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C.S.No.65 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2021

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

C.S.No.65 of 2021
and O.A.Nos.603, 604 & 605 of 2021
and Application Nos.3519 and 3522 of 2021

Talk Media (P) Ltd.,
85, Mount Roadm
Guindy, Chennai – 600 032.
rep. by its Authorized Signatory,
T.R.Jawahar,
Director.

...Plaintiff

.Vs.

- 1.Talk Media Express times,
No.115/49, Purasawalkam,
Chennai – 600 007.
- 2.Bharani Press,
77/86, Venkatathiri Street, Kosapet,
Chennai – 600 012.

... Defendants

Plaint filed under Order IV Rule 1 of O.S. Rules read with
Sections 27, 29, 134 & 135 of the Trade Marks Act, 1999 praying
for:

a)A perpetual injunction restraining the defendants, its
distributors, printer, stockists, servants, agents, retailers,
representatives, franchisees or any other person claiming through



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or under them from in any manner whatsoever infringing the plaintiff's registered trademark 'Talk' by manufacturing, selling, offering for sale, stocking, advertising, exporting, importing either directly and/or indirectly any goods and in particular newspapers under the trademark 'Talk Media Express Times' either per-se or in combination and/or any other mark either in English or Tamil or any other language, which is identical with and/or deceptively similar to plaintiff's registered trademark "Talk" or in any other manner whatsoever;

b)A perpetual injunction restraining the defendants, its distributors, printer, stockists, servants, agents, retailers, representatives, franchisees or any other person claiming through or under them from in any manner whatsoever passing off the plaintiff's mark 'Talk Media' by manufacturing, selling, offering for sale, stocking, advertising, exporting, importing either directly and/or indirectly any goods and in particular newspapers under the trademark 'Talk Media Express Times' either per-se or in combination and/or any other mark either in English or Tamil or any other language, which is identical with and/or deceptively similar to plaintiff's mark "Talk Media" or in any other manner whatsoever;



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c)A perpetual injunction restraining the defendants, its distributors, printer, stockists, servants, agents, retailers, representatives, franchisees or any other person claiming through or under them from in any manner whatsoever infringing the plaintiff's tradename 'Talk Media' by manufacturing, selling, offering for sale, stocking, advertising, exporting, importing either directly and/or indirectly any goods and in particular newspapers under the trademark 'Talk Media Express Times' either per-se or in combination and/or any other mark either in English or Tamil or any other language, which is identical with and/or deceptively similar to plaintiff's tradename "Talk Media" or in any other manner whatsoever;

d)The defendants be ordered to surrender to plaintiffs for destruction newspapers, labels, dues, printing machines, blocks, plates, moulds, screen prints, packing materials, and other materials bearing the trademark 'Talk Media Express Times' either per se or in combination in English or Tamil or any other language;

e)A preliminary decree be passed in favour of the plaintiffs directing the defendants to render account of profits made by use of



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trademark 'Talk Media Express Times' either per-se or in combination and/or any other mark either in English or Tamil or any other language and a final decree be passed in favour of the plaintiffs for the amount of profits thus found to have been made by the defendants after the latter have rendered account;

f)The defendants be ordered and decreed to pay to the plaintiffs a sum of Rs.25,01,000/- (Rupees Twenty Five Lakh and one Thousand only) as special damages for acts of passing off and infringement of trademark and tradename committed by them;

g)for costs of the suit; and

For Plaintiff : Mr.Rahul Balaji
For Defendants : Mr.K.S.Ganesh Babu for D1

J U D G M E N T

The present suit was filed with the grievance that there is an infringement of the plaintiff's registered trademark and consequently, various reliefs were sought for against the defendants.



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2. During the pendency of the suit, the parties have amicably settled the dispute among themselves and have entered into a memo of compromise. The memo of compromise filed before this Court has been signed by both the parties as well as their respective counsel.

3. The relevant Clauses in the Memo of Compromise are extracted hereunder:

2. The 1st defendant acknowledges that the mark 'TALK' prefixed with locality name and tradename 'TALK MEDIA' used in publication of newspaper weekly are well known trademarks of the plaintiff as defined under Sec.2(zg) of the Trade Marks Act, 1999.

3. The 1st Defendant, in publishing and marketing newspaper weekly under the Title of 'TALK MEDIA EXPRESS TIMES' (filed as Annexure 'B'), acknowledges that trademark 'TALK' and trademark "TALK MEDIA" (filed as Annexure 'A') are mark of the plaintiff.

4. Therefore, the defendants agree to stop the publish, manufacture, sale, offer for sale, stocking, advertising, exporting, importing either directly or indirectly any goods, and in particular newspaper under



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the Title 'Talk Media Express Times' either per-se or in combination and/or any other mark either in English or Tamil or any other language, which is identical with and/or deceptively similar to plaintiff's registered trademark 'TALK' (as shown in Annexure 'A') or in any other manner whatsoever including use of the words "TALK" and "MEDIA" as part of the newspaper name or corporate identity in any combination and thereby avoid litigation/

5.The 1st Defendant shall withdraw the application/registration of Title of 'TALK MEDIA EXPRESS TIMES' before the Registrar of Newspapers and undertake to furnish proof thereof to the Plaintiff that such application/registration will stand withdrawn.

6.The 1st Defendant has destroyed all newspapers, labels, dyes, plates, packing, materials, and other materials bearing the Defendant's trademark 'TALK MEDIA EXPRESS TIMES' which is identical/deceptively similar to the plaintiff's trademark 'TALK' and the tradename 'TALK MEDIA' as shown in Annexure 'A'.

7.The parties shall bear their respective costs in respect of the suit and they shall have no further claims whatsoever against each other and the present compromise fully and finally settles all the disputes forming subject matter of the present suit.



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8.the suit shall be decreed on the terms of the present joint memorandum of compromise and the joint memorandum of compromise shall form part of the decree.

4.In view of the above, this suit is decreed in terms of the Joint Memo of Compromise and the Joint Memo of Compromise shall form part of the decree. Considering the facts and circumstances of the case, there will be no orders as to costs. Consequently, connected applications are closed.

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ssr
Index : Yes/No
Internet : Yes/No
speaking order/Non-speaking order



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N. ANAND VENKATESH, J.
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