

## IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.03.2021

CORAM :

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

C.S.No. 181 of 2003

AUSTIN REED LIMITED,  
Station Road,  
THIRSK, North Yorkshire,  
Y 07, 1 QH, England.

... Plaintiff

Vs.

1. SUNTEX GARMENTS,  
14, NITHY ADHAN MUKHERJEE ROAD,  
HOWRAH 711 101,  
Represented by its Partner Ram Chander Tiwari.

2. RAM CHANDER TIWARI,  
3. RAJESH TIWARI  
4. SANJAY TIWARI,  
D2 to D4 carrying on business at  
No.14, Nityadhan Mukherjee Road,  
Howrah - 711 101.

... Defendants

**Prayer:**

Civil Suit is filed under Sections 27, 105 and 106 of the Trade and Merchandise Marks Act, 1958, (a) for permanent injunction restraining the defendants, their servants, agents, dealers, stockists, representatives or anyone claiming through them from manufacturing, marketing, selling, advertising or offering for sale in the course of their business from using the

Trade Mark AUSTIN REED or any other Trade Mark which is in any way deceptively or phonetically similar to the plaintiff's Registered Trade Mark, under No.143, 878 in Class 25 in respect of 'complete articles of clothing' or in any manner infringing the said registered Trade Mark of the Plaintiffs;

(b) for permanent injunction restraining the defendants, their servants, agents, stockists, dealers, representatives or anyone claiming through them from manufacturing, marketing, selling, advertising or offering for sale using the Trade Mark AUSTIN REED or using any other mark deceptively similar in respect of clothes or any other allied goods capable of passing off the defendants' goods/business as those of the plaintiffs;

(c) directing the defendants to surrender to the plaintiffs for destruction, all stocks containing the impugned Trade Marks AUSTIN REED including packaging, strips, labels and dies, blocks, etc., used in the course of manufacture;

(d) directing the defendants to pay a sum of Rs.10 lakhs by way of damages and (e) for cost of the suit.

For Plaintiff : M/s.C.Daniel & Gladys Daniel

Defendants : Mr.Rahul M.Shankar

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## **JUDGMENT**

The suit had been filed taking advantage of under Sections 27, 105 and 106 of the Trade and Merchandise Marks Act, 1958 seeking protection of the trade mark AUSTIN REED. Since it is an assertion of the intellectual property right, the Commercial Division of this Court will have jurisdiction to examine the issues raised under Section 2 (1) (c) (xvii) of the Commercial Courts Act, 2015.

2. It is informed that with respect to the grant of leave the matter travelled upto the Division Bench in O.S.A.Nos.209 and 210 of 2003. A Memorandum of Compromise had been filed by the plaintiff and the defendants, and that was also recorded by judgment dated 23.08.2006.

3. In view of the same, nothing survives for further consideration in the present suit. Accordingly, the Civil Suit is dismissed for non prosecution. No order as to costs.

**09.03.2021**

msm

Index : Yes

Internet : Yes

Speaking order : Yes/No

**C.V.KARTHIKEYAN, J.**

msm



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