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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 5TH DAY OF JULY 2021

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

C.S. No.237 of 2007

M/s.Allure Fashions,
Rep by its Managing Partner,
Shri Niranjana Mathur,
No:A-23, Thiru-vi-ka Industrial Estate,
Guindy, Chennai-600 032.

... Plaintiff

Versus

1.Mr.Prabir Roy,
No:58 D, Rajaji Nagar Main Road,
Thiruvannamiyur, Chennai-600 041.

2.Paroma Shoes Pvt. Ltd.,
Rep. By its Managing Director
Mrs.Tinku Roy,
No.30, Officers Lane,
Ashoka Road, Pallavaram,
Chennai-600 043.

3.M/s.Winners Overseas,
Rep. by its Partner Mr.Balachander
No.4, P.P.Amman Koil Street,
Nagalkeni, Chrompet,
Chennai-600 044.

... Defendants

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

Judgment and Decree against the Defendants:

(a) for a permanent injunction restraining the 1st Defendant from, in

any way, dealing in any manner with the existing customers of the Plaintiff,



more fully described in Schedule A hereunder, either directly or indirectly or through agents or 3rd parties or in the name of Defendants 2 and 3 and forbear the 1st Defendant from indulging in any act, either directly or indirectly or through the Defendants 2 and 3 which would adversely affect the interests of the Plaintiff for a period of 24 months from the date of retirement of the 1st Defendant (25.01.2006) from the firm;

(b) for a permanent injunction retraining the Defendants 2 and 3 from employing in their services the persons mentioned in Schedule B hereunder or any other employee of the Plaintiff for a period of 24 months from the date of retirement of the 1st Defendant (25.01.2006).

(c) directing the Defendants 1,2 and 3 to pay the Plaintiff a sum of Rs.1,00,00,000/- (Rupees One Crore Only) towards damages for loss of reputation and loss of business on account of the breach of trust committed by them;

(d) directing the 1st defendant to pay the Plaintiff a sum of Rs.48,00,000/- (Rupees Forty Eight Lakhs Only) on account of the default committed by the 1st Defendant of the terms and conditions of the Arbitral award dated 24.01.2006 together with interest at 18% per annum from the date of the Plaint till date of realisation;

(e) For cost of this suit;



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This suit coming on this day before this court for hearing in the presence of Mr.Kalyan Jhabakh for M/s.Surana & Surana, Advocates for the plaintiff herein and Mr.C.A.Theagarajan, Advocate for the defendants herein and upon reading the plaint filed herein and this court having observed that the parties have settled the dispute amongst themselves, they have entered into a memorandum of compromise, as per the said memorandum of compromise, the parties have given up their claim against each other, and this court doth recording the same, **it is ordered as follows:-**

That the suit in C.S.No.237 of 2007, be and is hereby dismissed as settled out of court.

2)That a certificate under section 69A of Tamil Nadu court fees and Suits Valuation Act, 1955, do issue herein, out of and under the seal of this court in favour of M/s.Allure Fashions, Rep. by its Managing Partner Shri Niranjana Mathur, the plaintiff herein, authorising them to receive from the Pay and Accounts office, High Court, Madras, a sum of Rs.1,55,350/- (Rupees One Lakh Fifty Five Thousand Three Hundred and Fifty only), being entire Court fee paid on the plaint by the plaintiff herein.

3) That a certificate under section 69-A of Tamil Nadu Court fees and suits valuation Act, 1955 do issue herein, out of and under the seal of this court in favour of Prabir Roy, the 1st defendant herein, authorising him



to receive from the pay and accounts office, High Court, Madras, a sum of

Rs.1,03,100/- (Rupees One Lakh Three Thousand and One hundred Only)

being the entire court fee paid on the counter claim by the 1st defendant herein.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
5TH DAY OF JULY 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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VSP

09/08/2021

C.S. No.237 of 2007

ORDER

DATED : 05.07.2021

THE HON'BLE MR.JUSTICE

R.SUBRAMANIAN

FOR APPROVAL:08/10/2021

APPROVED ON: 12/10/2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.237 of 2007

M/s.Allure Fashions,
Rep. By its Managing Partner,
Shri Niranjana Mathur,
No.A-23, Thiru-Vi-Ka Industrial Estate,
Guindy, Chennai – 600 032.

...Plaintiff

Vs.

1.Prabir Roy,
No.58 D, Rajaji Nagar Main Road,
Thiruvannamiyur, Chennai – 600 041.

2.Paroma Shoes Pvt. Ltd.,
Rep. By its Managing Director,
Mrs.Tinku Roy,
No.30, Officers Lane,
Ashoka Road, Pallavaram,
Chennai – 600 043.

3.M/s.Winners Overseas,
Rep. By its Partner, Mr.Balachander
No.4, P.P.Amman Koil Street,
Nagalkeni, Chrompet,
Chennai – 600 044.

...Defendants

Prayer: Complaint filed under Order IV Rule 1 of the Original Side rules r/w.

Order VII Rule 1 of C.P.C., praying as follows:-



a) for a permanent injunction restraining the 1st defendant from, in any way, dealing in any manner with the existing customers of the plaintiff, more fully described in Schedule A hereunder, either directly or indirectly or through agents or 3rd parties or in the name of the Defendants 2 and 3 and forbear the 1st defendant from indulging in any act, either directly or indirectly or through the defendants 2 and 3 which would adversely affect the interest of the plaintiff for a period of 24 months from the date of retirement of the 1st defendant (25.01.2006) from the firm;

b) for a permanent injunction restraining the defendants 2 and 3 from employing in their services the persons mentioned in Schedule B hereunder or any other employee of the plaintiff for a period of 24 months from the date of retirement of the 1st defendant (25.01.2006);

c) directing the defendants 1, 2 and 3 to pay the plaintiff a sum of Rs.1,00,00,000/- (Rupees One Crore only) towards damages for loss of reputation and loss of business on account of the breach of trust committed by them;

d) directing the 1st defendant to pay the plaintiff a sum of Rs.48,00,000/- (Rupees Forth Eight Lakhs only) on account of the default committed by the 1st defendant of the terms and conditions of the Arbitral award dated 24.01.2006 together with interest at 18% per annum from the date of the plaint till date of realisation;



e) for cost of this suit; and

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f) pass such other or further orders as this Hon'ble Court may deem fit and proper under the facts and circumstances of the case and thus render justice.

For Plaintiff : Mr.Kalyan Jhabakh for
M/s.Surana & Surana
For Defendants : Mr.C.A.Theagarajan

J U D G M E N T

The parties have settled the dispute amongst themselves. They have entered into a memorandum of compromise. As per the said memorandum of compromise, the parties have given up their claim against each other.

2.The said memo is recorded and this suit is dismissed as settled out of Court.

3.In view of the said settlement arrived at by them, Mr.Kalyan Jhabakh, learned counsel appearing for the plaintiff and Mr.C.A.Theagarajan, learned counsel appearing for the 1st defendant would submit that the Court fees paid on the plaint as well the counter claim should be refunded in view of the Section 69-A of the Tamilnadu Court



judgment of the Hon'ble Supreme Court in **The High Court of Judicature of Madras, Rep. by its Registrar General Vs. M.C.Subramaniam and Others** reported in **2021 SCC Online SC 109** wherein, the Hon'ble Supreme Court had held that the provisions of Section 89 of C.P.C., and Section 69-A of the Tamilnadu Court Fees and Suits Valuation Act should be interpreted liberally and on a purposive and broad construction of the said provision, refund of Court fee can be made even in cases where, settlement is arrived at after recording of evidence without going through any of the modes prescribed under Section 89 of the Code of Civil Procedure.

4. In view of the said judgment of the Hon'ble Supreme Court, the prayer for refund of Court fee is allowed. Registry is directed to refund the entire Court fee paid on the plaint and the counter claim.

Sd./-R.S.M.J
05.07.2021

List of witness examined on the side of the plaintiff:

Niranjan Mathur (PW1)

List of documents filed on the side of the plaintiff:

<i>S.No.</i>	<i>Description of Documents</i>	<i>Exhibit</i>
1	The original partnership deed between the plaintiff and 1 st defendant dated 19.08.2002.	Ex.P1
2	The photo copy of draft memorandum of understanding between the plaintiff and 1 st defendant dated 07.09.2005.	Ex.P2
3	The photo copy of memorandum of agreement between the plaintiff	Ex.P3



S.No.	Description of Documents	Exhibit
	and 1 st defendant dated 02.12.2005.	
4	The photo copy of Award passed by the Arbitrator dated 24.01.2006.	Ex.P4
5	The original of letter format which the 1 st defendant agreed to send dated 24.01.2006.	Ex.P5
6	The photo copy of Reconstituted Partnership deed dated 25.01.2006.	Ex.P6
7	The original of solemnly declaration of Oath by 1 st defendant dated 25.01.2006.	Ex.P7
8	The original e-mail from Lloyd Shoes to plaintiff dated 24.01.2006.	Ex.P8
9	The photocopy of Mail from 1 st defendant, sent to the customers(altered) dated 08.02.2006.	Ex.P9
10	The photocopy of Mail from Lloyds shoes to the plaintiff dated 24.02.2006.	Ex.P10
11	The print out copy of Mail from Hogl (Shoe Fashion Group) and subsequent orders by fax received dated 07.03.2006.	Ex.P11
12	The photocopy of mail from Mr.Chandrashekar forwarding the mail sent by the defendant dated 07.03.2006.	Ex.P12
13	The photocopy of Mail from Mr.Chandrashekar forwarding the mail sent by the defendant dated 13.03.2006.	Ex.P13
14	The original Resignation letter of Mr.J.Jayavardhan submitted to plaintiff and settlements made dated 12.04.2006	Ex.P14
15	The original Resignation letter of Mr.R.V.Subramaniam submitted to plaintiff and settlements made dated 19.04.2006.	Ex.P15
16	The photocopy of letter from the defendant to the plaintiff dated 28.04.2006.	Ex.P16
17	The photocopy of Reply letter from the plaintiff to defendant dated 17.05.2006.	Ex.P17
18	The photocopy of Detailed reply letter from the plaintiff to defendant dated 31.05.2006.	Ex.P18
19	The photocopy of Bio-data of Mr.Arivalagan showing he was reporting to 1 st defendant in Winners Overseas dated 26.06.2006.	Ex.P19
20	The photocopy of letter from 1 st defendant to the plaintiff dated 26.07.2006.	Ex.P20
21	The print out copy of E-mail from Lloyd shoes to plaintiff dated 07.08.2006.	Ex.P21
22	The photocopy of Mail from Lloyds shoes to the plaintiff dated 30.08.2006.	Ex.P22
23	The photocopy of Registered reply sent by the 1 st plaintiff to the 1 st defendant dated 31.08.2006.	Ex.P23



S.No.	Description of Documents	Exhibit
24	The photocopy of Letter from the 1 st defendant to the plaintiff for the return of company car and camera dated 31.08.2006.	Ex.P24
25	The photocopy of mail from plaintiff to Lloyds dated 01.09.2006 and photocopy of mail from Lloyds shoes to the plaintiff dated 04.09.2006.	Ex.P25
26	The photocopy of Mail from Lloyds shoes to the plaintiff dated 04.09.2006.	Ex.P26
27	The print out copy of Reply from Lloyd Shoes to plaintiff dated 05.09.2006.	Ex.P27
28	The photocopy of Covering letter sent by the plaintiff to the 1 st defendant for the first installment made dated 06.09.2006.	Ex.P28
29	The photocopy of Letter from the defendant returning the car dated 15.09.2006.	Ex.P29
30	The photocopy of Letter from the first defendant to the plaintiff dated 20.09.2006.	Ex.P30
31	The photocopy of Covering letter sent by the plaintiff to the 1 st defendant for the second installment made with reply to the letter sent by the 1 st defendant to the plaintiff dated 03.10.2006.	Ex.P31
32	The photocopy of Letter from the 1 st defendant acknowledging the receipt of cheque dated 18.10.2006.	Ex.P32
33	The print out copy of E-mail from ERAM to the plaintiff and subsequent orders received dated 27.10.2006.	Ex.P33
34	The photocopy of Covering letter sent by the plaintiff to the 1 st defendant for the third installment made dated 07.11.2006.	Ex.P34
35	The photocopy of search report conducted at Registrar of Companies dated 14.11.2006.	Ex.P35
36	The photocopy of application forwarded by one of the employees to our placement consultants that he is reporting to the 1 st defendant dated 03.12.2006.	Ex.P36
37	The photocopy of Covering letter sent by the plaintiff to the 1 st defendant for the third installment made dated 07.12.2006.	Ex.P37
38	The photocopy of Minutes of meeting held with Abu Tahir, M/s.TQI India dated 08.12.2006.	Ex.P38
39	The photocopy of Application forwarded by one of the employee that she is reporting to the 1 st defendant dated 08.12.2006.	Ex.P39
40	The photocopy of Quotation sent by Star Cutting dated 12.12.2006.	Ex.P40
41	The photocopy of List of customers sent by Manoj Enterprises dated 15.12.2006.	Ex.P41
42	The photocopy of a self declaration letter from the employee of the plaintiff that she was offered a job and was instigated to join the 2 nd	Ex.P42



S.No.	Description of Documents	Exhibit
	defendant company 20.12.2006.	
43	The original of ledger accounts of exports made to Lloyds from the period 01.04.2003 to 31.03.2004.	Ex.P43
44	The original of ledger accounts of exports made to Lloyds from the period 01.04.2004 to 31.03.2005.	Ex.P44
45	The original of ledger accounts of exports made to Lloyds from the period 01.04.2005 to 31.03.2006.	Ex.P45
46	The original of ledger accounts of exports made to Lloyds from the period 01.04.2006 to 31.03.2007.	Ex.P46
47	The original staff increment for April 2004.	Ex.P47
48	The original wage fixation of new staff recruited in April 2004.	Ex.P48

List of witness examined on the side of the defendants:

Prabir Roy (DW1)

List of documents filed on the side of the defendants:

S.No.	Description of Documents	Exhibit
1	The copy of Hindu paper notification dated 05.02.2006 was already marked in the cross-examination of PW1.	Ex.D1
2	The photocopy of complaint by the 1 st defendant to Inspector of Police, Guindy dated 21.07.2005.	Ex.D2
3	The photocopy of Acknowledgement by Guindy Police dated 21.07.2005	Ex.D3
4	The photocopy of statement from Eagle's Eye detective to Inspector of Police dated 30.07.2005.	Ex.D4
5	The photocopy of letter dated 31.07.2005 sent by Eagle's Eye to 1 st defendant for acknowledging the money from the plaintiff.	Ex.D5
6	The certified copy of Decree in Application No.3240/2005 of High Court dated 05.08.2005.	Ex.D6
7	The certified copy of common order passed by High Court in O.A.No.761/2005 in Application No.3239, 3240, 3368 and 3369/2005 dated 12.08.2005.	Ex.D7
8	The photocopy of Memorandum of Agreement dated 02.12.2005.	Ex.D8
9	The letter format of 1 st defendant from 1 st defendant to customers	Ex.D9



S.No.	Description of Documents	Exhibit
	dated 24.01.2006.	
10	The office copy of letter from Prabir Roy to Niranjana Mathur dated 31.08.2006 with postal receipt.	Ex.D10
11	The letter from Niranjana Mathur to Prabir Roy dated 31.05.2006.	Ex.D11
12	The printout copy of E-mail from Lloyd Shoes to Prabir Roy dated 04.05.2006.	Ex.D12
13	The printout copy of E-mail from Michele Mondelli to Prabir Roy dated 15.02.2006.	Ex.D13
14	The printout copy of E-mail from 1 st defendant to Sold Arbitrator dated 08.02.2006.	Ex.D14
15	The photocopy of letter from Prabir Roy to Niranjana Mathur dated 28.04.2006.	Ex.D15
16	The office copy of letter from Prabir Roy to Niranjana Mathur dated 26.07.2006 with postal receipt.	Ex.D16
17	The office copy of letter from Prabir Roy to Niranjana Mathur dated 20.09.2006 with postal receipt.	Ex.D17
18	The office copy of letter from Prabir Roy to Niranjana Mathur dated 18.10.2006 with postal receipt.	Ex.D18
19	The letter from Niranjana Mathur to Prabir Roy dated 07.11.2006.	Ex.D19
20	The letter from Niranjana Mathur to Prabir Roy dated 07.12.2006.	Ex.D20
21	The printout copy of E-mail from Chandrasekaran (Arbitrator) to Prabir Roy dated 13.03.2006.	Ex.D21
22	The letter from Niranjana Mathur to Prabir Roy dated 04.09.2006.	Ex.D22

Sd./-R.S.M.J
05.07.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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