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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 20th DAY OF JULY 2021

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

C.S.No.204 of 1998

and

A.No.5439 of 2019

Parle Products Limited

Nirlon House,

254 B, Dr.Annie Besant Road,

Mumbai 400 025

Represented by its Duly Constituted Attorney and

Legal Executive

: Plaintiff/Applicant

-Vs-

Bakemans Industries Limited,

A-5/B-1, Mohan Co-Op.Indl.Estate

Badarpur, New Delhi 110 044.

: Defendant/Respondent

Civil suit praying that this Hon'ble Court be pleased to pass a judgment and decree against the defendant:

a) For a permanent injunction restraining the defendant, its servants, agents, distributors, stockist or anyone acting under or through it from in any manner manufacturing, marketing, distributing or selling its product under the mark GLUCOGOLD or any other mark deceptively similar to that of the plaintiff's mark GLUCO thereby infringing the Plaintiff's mark



b) Direct the defendant to pay a sum of Rs.10,000/00 or such sum that may be found on taking accounts as damages. The plaintiff undertakes to pay the additional court fees on taking of such accounts.

c) An order for delivery of all impugned finished goods, cartons, packing material, visual aids, catalogues, price lists, literature and advertisement bearing or containing the mark GLUCOGOLD or any other mark similar to that of the plaintiff for purpose of destruction.

d) Costs of the suit.

A.No.5439 of 2019:

Application praying that this Hon'ble Court be pleased to strike out the pleadings of the defendant as the same is not filed on time and proceed to hear the case as undefended.

This Civil suit along with Application coming on this day before this court for hearing in the presence of Mr.S.P.Chockalingam, Advocate for the Plaintiff in C.S.No.204 of 1998 and for the Applicant in A.No.5439 of 2019 and Mr.N.Damodharan, Official Liquidator appearing for the Defendant in C.S.No.204 of 1998 and for the respondent in A.No.5439 of 2019 and upon reading the order herein dated 02.08.2019, and the learned counsel for the plaintiff having submitted that the defendant company has been wound up



court having observed that the cause of action for infringement does not survive, may be, the plaintiff has cause of action for damages, but, in view of the fact that the defendant Company is under liquidation, it will not be worthwhile for the plaintiff to pursue the said cause of action. It is ordered as follows:-

That the suit in C.S.No.204 of 1998 be and is hereby dismissed under Rule 3(a) of Order XIII A of the Code of Civil Procedure as amended by the Commercial Courts Act, 2015.

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

3. That the connected A.No. 5439 of 2019 do stand closed.

4. That any observations made in the interim orders vacating the injunction granted by this Court shall not affect the rights of the plaintiff in any other similar proceedings, as those observations relate to existence of a prima-facie case only and the matter was not disposed of by this Court on evidence.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
20th 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.)



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4

C.S.No.204 of 1998
and
A.No.5439 of 2019

ORDER :-
DATED :20.07.2021

THE HON'BLE MR. JUSTICE
R.SUBRAMANIAN

FOR APPROVAL: 13.09.2021

APPROVED ON: 14.09.2021



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5

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2021

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THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.204 of 1998

and

A.No.5439 of 2010

Parle Products Limited,
Nirlon House,
254 B, Dr.Annie Besant Road,
Mumbai – 400 025.
Represented by its Duly
Constituted Attorney and
Legal Executive.

...Plaintiff

.Vs.

Bakemans Industries Limited,
A-5/B-1 Mohan Co-op.Indl.Estate
Badarpur
New Delhi – 110 044.

... Defendant

Plaint filed under Order VII Rule 1 of the Code of Civil Procedure read with Order IV Rule 1 of the Original Side Rules and Sections 105 and 106 of the Trade and Merchandise Marks Act, 1958 praying for a judgment and decree against the defendant:

a) For a permanent injunction restraining the defendant, its servants,

agents, distributors, stockist or anyone acting under or through it from in



any manner manufacturing, marketing, distributing or selling its product under the mark GLUCOGOLD or any other mark deceptively similar to that of the plaintiff's mark GLUCO thereby infringing the plaintiff's mark GLUCO;

b) Direct the defendant to pay a sum of Rs.10,000/- or such sum that may be found on taking account as damages. The plaintiff undertakes to pay the additional Court fees on taking of such accounts;

c) An order for delivery of all impugned finished goods, cartons, packing material, visual aids, catalogues, price lists, literature and advertisement bearing or containing the mark GLUCOGOLD or any other mark similar to that of the plaintiff for purpose of destruction and

d) for costs of the suit.

For Plaintiff : Mr.S.P.Chokalingam

For Defendant : Mr.N.Damodharan,
Official Liquidator

J U D G M E N T

The suit is one for infringement of trade mark and for damages.

2. Mr.S.P.Chokalingam, learned counsel appearing for the plaintiff would submit that the defendant Company has been wound up and the liquidator has been appointed by the Delhi High Court.

3. The liquidator appointed by the Delhi High Court has filed a status



report stating that the defendant is no longer manufacturing any of the products that are subject matter of this suit.

4. Hence, the cause of action for infringement does not survive. May be, the plaintiff has cause of action for damages, but, in view of the fact that the defendant Company is under liquidation, it will not be worthwhile for the plaintiff to pursue the said cause of action.

5. Hence, the suit is **dismissed** under Rule 3(a) of Order XIII A of the Code of Civil Procedure as amended by the Commercial Courts Act, 2015. No costs. Consequently, the connected miscellaneous petition is closed. It is made clear that any observations made in the interim orders vacating the injunction granted by this Court will not affect the rights of the plaintiff in any other similar proceedings, as those observations relate to existence of a prima-facie case only and the matter was not disposed of by this Court on evidence.

Sd./-(R.S.M.J.,)
20.07.2021

List of the witnesses examined on the side of the plaintiff: Nil

List of Exhibits marked on the side of the plaintiff : Nil

List of the witnesses examined on the side of the defendant: Nil

List of Exhibits marked on the side of the defendant: Nil

Sd./-(R.S.M.J.,)
20.07.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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