

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN**C.S.No. 803 of 2005**

M/s.Dharmapuri Roller Flour Mills,
 Amanireddihalli Village,
 Sogathur Post,
 (Via), Pauparapati,
 Dharmapuri - 636 809
 Represented by its Partner
 N.Sheshadri.

... Plaintiff

Vs.

M/s. Radhakrishna Flour Milling Corporation
 Laxmibai Nagar,
 Anaj Mandi, Indore,
 Madhya Pradesh,
 Represented by its Authorised Representative.

... Defendant

Prayer:

Civil Suit is filed under Order IV Rule 1 of O.S. Rules r/w Under Order VII Rule 1 of CPC and Section 27, 134 and 135 of the Trade Mark Act, 1999, and Under Section 62 of the Copy Right Act, 1957, (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

MANGOES or any other mark deceptive 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 defendants goods as and for the plaintiff's goods by use of the trademark DOUBLE MANGOES or any other mark deceptively similar to the plaintiff's trademarks THREE MANGOES in identical colour scheme, layout or in any other manner whatsoever;

(iii) A perpetual injunction restraining the defendant 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 "DOUBLE MANGOES" as against the plaintiff's trademark "THREE MANGOES" in identical colour scheme, words, fonts, lay-out or in any other manner whatsoever;

(iv) The defendant be ordered to surrender to the plaintiff for destruction all labels, dies, blocks, moulds, screen prints, advertisement and promotional materials, packing materials and any other materials bearing the

trademark DOUBLE MANGOES or any other mark deceptively similar to the plaintiff's trademark.

(v) A preliminary decree be passed favouring the plaintiff directing the defendant to render true account of profits made by the use of trademark DOUBLE MANGOES and final decree be passed in favour of the plaintiff's for amount of profits said to have been made by the defendant after they have rendered accounts;

(vi) for costs of the suit.

For Plaintiff : Ms.Srivatsav
For Mr.K. Rajasekaran

For Defendant : Unserved

J U D G M E N T

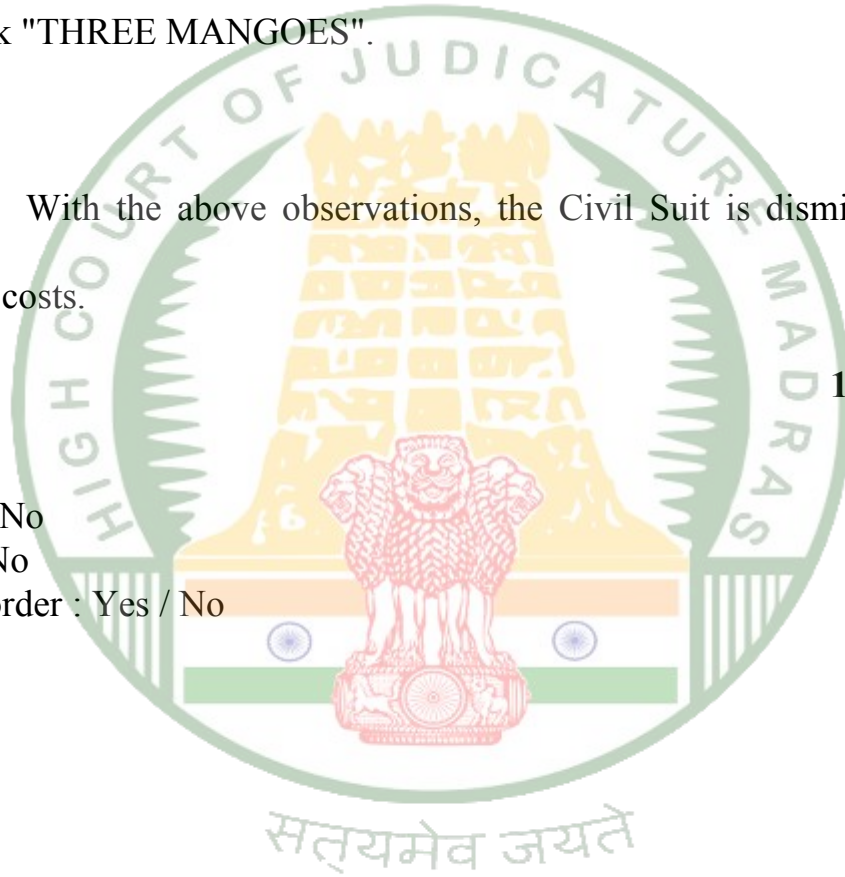
The learned Counsel for the plaintiff stated that they have received instructions that the defendant is not infringing the registered Trade Mark of the plaintiff "THREE MANGOES" as on date.

2. In view of the same, the suit is dismissed. However, the plaintiff is given liberty to institute a fresh suit either against the defendant or against anybody acting under the defendant or against any third party if a fresh cause of action arises with respect to the infringement of the plaintiff's Trade Mark "THREE MANGOES".

3. With the above observations, the Civil Suit is dismissed. No order as to costs.

17.03.2021

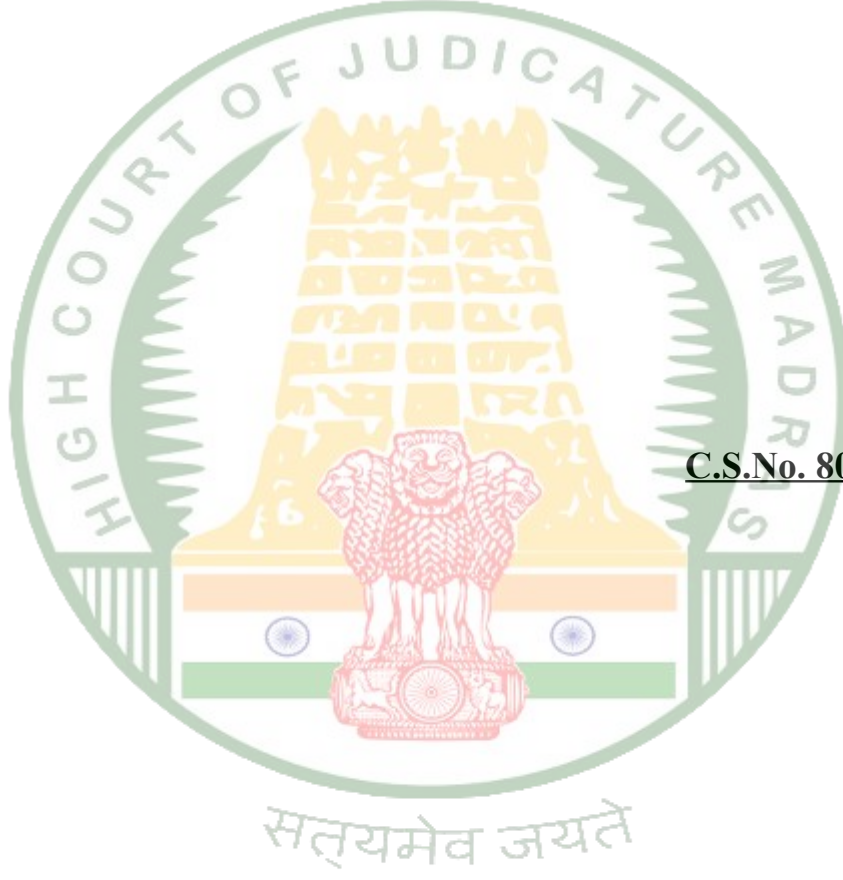
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Web:Yes/No
Speaking order : Yes / No
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C.V.KARTHIKEYAN, J.

msm



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