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1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 05th DAY OF AUGUST 2021

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

C.S.No.796 of 2003

Mr.Vijay Nahar,
Proprietor,
M/s.Overseas Incorporation,
Old No.86A, New No.74,
Pondy Bazaar,
Chennai – 600 017.

...Plaintiff

Vs.

1.Nutan Enterprises,
7, Ulagappa Street,
Chintadripet,
Chennai – 600 002.

2.Majeed & Co.,
No.18, Kasi Chetty Street,
Opposite 40, Narayana Mudali Street,
Chennai – 600 079.

3.Mahaveer Enterprises,
No.40, Narayana Mudali Street,
(Near Kasi Chetty Street)
Chennai – 600 079.

4.Tamilnadu Enterprises,
No.12, Reddy Raman Street,
Chennai – 600 079.

5.Kothari Marketing,
No.52, Narayana Mudali Street,
Chennai – 600 079.



6.Rajesh & Co.,
24/L (Old 26/L), Reddy Raman Street,
Chennai – 600 079.

7.Mr.Rutki Bari
Bari Market, Ground Floor,
Gusave Wali Gate, Sadar Bazaar,
Delhi – 110 006.

8.Arora Enterprises,
2832, Partap Market,
Sadar Bazaar, Delhi 110 006.

9.Jatinder Sports,
Shop No.5265, Gandhi Market,
Sadar Bazar, Delhi – 110 006.

10.Satnam Singh & Sons,
5263, Gandhi Market,
Sadar Bazaar, Delhi.

11.Brij Trading Co.,
Shop No.5452/A, Gandhi Market,
Sadar Bazaar, Delhi – 110 006.

12.Dinesh Toys,
Bari Market, Sadar Bazaar,
Delhi – 110 006.

13.Raghav Traders,
2488, Vidyanand Market,
1st Floor, Teliwara Chowk,
Sadar Bazaar, Delhi – 110 006.

14.K.B.Enterprises,
Dongri, Mumbai – 400 009.

...Defendants

Civil suit praying that this Hon'ble be pleased to pass a judgment and



a) for a decree of permanent injunction restraining the defendants, their directors, partners, servants, agents and distributors or anyone claiming through them from marketing Bouncing Balls by manufacturing or importing the Bouncing Balls with the trade mark and colour scheme with the get up as shown in Document No.16 reflected in M.O.No.3 & 4 or any other trade mark in same or similar mark or pack or in the colour combination get up as shown in Document No.17 (Plaintiff) reflected in M.O.No.1 & 2 and pass off the Defendants Bouncing Balls M.O.2 & 3 as that of the plaintiff M.O. 1 & 2 or enable others to pass off.

b) directing the defendants to surrender to the plaintiff all the High Bouncing Balls packed with the impugned trade mark as shown in M.O.No. 3 & 4.

c) directing the defendants to render honest and true account of, the profits that the Defendants derived from the business by using the colour combination carton, packing and use of the Trade Mark, as shown in document No. 16 & 17 and pass on such profit to the Plaintiff.

d) directing the Defendants 1 to 13 to pay to the plaintiff, the cost of the suit.

This Civil suit coming on this day before this court for hearing in the



Mr.P.C.N.Raghupathy, Advocate for the 1st defendant herein and

Mr.G.Veerapathiran, Advocate for the 3rd Defendant herein and upon reading the plain filed herein and the learned counsel for the plaintiff having submitted that they have no instructions and the plaintiff has not chosen to contact them, despite their letters,

It is ordered as follows:-

That the Suit in C.S.No.796 of 2003 be and is hereby dismissed for non-prosecution.

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

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
05th DAY OF AUGUST 2021.

Sd/-

ASSISTANT REGISTRAR (COMM.CASES)

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.



5

SK-27.08.2021

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C.S.No.796 of 2003

ORDER :-

DATED : 05.08.2021

THE HON'BLE MR.JUSTICE

R.SUBRAMANIAN

FOR APPROVAL: 13.09.2021

APPROVED ON: 14.09.2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.796 of 2003

Mr.Vijay Nahar,
Proprietor,
M/s.Overseas Incorporation,
Old No.86A, New No.74,
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2488, Vidyanand Market,
1st Floor, Teliwara Chowk,
Sadar Bazaar, Delhi – 110 006.

14. K.B. Enterprises,

Dongri, Mumbai – 400 009.

...Defendants

Prayer: Complaint filed under Order VI Rule 1 of C.P.C., r/w. Sections 134 &

135 of the Trade Marks Act, 1999, praying as follows:-



their directors, partners, servants, agents and distributors or anyone claiming through them from marketing Bouncing Balls by manufacturing or importing the Bouncing Balls with the trade mark and colour scheme with the get up as shown in Document No.16 reflected in M.O.No.3 & 4 or any other trade mark in same or similar mark or pack or in the colour combination get up as shown in Document No.17 (Plaintiff) reflected in M.O.No.1 & 2 and pass off the Defendants Bouncing Balls M.O.2 & 3 as that of the plaintiff M.O. 1 & 2 or enable others to pass off.

b) directing the defendants to surrender to the plaintiff all the High Bouncing Balls packed with the impugned trade mark as shown in M.O.No. 3 & 4.

c) directing the defendants to render honest and true account of, the profits that the Defendants derived from the business by using the colour combination carton, packing and use of the Trade Mark, as shown in document No. 16 & 17 and pass on such profit to the Plaintiff.

d) directing the Defendants 1 to 13 to pay to the plaintiff, the cost of the suit.

For Plaintiff : Mr.A.Prabhakara Reddy -
No Instructions

For Defendants : Mr.G.Veerapathiran for D3
Mr.P.C.N.Raghupathy for D1

**J U D G M E N T**

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Mr.A.Prabhakara Reddy, learned counsel appearing for the plaintiff would submit that they have no instructions and the plaintiff has not chosen to contact them, despite their letters. Hence, this suit is dismissed for non-prosecution. No costs.

Sd./-(R.S.M.J.,)
05.08.2021

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

Sd./-(R.S.M.J.,)
05.08.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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