

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.344 of 2010

M/s.Healers Nutraceuticals Pvt. Ltd.,
represented by its Managing Director,
S.M.Sathe,
No.53, Old No.18, 1st Street,
Bhaktavatsalam Colony,
Vadapalani, Chennai – 600 026.

...Plaintiff

Vs.

1.M/s.S.S.Pharma,
represented by its Partner K.V.Sreenish,
16/31, Bajanai Koil Street,
Choolaimedu, Chennai – 600 094.

2.M/s.Healers Medicare,
represented by its Partner, K.V.Sreenish,
16/31, Bajanai Koil Street,
Choolaimedu, Chennai – 600 094.

3.M/s.Evershine Formulations,
17-19, Abishegapakkam Main Road,
Thavalakuppam, Puducherry – 605 007.

...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. Sections 27, 134 & 135 of the Trademarks Act, 1999, praying as follows:-

a) for a permanent injunction restraining the defendants, their men, agents, stockists, distributors, dealers, servants and anyone claiming through them from in any manner infringing the plaintiff's registered trade mark "MAGVION" by manufacturing, by offering, selling and advertising for sale any pharmaceutical product using the Trademark "MAGVITE" upon the products and use the same in invoices, letter heads, visiting cards, brochures or any other trade literature or by using any other trade mark which is in any way visually, phonetically or deceptively similar to that of the plaintiff's registered trade mark "MAGVION" or in any manner infringing the plaintiff's registered trade mark "MAGVION".

b) for a permanent injunction restraining the defendants, their men, agents, stockists, distributors, dealers, servants and any one claiming through them from in any manner manufacturing, creating, marketing, distributing, offering, selling or advertising for sale of any pharmaceutical product using the trade mark "Healers" either separately or in conjunction with other words or similar sounding names in the course of their business and pass off their goods using the trademark "Healers" or with additions as and for the goods of the Plaintiff or enable other to pass off.

c) to direct the defendants to deliver up to the plaintiff for destruction all the pharmaceutical products, stocks, labels, strips, cartons, advertising material, stationery, packing material and all things bearing the trademark "MAGVITE" and or "Healers" to the plaintiff.

d) for a preliminary decree in favour of the Plaintiff directing the defendants to furnish a true and proper accounts of profits made by them by

the use of the Trademark “MAGVITE” and other products under the trademark of “Healers” and for a final decree directing the defendants to pay such amounts of profits found to have been made by the defendant by such sale.

e) for the costs of the suit.

For Plaintiff : Mr.L.Poovendra Perumal for
M/s.Sai, Bharath & Ilan
For Defendants : Mr.S.Senthilnathan

J U D G M E N T

Mr.L.Poovendra Perumal for M/s.Sai, Bharath & Ilan, learned counsel for the plaintiff would submit that the plaintiff has taken back the papers from them long back and they do not have instructions.

2.Mr.S.Senthilnathan, learned counsel appearing for the defendants would submit that the suit itself has been settled.

3.In view of the statement made by the learned counsel for the defendant, this suit is dismissed for non-prosecution. No costs.

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Internet:Yes/No

Index:Yes/No

Speaking/Non-speaking

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

Nil

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

Nil

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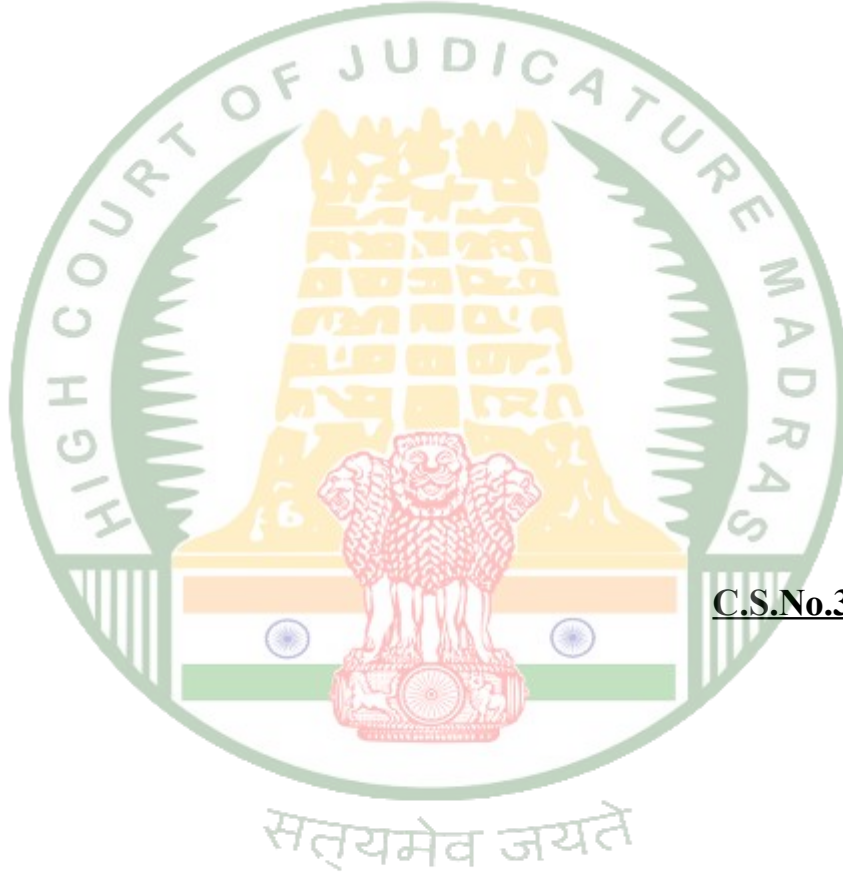
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R.SUBRAMANIAN, J.

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