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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 15TH DAY OF JULY 2021

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

C.S.No. 775 of 2006

and

A. No.4242 & 4243 of 2006

Mr.A. Narayanan,
1127, Periyar Nagar,
Third Street,
Red Hills,
Chennai – 600 052.

... Plaintiff/Applicant

-Versus-

1. M/s. Pandian Stores
73-B & C, New Military Road,
Avadi,
Chennai – 54,
Rep. by its partners
P T Balaji & R Parkunam
2. P.T.Balaji
Srikrishna Modern Rice Mills,
Palli Kuppam, Red Hills,
Chennai – 600 052
3. R. Parkunam,
M/s. Pandian Stores,
73-B & C, New Military Road,
Avadi,
Chennai – 54.

4. Sri Krishna Modern Rice Mill
Rep. by Govindaswamy Naidu & Balu Naidu



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Palli Kuppam, Red Hills
Chennai- 600 052.

5. Balaji Traders
No. 9, Anna Pillai Street
Chennai – 600 001.

... Defendant/ Respondent

C.S.No. 775 of 2006

Civil Suit praying that this Hon'ble Court be pleased to for a
Judgement and Decree as follows:-

- a) A permanent injunction restraining the defendants, their men, agents, servants, distributors, stockists, franchisees, successors in interest, representatives or anybody claiming through them from manufacturing, hulling, stocking, marketing, advertising in any form and infringing the Plaintiff's registered Trade Marks “KUTHUVILAKKU” by use of the Trade Marks “PTB KUTHUVILAKKU” or any mark deceptively similar to Plaintiff's registered Trade Marks or in any other manner whatsoever;
- b) A permanent injunction restraining the defendants, their men, agents, servants, distributors, stockists, franchisees, successors in interest, representatives of anybody claiming through them from in manner marketing, hulling, stocking, marketing and advertising in any form and passing off and enabling others to pass off the Defendants' aforesaid products as and for the Plaintiff's aforesaid products by use of the trade marks “PTB KUTHUVILAKKU” or any mark



deceptively similar to plaintiff's trade marks "KUTHUVILAKKU" or in any other manner whatsoever;

- c) A permanent injunction restraining the defendants, their men, agents, servants, distributors, stockists, franchisees, successors in interest, representatives or anybody claiming through them from manufacturing, hulling, stocking, marketing, advertising in any form and infringing the Plaintiff's copy right contained in the artistic work of the registered Trade Marks "KUTHUVILAKKU" by use of the artistic works associated with the Trade Marks "PTB KUTHUVILAKKU" or any artistic work and copy right deceptively similar to Plaintiff's artistic work and copy right or in any other manner whatsoever;
- d) A permanent injunction restraining the defendants, their men, agents, servants, distributors, stockists, franchisees, successors in interest, representatives of anybody claiming through them from in manner marketing, hulling, stocking, marketing and advertising in any form and passing off and enabling others to pass off the Defendants' aforesaid products as and for the Plaintiff's aforesaid products by use of the trade marks "PTB DEEPAM" or any mark deceptively similar to plaintiff's trade marks "DEEPAM" or in any other manner whatsoever;



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- e) A permanent injunction restraining the defendants, their men, agents, servants, distributors, stockists, franchisees, successors in interest, representatives or anybody claiming through them from manufacturing, hulling, stocking, marketing, advertising in any form and infringing the Plaintiff's copy right contained in the artistic work of the Trade Marks "DEEPAM" by use of the artistic works associated with the Trade Marks "PTB DEEPAM" or any artistic work and copy right deceptively similar to Plaintiff's artistic work and copy right or in any other manner whatsoever;
- f) To appoint an Advocate Commissioner to visit the factory/premises/shops/mill/dealers, of the Defendants or wherever necessary in order to seize and take into custody the various infringing bags, invoices, records and all other relevant documents connected with the sale of rice under the trade marks PTB DEEPAM AND PTB KUTHUVILLAKKU or any deceptive variation thereof like DEEPAM AND KUTHUVILAKKU and to submit their report to this Hon'ble Court;
- g) For a direction directing the Defendants to surrender to the Plaintiff for destruction of all bags, labels, dyes, blocks, plates, moulds, screen prints, packing materials, visiting cards, letter heads, printer bills, cartons, sachets and other materials bearing the infringing "PTB



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DEEPAM/PTB KUTHUVILAKKU” marks or any marks deceptively similar to plaintiff's trade mark and artistic work “DEEPAM AND KUTHUVILAKKU” LABEL;

- h) Direction to the Defendants to submit particulars of sales effected by them under the trade mark PTB DEEPAM AND PTB KUTHUVILAKKU; and to render accounts in respect of the unlawful gain made by them in the above manner;
- i) For costs of the suit.

A. No.4242 of 2006

Application praying that this Hon'ble Court be pleased to permit applicant to join cause of action in respect of infringement of copy right and Trade Mark and the relief sought for in the above C.S. Against the Respondents herein.

A. No.4243 of 2006

Application praying that this Hon'ble Court be pleased to grant leave to the applicant for filing a separate suit for damages and compensation against the Respondent for the same cause of action as per Order II Rule 2 of CPC.

This Civil suit along with the applications coming on this day before this court for hearing in the presence of Mr. Madhuvaneswaran for

Mr S. Balachandran, advocates for the plaintiff in C.S.No. 775 of 2006 and



for the applicant in A.Nos. 4242 & 4243 of 2006 and the defendants/respondents herein not appearing in person or by advocate and upon reading the plaint filed in C.S.No. 775 of 2006 and the Judge summon & the affidavit of A. Narayanan filed in A.Nos. 4242 & 4243 of 2006 and the learned counsel for the plaintiff having submitted that they have got instructions to withdraw the suit and this court doth recording the said statement and **It is ordered as follows:**

That the suit C.S.No. 775 of 2006 be and is hereby dismissed as withdrawn.

2. That these A.No. 4242 & 4243 of 2006 do stand closed.
3. 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 15TH DAY OF JULY 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.



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27.07.2021

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C.S.No. 775 of 2006

and

A. No.4242 & 4243 of 2006

ORDER

DATED :15/07/2021

THE HON'BLE MR.JUSTICE

R.SUBRAMANIAN

FOR APPROVAL: 08/09/2021

APPROVED ON: 09/09/2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.775 of 2006

and

A.Nos.4242 & 4243 of 2006

Mr.A.Narayanan,
1127, Periyar Nagar,
Third Street, Red Hills,
Chennai – 600 052.

...Plaintiff

Vs.

1.M/s.Pandian Stores
73-B&C, New Military Road,
Avadi, Chennai – 54.
Rep. By its Partners,
P T Balaji & R Parkunam

2.P.T.Balaji
Srikrishna Modern Rice Mills,
Palli Kuppam, Red Hills,
Chennai – 600 052.

3.R.Parkunam,
M/s.Pandian Stores,
73-B&C, New Military Road,
Avadi, Chennai – 54.

4.Sri Krishna Modern Rice Mill
rep. By Govindasamy Naidu & Balu Naidu,
Palli Kuppam, Red Hills,
Chennai – 600 052.

5.Balaji Traders
No.9, Anna Pillai Street,
Chennai – 600 001.

...Defendants



Prayer: Plaintiff filed under Order VII Rule 1 of C.P.C., and Order IV Rule 1 of the Original Side rules r/w. Sections. 27, 28, 29, 134 & 135 of Trade Marks Act, 1999, praying as follows:-

a) a permanent injunction restraining the defendants, their men, agents, servants, distributors, stockists, franchisees, successors in interest, representatives or anybody claiming through them from manufacturing, hulling, stocking, marketing, advertising in any form and infringing the plaintiff's registered Trade Marks "KUTHUVILAKKU" by use of the Trade Marks "PTB KUTHUVILAKKU" or any mark deceptively similar to plaintiff's registered Trade Marks or in any other manner whatsoever;

b) a permanent injunction restraining the defendants, their men, agents, servants, distributors, stockists, franchisees, successors in interest, representatives or anybody claiming through them from in any manner marketing, hulling, stocking, marketing and advertising in any form and passing off and enabling others to pass off the defendants' aforesaid products as and for the plaintiff's aforesaid products by use of the trade marks "PTB KUTHUVILAKKU" or any mark deceptively similar to plaintiff's trade marks "KUTHUVILAKKU" or in any other manner whatsoever;

c) a permanent injunction restraining the defendants, their men, agents, servants, distributors, stockists, franchisees, successors in interest, representatives or anybody claiming through them from manufacturing, hulling, stocking, marketing, advertising in any form and infringing the plaintiff's copy right contained in the artistic work of the registered Trade Marks "KUTHUVILAKKU" by use of the artistic works associated with the Trade Marks "PTB KUTHUVILAKKU" or any artistic work and copy right deceptively similar to plaintiff's artistic work and copy right or in any other manner whatsoever;



d) a permanent injunction restraining the defendants, their men, agents, servants, distributors, stockists, franchisees, successors in interest, representatives or anybody claiming through them from in any manner marketing, hulling, stocking, marketing and advertising in any form and passing off and enabling others to pass off the defendants' aforesaid products as and for the plaintiff's aforesaid products by use of the trade marks "PTB DEEPAM" or any mark deceptively similar to plaintiff's trade marks "DEEPAM" or in any other manner whatsoever;

e) a permanent injunction restraining the defendants, their men, agents, servants, distributors, stockists, franchisees, successors in interest, representatives or anybody claiming through them from manufacturing, hulling, stocking, marketing, advertising in any form and infringing the plaintiff's copy right contained in the artistic work of the Trade Marks "DEEPAM" by use of the artistic works associated with Trade Marks "PTB DEEPAM" or any artistic work and copy right deceptively similar to plaintiff's artistic work and copy right or in any other manner whatsoever;

f) to appoint an Advocate Commissioner to visit the factory / premises / shops / mill / dealers, of the defendants or wherever necessary in order to seize and take into custody the various infringing bags, invoices, records and all other relevant documents connected with the sale of rice under the trade marks PTB DEEPAM AND PTB KUTHUVILAKKU or any deceptive variation thereof like DEEPAM AND KUTHUVILAKKU and to submit their report to this Hon'ble Court;

g) for a declaration directing the defendants to surrender to the plaintiff for destruction of all bags, labels, dyes, blocks, plates, moulds, screen prints, packing materials, visiting cards, letter heads, printer bills, cartons, sachets and other materials bearing the infringing "PTB DEEPAM / PTB KUTHUVILAKKU" marks or any marks deceptively similar to



plaintiff's trade mark and artistic work "DEEPAM and KUTHUVILAKKU" LABEL;

h) direction to the defendants to submit particulars of sales effected by them under the trade mark PTB DEEPAM AND PTB KUTHUVILAKKU; and to render accounts in respect of the unlawful gain made by them in the above manner;

i) for costs of the suit; and

j) pass such further or other relief/s as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

For Plaintiff : Mr.Madhuvaneswaran
for Mr.S.Balachandran

For Defendants : No Appearance

J U D G M E N T

Mr.Madhuvaneswaran representing Mr.S.Balachandran, learned counsel for the plaintiff would submit that they have got instructions to withdraw the suit.

2.Recording the said statement, this suit is dismissed as withdrawn. No costs. Consequently, connected applications are closed.

Sd/-R.S.M.J
15/07/2021



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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
15/07/2021

//Certified to be true copy//
Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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