

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.733 of 2005

1.Castrol Limited,
Burmah Castrol House,
Pipers Way, Swindon,
Wiltshire, SN3 1RE,
United Kingdom,
Rep by its Constituted Attorney
Mr.Murlidhar Balasubramanian.

2.Castrol India Limited,
781-785 Rayala Towers, V Floor,
Anna Salai, Chennai – 600 003, India.
Rep by its Constituted Attorney
Mr.Murlidhar Balasubramanian.

...Plaintiffs

Vs.

1.Goel Traders,
15-9-148, Maharajgunj,
Near Ganesh Temple,
Hyderabad – 500 012.

2.Nilesh Agarwal,
Trading as Goel Traders,
15-9-149, Maharajgunj,
Near Ganesh Temple,
Hyderabad – 500 012.

...Defendants

Prayer: Complaint filed under Order VII Rule 1 of Code of Civil Procedure and Order IV Rule 1 of O.S Rules read with Sections 27, 28, 29, 134 & 135 of the Trademarks Act, 1999 & Sections 51, 55 and 62 of Copyright Act, 1957, praying as follows:-

a) granting a permanent injunction restraining the defendants by themselves, their proprietor/partners as the case may be, heirs, legal representatives, successors-in-business, assigns, servants, agents, dealers, distributors, stockists, representatives or any of them from in any manner infringing the plaintiff's registered trademarks SGR 3 and SGR 4 labels by using identical graphic label in their ANG carton or any other graphic label which is identical to or similar to the plaintiff's registered trademark or in any other manner whatsoever;

b) granting a permanent injunction restraining the defendants by themselves, their proprietor/partners as the case may be, heirs, legal representatives, successors-in-business, assigns, servants, agents, dealers, distributors, stockists, representatives or any of them from in any manner passing off or enabling others to pass off the defendants' gear oil under the trademark ANG as and for the plaintiff's products by use of an identical colour scheme, get up and layout of red, green and white or any carton/container with or without the Supergraphix label, which is similar to plaintiff's CASTROL CRB PLUS carton and other products of the same colour scheme or in any other manner whatsoever;

c) a permanent injunction restraining the defendants by themselves, their proprietor/partners as the case may be, heirs, legal

representatives, successors-in-business, assigns, servants, agents, dealers, distributors, stockists, representatives or any of them from and in any manner infringing the plaintiff's copyright in the Artistic work CASTROL CRB PLUS carton/container with colour scheme of red, green and white by use of an identical colour scheme of red, green and white for their ANG carton/container or by use of any other pouch, carton/container with or without the Supergraphix label, which is a substantial reproduction of plaintiff's artistic work CASTROL CRB PLUS carton/container with distinctive colour scheme of red, green and white, get up and lay out;

d) directing the defendants be directed to surrender to plaintiffs for destruction all rolla packs, containers, rolla packs, labels, prints, blocks, dyes, plates, moulds and other material bearing the colour scheme of red, green and white, which is similar to plaintiffs' CASTROL CRB PLUS carton/container with colour scheme of red, green and white;

e) a preliminary decree in favour of the plaintiffs directing the defendants to render their account of profits made by use of ANG carton/container with colour scheme of red, green and white which are similar to plaintiff's artistic work CASTROL CRB PLUS carton/container with colour scheme of red, green and white 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 accounts;

f) the defendants be ordered to pay to the plaintiffs a sum of Rs.10,05,000/- as damages for committing acts of infringement of trademark, infringement of Copyright and passing off;

- g) for costs of the suit and
h) pass such further or other reliefs as this court may deem fit and necessary in the circumstances of the case and thereby render justice.

For Plaintiff : Mr.Rahul M.Shankar for
Mr.Arun C. Mohan

For Defendants : Set exparte

JUDGMENT

Mr.Rahul M.Shankar, learned counsel appearing for the plaintiff would submit that he has got instructions to withdraw the suit. A memorandum has also been filed to that effect.

2.Recording the said statement, this suit is dismissed as withdrawn. No costs. Liberty is reserved, if there is a fresh cause of action.

29.07.2021

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Internet:Yes

Index:No

Non-speaking

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

Nil

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

Nil

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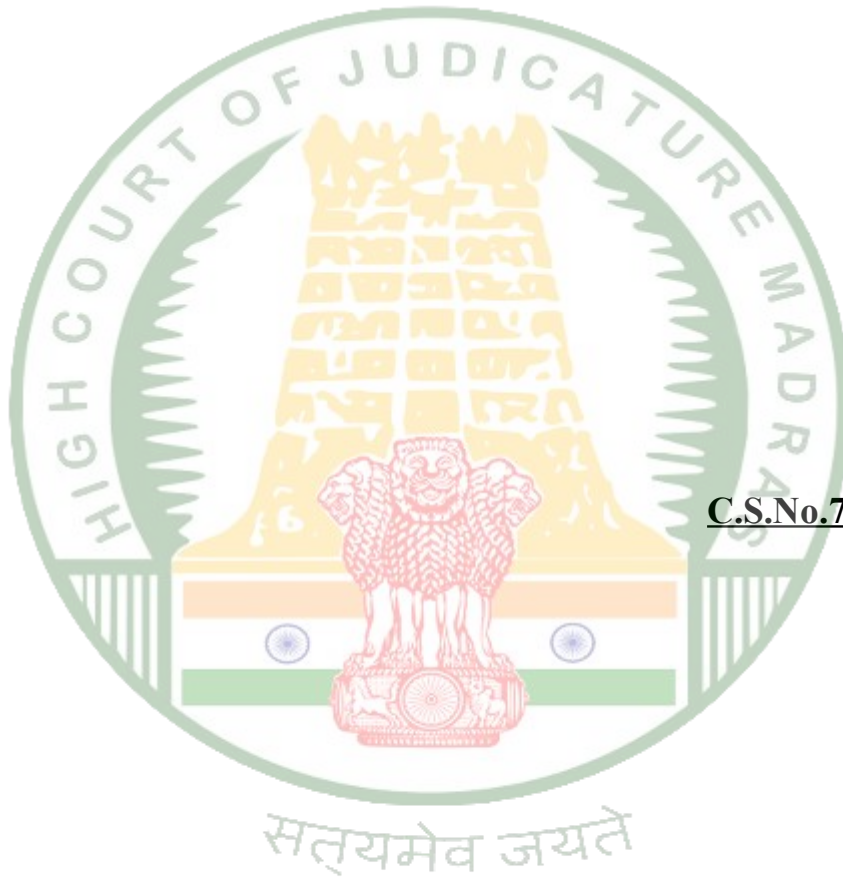
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R.SUBRAMANIAN, J.

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