACTO SUPER', MAHA LACTO and "LACTAIRE", or any other mark which is similar or deceptively similar to that of the Plaintiff's trademark LACTO either by manufacturing or offering for sale or in any manner advertising the same;

(c) Directing the defendants to surrender to the Plaintiff the entire stocks, with the offending trademark and unused infringing label/Pet jars, wrapper and printed pouches together with blocks and dies for destruction.

(d) Directing the defendants to render a true and faithful account of the Profits earned by them through the sale of their products bearing the offending trademark label and directing the payment of such profits to the



WEB COPY (e) Directing the defendants to pay the costs of the suit to the Plaintiff.

This suit coming on this day before this court for hearing in the presence of Mr.Prasanna Venkat for M/s.APR Associates, Advocates for the plaintiff herein and Mr.Rahul M.Shankar for Mrs.Brinda Mohan, Advocates for the defendants herein and upon reading the plaint filed herein and the learned counsel for the plaintiff having submitted that he has got instructions not to press for the relief in the suit, and this court doth recording the same, **it is ordered as follows:-**

That the suit in C.S. No.782 of 2008, be and is hereby dismissed.

2) 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
29TH DAY OF JULY 2021.

Sd./-

ASSISTANT REGISTRAR (Comm.Cases)

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(OS)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments



VSP

16/08/2021

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C.S. No.782 of 2008

ORDER

DATED : 29.07.2021

THE HON'BLE MR.JUSTICE

R.SUBRAMANIAN

FOR APPROVAL: 24/08/2021

APPROVED ON: 25/08/2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.782 of 2008

M/s.Nutrine Confectionary Co. Ltd.,
A company registered under the Indian companies
Act, 1956, having its Registered Office at
Pirojshanagar, Eastern Express Highway,
Vikhroli (E), Mumbai – 400 079 and
Marketing Office at
New No.102 (Old No.81), Chamiers Road,
Chennai – 600 028.
Represented by constituted Attorney,
Dattaram P.Shinde

...Plaintiff

Vs.

1.M/s.Icon Household Products Pvt. Ltd.,
A-103, Pipdic Industrial Estate,
Mettupalayam,
Puducherry – 605 009 and
No.5, Sterling Avenue, Nungambakkam,
Chennai – 600 034.

2.M/s.ITC Ltd.,
37, J.L.Nehru Road, Kolkata – 700 071 and
No.760, Anna Salai, Chennai – 600 002.

...Defendants

Prayer: Complaint filed under Order IV Rule 1 of the Original Side Rules and
Order VII Rule 1 of C.P.C., r/w. Section 134 & 135 of the Trade Marks Act,
1999, praying as follows:-

a) permanent injunction restraining the defendants, their men, agents,
servants, or any one claiming through them from in any manner infringing
the plaintiff's trade mark "LACTO" as contained in the registered trademark
under No: 538724 – 'LACTO SUPER' and No.1256412 – MAHA LACTO,



1337959 – 'LACTAIRE' by using the offending Trade Mark 'LACTO' or any other Trade Mark Label which is identical, similar or colourable and substantial reproduction of the plaintiff's trade mark "LACTO".

b) permanent injunction restraining the defendants their men, agents, servants or any one claiming through them from in any manner passing off their goods as that of the plaintiff's by using the offending Trade mark LACTO which is similar to the plaintiff's trade marks as contained in plaintiff's trade mark label in 'LACTO SUPER', MAHA LACTO and 'LACTAIRE', or any other mark which is similar or deceptively similar to that of the plaintiff's trademark LACTO either by manufacturing or offering for sale or in any manner advertising the same;

c) directing the defendants to surrender to the plaintiff the entire stocks, with the offending trademark and unused infringing label / Pet jars, wrapper and printed pouches together with blocks and dies for destruction.

d) directing the defendants to render a true and faithful account of the profits earned by them through the sale of their products bearing the offending trademark label and directing the payment of such profits to the plaintiff;

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

For Plaintiff : Mr.Prasanna Venkat for
M/s.APR Associates

For Defendants : Mr.Rahul M.Shankar for
Mrs.Brinda Mohan

J U D G M E N T

Mr.Prasanna Venkat, learned counsel appearing for the plaintiff

would submit that he has got instructions not to press for the relief in the



suit.

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2.The said statement is recorded and this suit is dismissed. No costs.

Sd./-R.S.M.J
29.07.2021

//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/Decrees in this format.