

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN**C.S.No. 760 of 2005**

M/s. Wytro Mediez (P) Ltd.,
Represented by its Managing Director,
Mr.F. Samson Chandra Mohan,
"Maheswari Apartments",
Flat No.4, I Floor,
New No.12, Old No.18,
Ramakrishna Street,
T.Nagar, Chennai - 600 017. ... Plaintiff

Vs.

Mrs.Mehala Rani
Proprietrix of
M/s. MVVM Health Care,
64, Kamaraj Road,
Periyar Nagar,
Alwarthirunagar,
Chennai - 600 087. ... Defendant

WEB COPY**Prayer:**

Civil Suit is filed under Order IV Rule 1 of the Original Side Rules r/w
Sections 134 and 135 of the Trade and Merchandise Marks Act, 1957 r/w
Order VII Rule 1 of CPC., (a) permanent injunction restraining the
defendant, her men, agents or any person claiming through her, from in any

manner passing of her goods by selling, manufacturing, distributing or supplying syrups or any pharmaceutical preparation of any nature whatsoever by adopting, using the plaintiff's trade mark FERROCARE as "Fero Care" or in any other similar name;

(b) Mandatory injunction directing the defendant to surrender to the plaintiff, all the defendant's goods in the market under the mark "Fero Care" or other similar trade marks of the plaintiff's trade mark FERRO CARE for destroyal; and

(c) Award costs of the suit.

For Plaintiff : Ms.Gopika Nambiar

For Defendant : No Appearance

JUDGMENT

The suit had been filed taking advantage of Sections 134 and 135 of the Trade and Merchandise Marks Act, 1957 seeking protection of the Trade Mark of the plaintiff FERROCARE and for other consequential reliefs.

2. Since it is an assertion of an intellectual property right, the Commercial Division of this Court will have necessary jurisdiction to adjudicate the issues raised under Section 2 (1) (c) (xvii) of the Commercial Courts Act, 2015.

3. The plaintiff was directed to file an affidavit whether the cause of action still survives. The plaintiff had also not taken any steps to serve on the defendant. A memo had been filed by the learned Counsel for the plaintiff reporting no instructions. It is clear that the plaintiff is not interested in prosecuting the suit.

4. In view of the above, the Civil Suit is dismissed. No order as to costs.

सत्यमेव जयते

17.03.2021

Index: Yes/No

Web: Yes/No

Speaking order : Yes / No

msm

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C.V.KARTHIKEYAN, J.

msm



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