



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 16TH DAY OF NOVEMBER 2021

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

C.S. No.101 of 2006

M/s.Ranga Rao & Sons Private Limited,
PB No.52, Vani Vilas Road,
Mysore – 570 004.

and also at

25-B, Industrial Estate
Chennai – 600 097

Represented by its Director

Mr.Vishnu Das,Ranga

(amended as per order dated 14.03.2016
in Apln No.323 of 2016)

... Plaintiff

-Versus-

1. M/s.Shyam Detergents,
'Shyam House'
44, Thorn Hill Road,
Allahabad – 211 002.

2. M/s. Shyam Bidi Works Ltd.,
'Shyam House'
44, Thorn Hill Road,
Allahabad – 211 002.

.... Defendants

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

(a) Granting a permanent injunction restraining the defendants, their

servants or agents or any one claiming through them from in any manner



infringing the plaintiff's well established and registered trade mark "CYCLE BRAND" by using the offending trade mark "CYCLE" or any other trade mark or marks which are identical and similar to or a colourable imitation of the plaintiff's well established and registered trade mark "CYCLE BRAND"

(b) granting a permanent injunction restraining the defendants their servants agents or anyone claiming through them from in any manner passing off their products bearing the offending trade mark "CYCLE " as and for the celebrated products of the plaintiff's bearing the well established and registered trade mark "CYCLE BRAND" either by manufacturing or selling or offering for sale or in any manner advertising the same,

(c) directing the defendants to surrender the entire stock of unused offending trade mark wrappers, polythene bags, bill books etc. bearing the offending trade mark, "CYCLE", together with blocks and dyes for destruction.

(d) directing the defendants to render a true and faithful accounts of the profits earned by the defendants through the sale of their products sold under the offending trade mark "CYCLE" and directing payment of such profits to the plaintiff's for the passing off committed by the defendants.

(f) directing the defendants to pay to the plaintiff's the cost of the suit,



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This suit coming on this day before this court for hearing in the presence of Mr. Rajesh Ramanathan, Advocate for the plaintiff herein and the defendants herein, not appearing in person or by advocate and the said defendants herein having been set exparte and upon reading the plaint filed herein and the other exhibits therein referred to and upon perusing the evidence adduced therein, it is ordered and decreed as follows:-

That (1) M/s Shyam Detergents, and (2) M/s Shyam Bidi Works Ltd., the defendants herein, their servants, or agents, or anyone claiming through them, be and are hereby restrained by an order of permanent injunction from in any manner infringing the plaintiff's well-established and registered trade mark CYCLE BRAND, by using the offending trade mark CYCLE or any other trademark or marks which are identical and similar to or colourable imitation of the plaintiff's well established and registered trade mark CYCLE BRAND.

2) That (1) M/s. Shyam Detergents and (2) M/s. Shyam Bidi Works Ltd., the defendants herein, their servants, agents or anyone claiming through them be and hereby restrained by an order of permanent injunction from in any manner passing off their products bearing the offending trade mark CYCLE as and for the celebrated products of the plaintiff bearing the well established and registered trade mark CYCLE BRAND, either by



manufacturing or selling or offering for sale or in any manner or advertising the same.

(3) That the defendants herein, be and are hereby directed to Surrender the entire stock of unused offending trade mark wrappers, polythene bags, bill books etc bearing trade mark CYCLE together with blocks and dyes for destruction.

(4) That the defendants herein, do pay to the plaintiff's herein, a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) as costs.

WITNESS THE HON'BLE MR.JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
16TH DAY OF NOVEMBER 2021.

Sd/-

ASSISTANT REGISTRAR (O.S. II)

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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30.11.2021
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C.S. No.101 of 2006

DECREE

DATED: 16.11.2021

THE HON'BLE MR.JUSTICE
N.ANAND VENKATESH

FOR APPROVAL: 07.12.2021

APPROVED ON: 08.12.2021

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

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Dated :16.11.2021**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH****Civil Suit No.101 of 2006**

M/s.N.Ranga Rao & Sons Private Ltd

Post Box No.52, Vani Vikas Road

Mysore-570 004

And also at

25-B, Industrial Estate

Chennai 600 097

Represented by its Director

Mr.Vishnu Das Ranga

.. Plaintiff

[Amended as per order dated 14.03.2016
in Apln No.323 of 2016]

/versus/

1. M/s. Shyam Detergents,
"Shyam House"
44, Thorn Hill Road,
Allahabad-211002.

2. M/s. Shyam Bidi Works Ltd.,
"Shyam House"
44, Thorn Hill Road,
Allahabad-211002.

..Defendants

Prayer: Civil Suit has been filed under Order IV, Rule 1 of the Original

Side Rules and Order VII, Rule 1 of the C.P.C. Read with Sections 134 &



135 of the Trade Marks Act, 1999, praying to pass a judgment and decree

for:-

(a) granting a permanent injunction, restraining the defendant, their servants, or agents, or anyone claiming through them from in any manner infringing the plaintiff's well established and registered trade mark "CYCLE BRAND" by using the offending trade mark "CYCLE" or any other mark or marks which are identical and similar to or a colourable imitation of the plaintiff's well established and registered trade mark "CYCLE BRAND".

(b) granting a permanent injunction, restraining the defendant, their servants, agents or anyone claiming through them from in any manner passing off of their products bearing the offending trade mark "CYCLE" as and for the celebrated products of the plaintiff's bearing the well established and registered trade mark 'CYCLE BRAND' either by manufacturing or selling or offering for sale or in any manner advertising the same;

(c) directing the defendant to surrender the entire stock of unused offending trade mark wrappers, polythene bags, bill books etc., bearing the offending trade mark "CYCLE", together with blocks and dyes for destruction.



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(d) directing the defendant to render a true and faithful account of the profits earned by the defendants through the sale of their product sold under the offending trade mark “CYCLE” and directing payment of such profits to the plaintiffs for the passing off committed by the defendants.

(e) directing the defendant to pay to the plaintiffs the costs to the suit, and

(f) pass such further order or order, as may be deemed fit and proper in the circumstances of the case and thus render justice.

For Plaintiffs :Mr.Rajesh Ramanathan

For Defendants :Set exparte

J U D G M E N T

The present suit has been filed seeking for the relief of a permanent injunction restraining the defendants their servants or agents or anyone claiming through them infringing the plaintiff's registered trade mark CYCLE BRAND by using the offending trademark CYCLE or any other trademark which are identical and similar to or a colourable imitation

of the plaintiff's well established and registered trademark CYCLE



BRAND; a permanent injunction restraining the defendants, their servants, agents or anyone claiming through them from in any manner passing of their products bearing the offending trade mark CYCLE and the celebrated products of the plaintiff's well-established and registered trademark CYCLE BRAND, by manufacturing or selling or offering for sale or in any manner or advertising the same; a direction directing the defendants to surrender the entire stock of unused offending trade mark wrappers, polythene bags bill books etc bearing the offending trade mark CYCLE, together with blocks and dyes for destruction; and a direction to the defendants to render accounts.

2. The case of the plaintiff is that they are a partnership firm registered under the Indian Partnership Act. It is submitted by the plaintiff that they are a leading manufacturer of agarbatti and it has been carrying on business for a long time. It is submitted that they have adopted the trade mark CYCLE BRAND along with the device of cycle since the year 1954 and their trademark is registered in class 3 in the year 1955. It is also submitted that its trade mark CYCLE BRAND is its house mark and it is used in all the agarbatti cartons of its manufacture and it has registered its agarbatti cartons together with its house mark CYCLE BRAND along with



annexure to the plaint. It is further submitted by the plaintiff that they are regularly in the course of trade in connection with the incense sticks (agarbatti) manufactured by them under the trade mark CYCLE BRAND, which is their house mark. It is also submitted that the plaintiff has applied for registration of its trade mark CYCLE BRAND in all the 34 classes of The Trade Marks Act, 1999 and the same can be seen from Annexure 'B' to the plaint. It is submitted by the plaintiff that they are doing extensive business using the said trade mark and their goods have become distinctive. It is also submitted that there is an increasing demand for their agarbattis with their trademark and their business is done to the tune of several crores of rupees. The sales turnover and the advertisement expenses incurred by the plaintiff is attached in the plaint a Annexure 'C'.

3. The grievance of the plaintiff is that during January 2006 they came to know about the first defendant, who is manufacturing detergent powders and cakes bearing the identical trade marks CYCLE and marketing the same through the 2nd defendant. The further grievance of the plaintiff is that the defendants are acting with ulterior motive by using the identical trade mark CYCLE, which is a virtual copy of the plaintiff's well-established, world famous and registered trademark CYCLE BRAND and

they also claim that the defendants are having ulterior motive of trading



upon the reputation built up all these years by the plaintiff and have started using the identical trade mark CYCLE. The further grievance of the plaintiff is that the defendants have no right, title or interest to adopt the identical trade mark CYCLE and the adoption by the defendants of the trade mark CYCLE is creating confusion in the market and misleading the consuming public into thinking that those products emanate from the plaintiff's firm. The further grievance of the plaintiff is that, because of the adoption of the offending identical trade mark, the plaintiff would be put to serious loss and hardship besides damaging their trade reputation gained out of the registered trade mark CYCLE BRAND.

4. Both the defendants were served with notice and they remained absent and consequently, the 1st defendant was called absent on 9.11.2021 and was set ex-parte and the second defendant was called and set ex-parte on 16.11.2021 by this Court. On the same day, this Court recorded the ex-parte evidence of PW1 on the side of the plaintiff and *Exhibits P1 and P2* were marked.

5. The issue to be considered by this court is whether the offending trade mark CYCLE is identical and similar or a colourable imitation of the plaintiff's trademark CYCLE BRAND and the same infringes the registered



trade mark of the plaintiff and whether the plaintiff is entitled for the reliefs claimed by them

6. Heard Mr.Rajesh Ramanathan, learned counsel for the plaintiff.

7. A perusal of *Exhibit P1* shows that the plaintiff's firm is the registered trademark owner of the mark CYCLE BRAND and their registration was made under class 3. *Exhibit P1* also makes it clear that they have also registered their agarbatti cartons together with their house mark cycle brand along with the device of cycle.

8. The name CYCLE BRAND is well known and the plaintiff's goods are used by the consumers from all walks of society. The plaintiff's advertisements are also well-known among the public. From Annexure- 'C' of the plaint, the sales turnover and the advertisement expenses incurred by the plaintiff for promoting the sales of their products, bearing the trade mark CYCLE BRAND can be noticed. From a perusal of *Exhibit P2*, it is seen that the defendants use the mark CYCLE for their products.

9. The identical nature of the defendants mark CYCLE with that of the plaintiff trade mark CYCLE BRAND is glaring. The defendant is not



a registered proprietor or a person who is permitted to use the trade mark CYCLE BRAND, in the course of their trade. Even though the offending mark is used for a different product, the trade mark of the plaintiff has gained so much of popularity among consumers and hence the product of the defendants will be mistaken as if it is sold by the plaintiff. Indeed, the defendant's mark causes confusion in the minds of the consumers and the consumers might think that the defendant's products have an association with the registered trademark CYCLE BRAND. Thus, this court is satisfied that the offending mark is likely to cause confusion in the minds of the consumers because of its identical nature with the registered trademark and similarity of the goods or services which falls under the same class, covered by the trade mark of the plaintiff. It is very clear that the defendants have been using the plaintiff's registered mark in their products and thereby are attempting to make use of the reputation and good will earned by the plaintiff over a long period of time. The issue is accordingly answered in favour of the plaintiff.

10. In the result, there shall be a decree granting permanent injunction restraining the defendants, their servants or agents or anyone claiming through them from in any manner infringing the plaintiff's well-established

and registered trade mark CYCLE BRAND, by using the offending trade



mark CYCLE or any other trademark or marks which are identical and similar to or colourable imitation of the plaintiff's well established and registered trade mark CYCLE BRAND. There shall also be decree granting permanent injunction restraining the defendants, their servants or anyone claiming through them from in any manner passing off their products bearing the offending trade mark CYCLE as and for the celebrated products of the plaintiff bearing the the well established and registered trade mark CYCLE BRAND, either by manufacturing or selling or offering for sale or in any manner or advertising the same. There shall be a decree directing the defendants to surrender the entire stock of unused offending trade mark wrappers, polythene bags, bill books etc bearing trade mark CYCLE together with blocks and dyes for destruction.

11. The suit is decreed by imposing a cost of Rs. 25,000/- payable by the defendants to the plaintiff.

Sd./-N.A.V.J.

16.11.2021

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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List of Witness examined on the side of the Plaintiffs:-

PW1 Examined

List of Witness examined on the side of the Defendant :-

List of the Exhibits marked on the side of the Plaintiff:-

Sl. Nos	Dated	Parties to Document	Description
1.	18.04.1955	Registrar of trade marks to the	Trade mark registration certificate under No.163539 in class 3 together with renewal certificate
2.	-	Specimen of the defendant's offending trade mark wrappers and polythene bag "CYCLE"	

List of the Exhibits marked on the side of the Defendants:-