



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 24TH DAY OF AUGUST 2021

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

C.S. No.537 of 2003

ITC Limited
40, Chamiers Road,
Chennai – 600 018
rep.by its Constituted Attorney
Mr.R.Srinivasan

... Plaintiff

/versus/

Bhadrakali Match Works
Main Road, Opp.Old Bus Stand,
Ellayarampannai
Sattur District 626 201
Tamil Nadu.

... Defendant

Civil suit praying that this Hon'ble Court be pleased to grant a decree and judgment on the following terms:-

a) a permanent injunction restraining the defendant by themselves, their partners/proprietor, heirs, legal representatives, successors in business, assigns, servants, agents, distributors, stockists, representatives or any one claiming through or under them from in any manner infringing the plaintiff's artistic work AIM label by use of imitative VTM label or any other label, which is a substantial reproduction of plaintiff's artistic work

AIM label, amounting to infringement of copyright.



b) a permanent injunction restraining the defendant by themselves, their partners/proprietor, heirs, legal representatives, successors in business, assigns, servants, agents, distributors, stockists, representatives or any one claiming through or under them from in any manner passing off or enabling others to pass off their safety matches as and for the plaintiff's safety matches by use of VTM label or any other label, which is identical and/or deceptively similar to plaintiff's trademark and artistic work AIM label in colour scheme, getup and layout and in any other manner whatsoever.

c) the defendant be ordered to deliver up for destruction all the offending VTM labels, safety matches packed in offending VTM labels, packings, dies, blocks, screen prints, pamphlets, brochures and such other materials which are identical and/or deceptively similar to the trademark and artistic work AIM label;

d) the defendant be ordered to pay a sum of Rs. 10,05,000/- as liquidated damages for committing acts of copyright infringement and passing off;

e) a preliminary decree be passed in favour of the plaintiff to render true and faithful accounts of profits earned by the defendant by sale of



safety matches using imitative VTM label and a final decree be passed in favour of the plaintiff for the amount of profits, thus found to have been made by the defendant after the latter have rendered accounts;

f) for costs of the suit.

This Civil suit coming on this day before this court for hearing in the presence of Mr. Arun C.Mohan for Mrs.Brinda Mohan, Advocates for the Plaintiff herein and the defendant herein not appearing in person or by advocate and upon reading the plaint filed herein and the defendant has filed a written statement, stating that it is no way connected with the allegations made in the plaint and it has never used the VTM label and imitated the Plaintiff's AIM label in any manner, and learned counsel appearing for the plaintiff having submitted that the suit may be dismissed recording the above statements made in the written statement of the defendant, and this court having observed that the fact that the defendant had admitted that it is not using the alleged infringing trademark and it had never used the alleged infringing trademark and this court doth recording the same, it is ordered as follows:-

That the Suit in C.S.No.537 of 2003 be and is hereby dismissed of having become infructuous.



2. That there shall be no costs of this suit.

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3. That the plaintiff herein shall be at liberty which shall be preserved to sue, if there is a cause of action in future.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
24th DAY OF AUGUST 2021.

Sd/-

ASSISTANT REGISTRAR (O.S.I)

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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03.09.2021

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C.S. No.537 of 2003

ORDER :-

DATED : 24.08.2021

THE HON'BLE MR.JUSTICE
R.SUBRAMANIAN

FOR APPROVAL: 07.09.2021

APPROVED ON: 13.09.2021



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.537 of 2003

ITC Limited,
40, Chamiers Road,
Chennai – 600 018.
rep. by its Constituted Attorney
Mr. R. Srinivasan.

...Plaintiff

Vs.

Bhadrakali Match Works,
Main Road, Opp. Old Bus Stand,
Ellayarampannai,
Sattur District – 626 201.
Tamilnadu.

...Defendant

Prayer: Complaint filed under order IV Rule 1 of Madras High Court original side rules read with order VII rule 1 of Civil Procedure Code, 1908 read with Sections 51, 55 & 62 of the Copyright Act, 1957 and Sections 27, 105 & 106 of the Trade and Merchandise Marks Act, 1958, praying as follows:-

a) a permanent injunction restraining the defendant by themselves, their partners/proprietor, heirs, legal representatives, successors in business, assigns, servants, agents, distributors, stockists, representatives or any one claiming through or under them from in any manner infringing the plaintiff's artistic work AIM label by use of imitative VTM label or any



AIM label, amounting to infringement of copyright.

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b) a permanent injunction restraining the defendant by themselves, their partners/proprietor, heirs, legal representatives, successors in business, assigns, servants, agents, distributors, stockists, representatives or any one claiming through or under them from in any manner passing off or enabling others to pass off their safety passing off or enabling others to pass off their safety matches as and for the plaintiff's trademark and artistic work AIM label in colour scheme, getup and layout and in any other manner whatsoever.

c) the defendant be ordered to deliver up for destruction all the offending VTM labels, packings, dies, blocks, screen prints, pamphlets, brochures and such other materials which are identical and/or deceptively similar to the trademark and artistic work AIM label; d

d) the defendant be ordered to pay a sum of Rs. 10,05,000/- as liquidated damages for committing acts of copyright infringement and passing off;

e) a preliminary decree be passed in favour of the plaintiff to render true and faithful accounts of profits earned by the defendant by sale of safety matches in favour of the plaintiff for the amount of profits, thus found to have been made by the defendant after the latter have rendered accounts;

f) for costs of the suit.



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For Plaintiff : Mr.Arun C.Mohan for

Mrs.Brinda Mohan

For Defendant : No Appearance

J U D G M E N T

The suit is one for infringement of a Trademark. The suit was taken cognizance of by the Commercial Division on 10.08.2021. The defendant has filed a written statement, stating that it is no way connected with the allegations made in the plaint and it has never used the VTM label and imitated the Plaintiff's AIM label in any manner.

2. Heard Mr.Arun C.Mohan, learned counsel appearing for the plaintiff. Mr.Arun C.Mohan would submit that the suit may be dismissed recording the above statements made in the written statement of the defendant.

3.Recording the said statement of the learned counsel appearing for the plaintiff and the fact that the defendant had admitted that it is not using the alleged infringing trademark and it had never used the alleged infringing trademark, this suit is dismissed of having become infructuous. No costs. Liberty is preserved to sue, if there is a cause of action in future.

Sd./-(R.S.M.J.,)
24.08.2021



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

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

Nil

**Sd./-(R.S.M.J.,)
24.08.2021**

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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