



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 21ST DAY OF OCTOBER 2021

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

C.S.No.190 of 2011

Sun Pharmaceutical Industries Limited,
CD Plot No.3, Door No.8,
Old Tower Block Street,
Nandhanam Extension,
Chennai – 600 035.
rep.by its Constituted Attorney
Mr. K. Murugan

... Plaintiff

-Vs-

Salud Care (I) Pvt Ltd.,
172-B, Manicktala Main Road,
Kolkatta – 700 054.

... Defendant

Civil suit praying that this Hon'ble Court be pleased to pass a
Judgment and decree on the following terms:-

a) A permanent injunction restraining the defendant, its distributors,
stockists, servants, agents, retailers, legal representatives or any other
person claiming under it from in any manner manufacturing, selling,
offering for sale, stocking, advertising directly or indirectly dealing in
medicinal and pharmaceutical preparations infringing plaintiff's registered



trademark CABGOLIN by use of deceptively similar trademark GOLIN or any mark deceptively similar to plaintiff's registered trademark CABGOLIN or in any other manner whatsoever;

b) A permanent injunction restraining the defendant, its distributors, stockists, servants, agents, retailers, legal representatives or any other person claiming under it from in any manner manufacturing, selling, offering for sale, stocking, advertising directly or indirectly dealing in medicinal and pharmaceutical preparations under the trademark GOLIN or any other trademark that is identical and/ or deceptively similar as that of the plaintiff's registered trademark CABGOLIN and/ or use similar packaging as that of the plaintiff's products under the mark CABGOLIN so as to pass off the defendant's medicinal preparations as and for the medicinal preparations of the plaintiff and/ or in any other manner whatsoever connected with the plaintiff;

c) The defendant be ordered to pay to the plaintiff a sum of Rs.1,00,000/- as liquidated damages for committing acts of infringement against plaintiff's registered trademark so as to pass off its products as and for the plaintiff's products;



d) The defendant be ordered and decreed to deliver up for destruction to the plaintiff all the preparations, dies, blocks, labels, packaging either filled or empty, brochures, leaflets, pamphlets, hand bills, hoardings, wall posters, calendars, carry bags, stationery items and such other sales promotional materials bearing and/ or containing the impugned trademark GOLIN;

e) A preliminary decree be passed in favour of the plaintiff directing the defendant to render accounts of profits made by it by use of the trademarks GOLIN which is identical and/ or deceptively similar and a final decree be passed in favour of the plaintiff for the amount of profits found to have been made by the defendant after the latter has rendered accounts and

f) for costs of the entire proceedings.

This Civil Suit coming on this day before this court for hearing in the presence of Mr.Keerthi Kiran, for Mr.A.A.Mohan, Advocates for the plaintiff herein and Mr.Biswajit Sarkar, Advocate for the defendant herein and upon reading the plaint filed herein and the defendant had sent an E-mail to the counsel for the plaintiff on 8.9.2021 and the contents of the E-

mail is as follows:-



WEB COPY

“This Trademark is not being used now by us. The Trademark “GOLIN” has not been in operation since the time you have opposed. We have stopped selling this medicine under pharmaceutical formulations.”

and the counsel for the plaintiff having submitted that the suit may be dismissed, recording the said E-mail, as withdrawn **it is ordered as follows:-**

That the suit in C.S.No.190 of 2011 be and is hereby dismissed as withdrawn.

2) That the plaintiff herein shall be at liberty to move in case, there is a future cause of action.

3) That there shall be no costs of this suit.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
21ST 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.



ED

11.11.2021

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C.S.No.190 of 2011

ORDER:

DATED : 21/10/2021

THE HON'BLE MR. JUSTICE
R. SUBRAMANIAN

FOR APPROVAL: 05/01/2022

APPROVED ON : 10/01/2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2021

CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.190 of 2011

Sun Pharmaceutical Industries Limited
CD Plot No.3, Door No.8,
Old Tower Block Street,
Nandhanam Extension,
Chennai – 600 035,
rep. by its Constituted Attorney
K.Murugesan

...Plaintiff

.Vs.

Salud Care (I) Pvt Ltd.,
172-B, Manicktala Main Road,
Kolkatta – 700 054.

... Defendant

Plaint filed under Order IV Rule 1 of the Original Side Rules and Order VII Rule 1 of the Code of Civil Procedure read with Sections 27, 28, 29, 134 and 135 of the Trade Marks Act, 1999 praying for a judgment and decree against the defendant as follows:

a) A permanent injunction restraining the defendant, its distributors, stockists, servants, agents, retailers, legal representatives or any other person claiming under it from in any manner manufacturing, selling, offering for sale, stocking, advertising directly or indirectly dealing in medicinal and pharmaceutical preparations infringing plaintiff's registered trademark CABGOLIN by use of deceptively similar trademark GOLIN or



any mark deceptively similar to plaintiff's registered trademark CABGOLIN or in any other manner whatsoever;

b) A permanent injunction restraining the defendant, its distributors, stockists, servants, agents, retailers, legal representatives or any other person claiming under it from in any manner manufacturing, selling, offering for sale, stocking, advertising directly or indirectly dealing in medicinal and pharmaceutical preparations under the trademark GOLIN or any other trademark that is identical and/ or deceptively similar as that of the plaintiff's registered trademark CABGOLIN and/ or use similar packaging as that of the plaintiff's products under the mark CABGOLIN so as to pass off the defendant's medicinal preparations as and for the medicinal preparations of the plaintiff and/ or in any other manner whatsoever connected with the plaintiff;

c) The defendant be ordered to pay to the plaintiff a sum of Rs.1,00,000/- as liquidated damages for committing acts of infringement against plaintiff's registered trademark so as to pass off its products as and for the plaintiff's products;

d) The defendant be ordered and decreed to deliver up for destruction to the plaintiff all the preparations, dies, blocks, labels, packaging either filled or empty, brochures, leaflets, pamphlets, hand bills, hoardings, wall posters, calendars, carry bags, stationery items and such other sales promotional materials bearing and/ or containing the impugned trademark GOLIN;



e) A preliminary decree be passed in favour of the plaintiff directing the defendant to render accounts of profits made by it by use of the trademarks GOLIN which is identical and/ or deceptively similar and a final decree be passed in favour of the plaintiff for the amount of profits found to have been made by the defendant after the latter has rendered accounts and

f) for costs of the entire proceedings.

For Plaintiff : Mr.Keerthi Kiran
for Mr.A.A.Mohan

For Defendant : Mr.Biswajit Sarkar

J U D G M E N T

Heard Mr.Keerthi Kiran, learned counsel appearing for the plaintiff and Mr.Biswajit Sarkar, learned counsel appearing for the defendant.

2. The defendant had sent an E-mail to the counsel for the plaintiff on 8th September 2021 and the contents of the E-mail is as follows:-

“This Trademark is not being used now by us. The Trademark “GOLIN” has not been in operation since the time you have opposed. We have stopped selling this medicine under pharmaceutical formulations.”



The counsel for the plaintiff would submit that the suit may be dismissed, recording the said E-mail, as withdrawn.

3. The suit is therefore dismissed as withdrawn of course with liberty to move in case there is a future cause of action. No costs.

List of the witnesses examined on the side of the plaintiff: Nil

List of Exhibits marked on the side of the plaintiff : Nil

List of the witnesses examined on the side of the defendant: Nil

List of Exhibits marked on the side of the defendant: Nil

Sd./- R.S.M.J.
21.10.2021

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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