

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.03.2021

CORAM:

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

C.S.No.660 of 2005

M/s.Devi Pesticides Private Limited,
29A, Workshop Road,
Madurai – 625 001.
having office at
#3, Block A, III Floor,
Old No.3, New No.11, Vijayaraghava Road,
1st Street, T.Nagar,
Chennai – 600 017.
Represented by Power of Attorney holder
Sankar M.V.

.. Plaintiff

M/s.Krushak Unnati Chemicals & Fertilizers,
Mahendra colony,
Amravati, Gujarat State.
Represented by its Director,
Mr.Chandrakanth Bobade.

.. Defendant

This Civil Suit is filed under Order VII Rule 1 of CPC and Order IV Rule 1 of the Original Side Rules, read with Sections 27, 28, 29, 134 and 135 of the Trade Marks Act, 1999, prayed for a Judgment and Decree against the defendant:-

i).a perpetual injunction restraining the defendant by himself/themselves, their men, servants, agents, distributors, stockists, representatives, partners, directors or any of them from in any manner infringing the plaintiff's registered trademark BOOM PLUS by use of the trademark BOOM FLASH or any other mark similar to plaintiff's registered trademark or in any other manner whatsoever;

ii)a perpetual injunction restraining the defendant by himself/themselves, their men, servants, agents, distributors, stockists, representatives, partners, directors or any of them from in any manner passing off and enabling others to pass off the defendant goods as and for the plaintiff's goods by use of the trademark BOOM FLASH or any other mark deceptively similar to the plaintiff's trademarks BOOM PLUS and BOOM FLOWER -n in identical colour scheme, layout or in any other manner whatsoever;

iii)a perpetual injunction restraining the defendant by himself/themselves, their men, servants, agents, distributors, stockists, representatives, partners, directors or any of them from in any manner infringing the copyright of the plaintiff by using the trademark BOOM FLASH as against the plaintiff's trademark "BOOM PLUS" and "BLOOM FLOWER-n in identical colour scheme, layout or in any other manner whatsoever;

vi).The defendant be ordered to surrender to the plaintiff for destruction all fertilizers / flowering stimulants labels, dies, blocks, moulds, screen prints, advertisement and promotional materials, packing materials and any other materials bearing the trademark BOOM FLASH

or any other mark deceptively similar to the plaintiff's trademark BOOM PLUS and BOOM FLOWER-n;

v).A preliminary decree be passed favouring the plaintiff directing the defendant to render true account of profits made by the use of trademark BOOM FLASH and final decree be passed in favour of the plaintiff for amount of profits said to have been made by the defendant after they have rendered accounts.

vi).For the cost of the suit.

For Plaintiff : Mr.Shrivatsav

For Defendant : Ms.Monica

JUDGMENT

A memo dated 16.03.2021 had been filed by the learned counsel for the plaintiff, which is as follows:

“It is respectfully submitted as follows:

It is humbly submitted on instructions from the plaintiff that the defendant herein is not in the market using the impugned trademark. The cause of action against the defendant does not survive. Therefore the plaintiff may be permitted to withdraw the suit.

It is therefore, humbly prayed that this Hon'ble Court may be pleased to take this memo on record and permit the plaintiff to withdraw the suit in C.S.No.660 of 2005 and

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pass such further order or orders as deemed fit and proper in the facts and circumstances of the case and thus render justice.

Dated at Chennai this the 16th day of March, 2021.

sd/-

Counsel for Plaintiff”

2.In view of the said memo dated 16.03.2021, which had been signed by the learned counsel for the plaintiff, the suit is dismissed as withdrawn. No order as to costs. The memo dated 16.03.2021 filed by the plaintiff shall form part of the decree.

23.03.2021

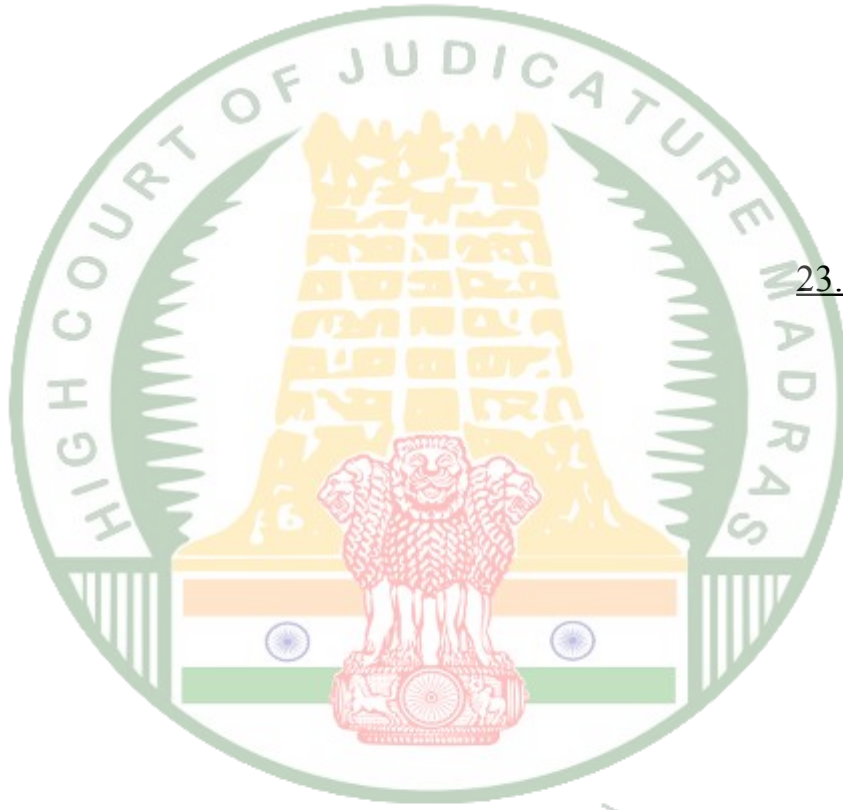
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