



C.S.No.178 of 2005

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2021

CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.178 of 2005

1.M/s.Mohan Meakin Ltd.,
Rep. by its Authorised Signatory &
Power of Attorney
Shri.T.Krishnamurthy
Mohan Nagar, Ghaziabad,
Uttar Pradesh – 201 007.

2.M/s.Mohan Breweries & Distilleries Ltd.,
Rep. by its Company Secretary &
Vice President (Finance)
Shri.T.Krishnamurthy
Rayala Towers,
Chennai – 600 002.

...Plaintiffs

.Vs.

M/s.Balaji Distilleries Ltd.,
No.9, Bazullah Road,
T.Nagar,
Chennai – 600 017.

... Defendant

Plaint filed under Order IV Rule 1 of the Original Side Rules read with Sections 134 and 135 of the trade Marks Act, 1999 praying for the following judgment and decree:



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a) Permanent injunction restraining the defendant, its men, agents, assignees, dealers and/ or retailers from infringing the 1st plaintiff's registered trademark 'Old Monk' vide T.M.No.273257 by using offending mark 'Old King' or any other mark deceptively similar or identical with that of the plaintiff's registered trade mark 'Old Monk' for marketing XXX Rum and / or any alcoholic beverage classifiable in class 32 or 33 of IV schedule to the Trade Marks Rules, 2002;

b) Permanent injunction restraining the defendant, its men, agents, assignees, dealers and/ or retailers from infringing the 1st plaintiff's 'Old Monk' label registered vide T.M.no.432911 by using offending label having similar getup and colour scheme bearing words 'Old King' or any other label deceptively similar or identical with that of the plaintiff's 'Old Monk' label for marketing XXX Rum and/ or any alcoholic beverage classifiable in class 32 or 33 of the IV schedule to the Trade Marks Rules, 2002;

c) Permanent injunction restraining the defendant, its men, agents, assignees and dealers, retailers from selling and/ or using and/ or adopting the offending label for their 'Old King' XXX Rum similar and/ or deceptively identical with that of the 'Old Monk' label of the plaintiffs.

d) Permanent injunction restraining the defendant, its men and agents from diluting the plaintiffs' 'Old Monk' XXX Rum label by using or



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adopting similar and/ or deceptively on identical label with a similar colour scheme, get-up for marketing their alcoholic beverages in particular 'Old King' XXX Rum.

e) Permanent injunction restraining the defendant from using or adopting bottles bearing MBDL logo for selling their XXX Rum or any other alcoholic beverage;

f) Direct the defendant to deliver to the plaintiff for destruction all offending labels, packing materials, and 'Old King' XXX Rum bearing offending label manufactured by the defendant offered for sale or proposed to be offer for sale in violation of plaintiffs proprietary rights over the 'Old Monk' XXX Rum label;

g) Direct the defendant to render true account of profit made by them on sale of 'Old King' XXX Rum bearing offending label in violation of the first plaintiff's proprietary rights over the 'Old Monk' XXX Rum label and

h) to pay costs of the suit.

For Plaintiffs : Mr.M.Rajendiran

For Defendant : Mr.Rahul Balaji



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J U D G M E N T

The suit is one for infringement of trademark, which is a commercial action within the meaning of Section 2(1)(c)(xvii) of the Commercial Courts Act, 2015. The jurisdiction is thus determined and this Commercial Division takes cognizance of the suit.

2. A perusal of the records would show that the parties have entered into a compromise in O.S.A.Nos.223 to 228 of 2005. The operative portion of the order in the said Original Side Appeals which is passed on a joint compromise memo reads as follows:-

“The appellants/ plaintiffs agree to withdraw the present appeals on the basis of this compromise and also withdraw C.S.No.178 of 2005 as settled out of Court.”

3. In view of the above, the suit is dismissed as settled out of Court. No costs.

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Index : No

Internet : Yes

Non-Speaking order

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



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

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

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

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R.SUBRAMANIAN, J.

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