

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2021

CORAM:

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

C.S.No.338 of 2003

Mr.T.Solaisamy,
Proprietor,
M/s.Muralikrishna Soap Works,
2/168, Kundairuppu Road,
Kallamanaickenpatti - 626 131,
Via. Vembakottai, Near Sivakasi,
Tamil Nadu. ... Plaintiff

..Vs..

M/s.Eswari Laboratories Limited,
Office: 332 A, (III Floor),
Arcot Road, Vadapalani,
Chennai - 600 026. ... Defendant

PRAYER : Complaint filed under and Order VII Rule I of CPC and Order IV Rule I of Original Side Rules read with Sections 27, 28, 29, 105, 106 of the Trade and Merchandise Marks Act, 1958, prayed for a Judgment and Decree:-

(a) A perpetual injunction restraining the defendant by themselves,

their men, servants, agents, distributors, stockists, representatives or any of them from in any manner infringing the plaintiff's registered trademarks JILL and JIL by use of the trademark GILL WHITE or any mark similar to plaintiff's registered trademarks or in any other manner whatsoever.

(b) A perpetual injunction restraining the defendant by themselves, their men, servants, agents, distributors, stockists, representatives or any of them from in any manner, passing off and enabling others to pass off the Defendants goods as and for the plaintiff's goods by use of the trademark GILL WHITE or any other mark deceptively similar to the plaintiff's Trademark JILL and JIL in identical / similar colour scheme, layout or in any other manner whatsoever.

(c) The defendant be ordered to surrender to plaintiff for destruction all labels, dyes, blocks, moulds, screen prints, packing materials of all kinds and other materials bearing the trademark "GILL WHITE" LABEL or any mark deceptively similar to plaintiff's trademark and artistic work JILL and JIL.

(d) For costs of this Suit.

For Plaintiff : M/s.Rahul Balaji

JUDGMENT

An affidavit dated 16.03.2021 had been filed by the plaintiff in which it had been stated as follows:

"3. The plaintiff states that a verification undertaken after the hearing of the suit on 24.02.2021, has revealed that the defendant has ceased the infringing activity complained of in the suit.

4. Since the cause of action for filing the suit does not continue as on date, the plaintiff is willing to withdraw the present suit with liberty to initiate fresh action against the defendant if the infringing acts complained of in the suit should be commenced by the defendant."

C.V.KARTHIKEYAN, J

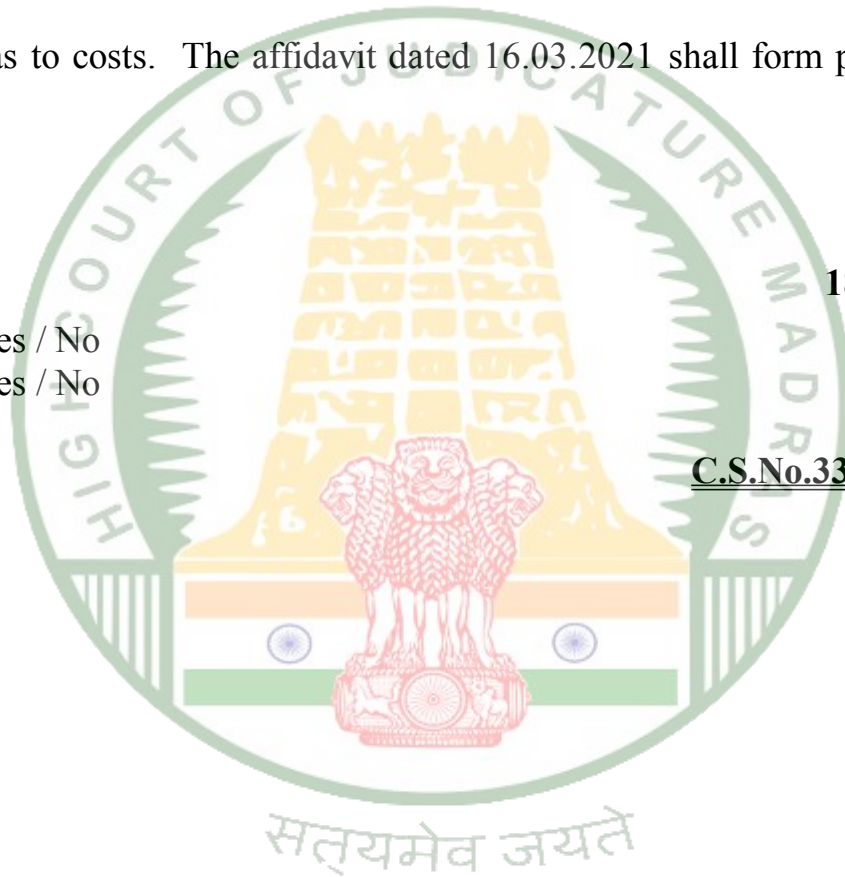
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2. In view of the same, suit is dismissed. However, liberty is granted to institute a fresh suit on a fresh cause of action against either the defendant or anybody acting under the defendant or any other third party. No order as to costs. The affidavit dated 16.03.2021 shall form part of the decree.

18.03.2021

Index : Yes / No
Web : Yes / No
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