



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 25TH DAY OF OCTOBER 2021

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

C.S. No.705 of 2005

1.Aqua Pump Industries,
Rep. by its Managing Partner,
Mr.Ramaswamy Kumaravelu,
Thudiyalur Post, Coimbatore – 641 034
Having their branch Office at
No.12, P.H.Road, Koyambedu,
Chennai – 600 107.

2.Aqua Sub Engineering,
Rep. by its Managing Partner,
Mr.Ramaswamy Kumaravelu,
Thudiyalur Post, Coimbatore – 641 034
Having their branch Office at
No.21, P.H.Road, Koyambedu,
Chennai – 600 107.

...Plaintiffs

-Vs-

S.Sabithamani,
Trading as Priya Pumps,
116, South Kamadhenu Nagar,
Avarampalayam,
Coimbatore – 641 006.

...Defendant

Civil Suit praying that this Hon'ble Court be pleased to grant a
Judgment and decree in favour of the plaintiff.

a) granting a permanent injunction, restraining the Defendant, by

itself, its servants, agents, distributors, or anyone claiming through them



from manufacturing, selling, offering and advertising for sale using the Trade Mark “TECHSO” upon the goods or in any media and use the same in Invoices, letter heads and visiting cards or any other trade literature or by using any other Trade Mark which is in any way visually, phonetically or deceptively similar to the Plaintiffs Registered Trade Marks TEXMO or in any manner infringing the Plaintiffs Registered Trade Mark Nos.315049 (SP-I), (SP-II) & 315050 (SP-I), (SP-II).

b) granting a permanent injunction, restraining the Defendant, by themselves, their servants, agents, men or anyone claiming through them from manufacturing, marketing, distributing, offering or advertising for sale Motors, Pumps and Compressors using the Trade Mark TECHSO or similar sounding names in the course of their business and pass off their goods using the Trade Mark TECHSO or with additions as and for the goods for the Applicant or enable others to pass off.

c) Directing the Defendant to surrender to the Plaintiffs all types of goods containing / bearing the Trademark TECHSO or other deceptively similar Trademarks.

d) For a preliminary decree in favour of the plaintiffs, directing the Defendant to render an account of profits made by them by the use of the Trademark TECHSO on the goods referred and for a final decree in favour of the plaintiffs for the amount of the profits found to have been by the Defendants, after the Defendants have rendered accounts.

e) Directing the Defendant to pay to the Plaintiffs the costs of the suit.

This suit coming on this day before this Court for hearing in

the presence of Ms.Hemalatha for Mrs.Gladys Daniel, Advocates for the



plaintiffs herein and Mr.K.Ashok Kumar, Advocate for the defendant herein and upon reading the plaint filed herein and the defendant having submitted that she has closed her industry and she is no longer manufacturing pumps with the mark “TECHSO”, and she has produced her Aadhaar Card as proof of her identity and this Court has verified the same, and this Court doth recording the statement, it is ordered as follows:-

1. That the suit in C.S.No.705 of 2005, be and is hereby dismissed as having become infructuous, since the defendant has stopped carrying on business.
2. That there shall be no order as to costs of this suit.
3. That the plaintiffs herein, shall be at liberty to take sue in the event there is a fresh cause of action.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
25th DAY OF OCTOBER 2021.

Sd./-

ASSISTANT REGISTRAR (COMM.CASES)

//Certified to be true copy//

Dated at Madras this the day of 2022.

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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C.S. No.705 of 2005

DECREE:

DATED: 25.10.2021

THE HON'BLE MR. JUSTICE
R.SUBRAMANIAN

FOR APPROVAL: 05.01.2022

APPROVED ON: 24.01.2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.705 of 2005

1.Aqua Pump Industries,
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...Plaintiffs

Vs.

S.Sabithamani,
Trading as Priya Pumps,
116, South Kamadhenu Nagar,
Avarampalayam,
Coimbatore – 641 006.

...Defendant

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

a) granting a permanent injunction, restraining the Defendant, by itself, its servants, agents, distributors, or anyone claiming through them from manufacturing, selling, offering and advertising for sale using the Trade Mark “TECHSO” upon the goods or in any media and use the same in



Invoices, letter heads and visiting cards or any other trade literature or by using any other Trade Mark which is in any way visually, phonetically or deceptively similar to the Plaintiffs Registered Trade Marks TEXMO or in any manner infringing the Plaintiffs Registered Trade Mark Nos.315049 (SP-I), (SP-II) & 315050 (SP-I), (SP-II).

b) granting a permanent injunction, restraining the Defendant, by themselves, their servants, agents, men or anyone claiming through them from manufacturing, marketing, distributing, offering or advertising for sale Motors, Pumps and Compressors using the Trade Mark TECHSO or similar sounding names in the course of their business and pass off their goods using the Trade Mark TECHSO or with additions as and for the goods for the Applicant or enable others to pass off.

c) directing the Defendant to surrender to the Plaintiffs all types of goods containing / bearing the Trademark TECHSO or other deceptively similar Trademarks.

d) for a preliminary decree in favour of the plaintiffs, directing the Defendant to render an account of profits made by them by the use of the Trademark TECHSO on the goods referred and for a final decree in favour of the plaintiffs for the amount of the profits found to have been by the Defendants, after the Defendants have rendered accounts.

e) directing the Defendant to pay to the Plaintiffs the costs of the suit.

For Plaintiffs : Ms.Hemalatha for
Mrs.Gladys Daniel

For Defendant : Mr.K.Ashok Kumar

J U D G M E N T

The defendant is present in person. She would submit that she has



closed her industry and she is no longer manufacturing pumps with the mark “TECHSO”. She has produced her Aadhar Card as proof of her identity and I have verified the same.

2. Her statement is recorded and the suit is dismissed as having become infructuous, since the defendant has stopped carrying on business. There shall be no order as to costs. Liberty is reserved to the plaintiffs to take sue in the event, there is a fresh cause of action.

Sd./- R.S.M.J.
25.10.2021

List of witness and documents filed on the side of the plaintiffs:

Nil

List of witness and documents filed on the side of the defendant:

Nil

Sd./- R.S.M.J.
25.10.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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