

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.03.2021

CORAM:

THE HONOURABLE MR. JUSTICE **C.V.KARTHIKEYAN**

C.S.No.948 of 2003

M/s.Prime Plast,
a Partnership Firm,
Rep.by one of its partners:
Mr.V.K.Palanisamy,
2/127, Kovai Main Road,
Vijayamangalam – 638 056.
Perundurai Taluk,
Periyar District.

.. Plaintiff

/versus/

1.M/s.Prime Tele Extrusions Ltd.,
No.30, 13th Cross,
Wilson Garden,
Bangalore – 560 027.

2.M/s.Pandiyan Steels,
No.557, Sathy Road,
Erode - 638 003.

.. Defendants

This Civil Suit is filed under Order IV Rule 1 of the High Court Original Side Rules and Order VII Rule 1 of CPC read with Sections 134 and 135 of the Trade Marks Act, 1999, prayed for a Judgment and Decree against the defendants:-

A).Granting a permanent injunction restraining the defendants, their men, servants, agents or anyone claiming through or under them from, in any manner, infringing the plaintiff's trademark 'PRIME' by using the offending trademark 'PRIME' or any other mark or marks which are similar or in any way deceptively similar to or a colourable imitation of the plaintiff's trademark 'PRIME' either by manufacturing or selling or offering for sale or in any manner advertising the HDPE Pipes under the offending Trade Mark 'PRIME'.

B).Granting a permanent injunction restraining the defendants, their men, servants, agents or anyone claiming through or under them from, in any manner, passing off their HDPE pipe products as that of the plaintiff's by using the offending trademark 'PRIME' which is similar and identical to that of the plaintiff's established trade mark 'PRIME' or by using any other trademark which is similar or deceptively similar to that of the plaintiff either by manufacturing or selling or offering for sale or in any manner advertising the same for HDPE pipes.

C).Directing the defendants to render a true and faithful account of the profits earned by them through the sale of goods bearing the offending trademark 'PRIME' and directing payment of such profits to the plaintiff by way of damages for passing off committed by the defendant.

D).Directing the defendants to surrender to the plaintiff the entire stock of HDPE Pipes bearing the offending trademark 'PRIME' which is similar and/or identical to the plaintiff's trademark 'PRIME' together with cartons, labels, brochures, printing blocks, containers, boxes etc., bearing the offending trademark for destruction;

E).Directing the defendants to pay the plaintiff the costs of the suit.

For Plaintiff : No appearance

For Defendants : Mr.Shrivatsan

JUDGMENT

The suit had been pending in the Registry without any progress from the year 2003. It was first listed after a considerable number of years on 24.02.2021 and the jurisdiction was decided. It was again listed on 15.03.2021.

2.The learned counsel for the defendants stated that the learned counsel for the petitioner has not been appearing before this Court. As a matter of fact, the learned counsel has also expressed his grievance that the defendants had been suffering an order of interim injunction. Hence, the suit is dismissed for non-prosecution. No order as to costs.

23.03.2021

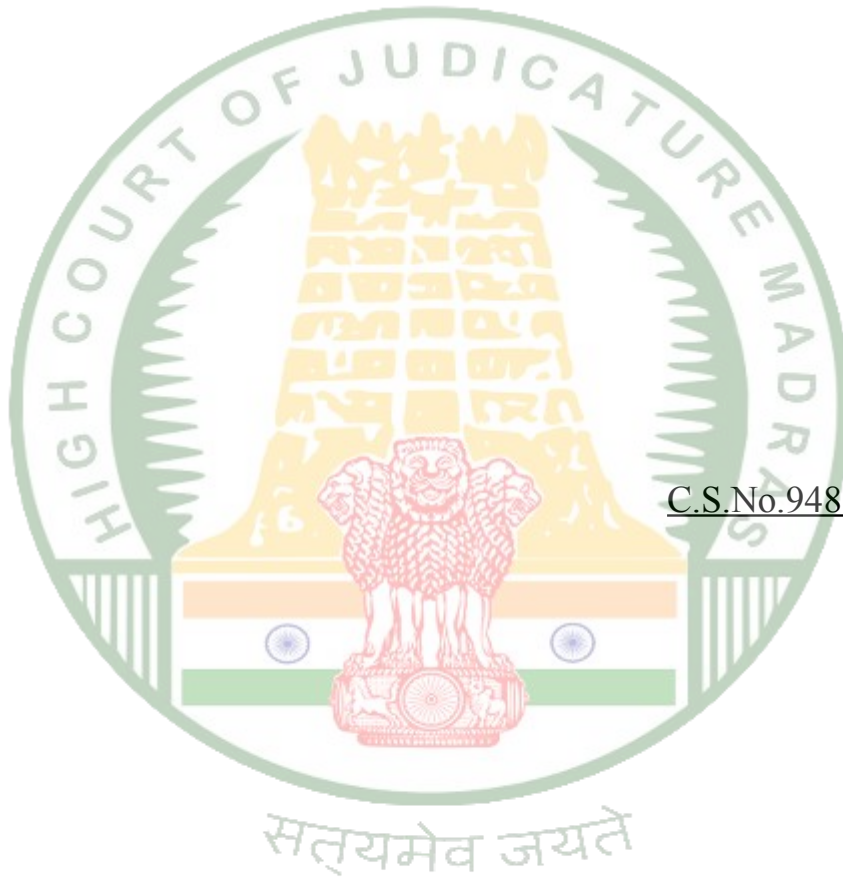
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C.V.KARTHIKEYAN,J.

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