



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 27TH DAY OF OCTOBER 2021

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

C.S. No.191 of 2011

M/s.Lion Dates Impex Private Limited,
Flat No.8, Golden Perch Apartments,
No.2, Wheatcroft Road,
Nungambakkam, Chennai – 600 034.
Rep. By its Managing Director, P.Ponnudurai

...Plaintiff

Vs.

M/s.Murugan & Co.,
7/1, V.O.C.Nagar Main Road,
Thirumullaivoyal,
Chennai – 600 062.

...Defendant

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

a) a permanent injunction restraining the Defendant, its partners/
directors, (as applicable), all its principal officers, staff, men, agents,
servants, successors, assigns in business, representatives or any other person
claiming any right through or under the Defendant from in any manner



using, manufacturing, packing, marketing, distributing or selling or offering for sale, advertising, displaying or indirectly using any identical or deceptively similar color combination on the packaging of any of the Defendants products in particularly dates, amounting to infringement / piracy of the registered designs of the plaintiff under registered design No.222936 in Class : 07-02.

b) A permanent injunction restraining the Defendant, its directors / partners (as applicable), all its principal officers, staff, men, agents, servants, successors, assigns in business, representatives or any other person claiming any right through or under the Defendant from in any manner using, manufacturing, packing, marketing, distributing or selling or offering for sale, advertising, displaying or indirectly using a trade dress of shape, size, method of sealing and finishing, on any of the Defendant's products in particular the packages of dates, which is identical / deceptively similar to the trade dress of the plaintiff in the shape, size, method of sealing and finishing, of the plaintiff's packages of dates as depicted hereunder;



c) the Defendant be ordered to pay to the plaintiff a sum of Rs.20,00,000/- by way of damages.

d) A preliminary decree be passed in favour of the plaintiff directing the Defendant to render a true and faithful account of all profits made by it, using the plaintiff's said registered design and trade dress, and a final decree be passed in favour of the plaintiff for the amount of profits thus found to have been made by the Defendant, together with interest, after the Defendant have rendered accounts.

e) The Defendant be directed to deliver-up to the plaintiff for destruction, of all packaging, blocks, dyes, all other print materials, stickers, signage, visiting cards, letter heads, catalogues, pamphlets, brochures, all other advertising and promotional material, all stationery, and such other material used in making the packages which, infringe the plaintiff's registered design No.222936 in class 07-02 and amount to passing off under the plaintiff's trade dress of size, shape, method of sealing and finishing of dates packages.

f) for costs.

This suit coming on this day before this Court for hearing in the presence of Mr.G.K.Muthukumar, Advocate for the plaintiff herein and

Mr.N.R.Srinath for Mr.P.C.N.Raghupathy, Advocate for the defendant

herein and upon reading the plaint and the affidavit of T.Murugesan filed



herein, it is ordered and decreed as follows:-

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That M/s.Murugan & Company, the defendant herein, its partners/directors, all its principal officers, staff, men, agents, servants, successors, assigns in business, representatives or any other person claiming any right through or under the Defendant herein, be and are hereby restrained by an order of permanent injunction from (a) in any manner using, manufacturing, packing, marketing, distributing or selling or offering for sale, advertising, displaying or indirectly using any identical or deceptively similar color combination on the packaging of any of the Defendants products in particularly dates, amounting to infringement / piracy of the registered designs of the plaintiff under registered design No.222936 in Class : 07-02 and (b) in any manner using, manufacturing, packing, marketing, distributing or selling or offering for sale, advertising, displaying or indirectly using a trade dress of shape, size, method of sealing and finishing, on any of the Defendant's products in particular the packages of dates, which is identical / deceptively similar to the trade dress of the plaintiff in the shape, size, method of sealing and finishing, of the plaintiff's packages of dates as depicted and annexed hereto.

2. That the suit in respect of other prayer shall stand dismissed.

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



4. That the plaintiff herein shall be entitled to sue, if there is any new cause of action.

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WEB COPY 28.01.2022

C.S. No.191 of 2011

DECREE:

DATED: 27.10.2021

THE HON'BLE MR. JUSTICE
R.SUBRAMANIAN

FOR APPROVAL: 03.02.2022

APPROVED ON: 04.02.2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.191 of 2011

M/s.Lion Dates Impex Private Limited,
Flat No.8, Golden Perch Apartments,
No.2, Wheatcroft Road,
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Rep. By its Managing Director, P.Ponnudurai

...Plaintiff

Vs.

M/s.Murugan & Co.,
7/1, V.O.C.Nagar Main Road,
Thirumullaivoyal,
Chennai – 600 062.

...Defendant

Prayer: Complaint filed under Order VII Rule 1 of C.P.C., r/w. Order IV Rule 1 of the High Court original side rules and Section 22 of Designs Act, 2000 and Section 134 of the Trademarks Act, 1999:-

a) a permanent injunction restraining the Defendant, its partners / directors, (as applicable), all its principal officers, staff, men, agents, servants, successors, assigns in business, representatives or any other person claiming any right through or under the Defendant from in any manner using, manufacturing, packing, marketing, distributing or selling or offering for sale, advertising, displaying or indirectly using any identical or deceptively similar color combination on the packaging of any of the Defendants products in particularly dates, amounting to infringement / piracy of the registered designs of the plaintiff under registered design no.222936 in Class : 07-02.



b) a permanent injunction restraining the Defendant, its directors / partners (as applicable), all its principal officers, staff, men, agents, servants, successors, assigns in business, representatives or any other person claiming any right through or under the Defendant from in any manner using, manufacturing, packing, marketing, distributing or selling or offering for sale, advertising, displaying or indirectly using a trade dress of sale, size, method of sealing and finishing, on any of the Defendant's products in particular the packages of dates, which is identical / deceptively similar to the trade dress of the plaintiff in the shape, size, method of sealing and finishing, of the plaintiff's packages of dates.

c) the Defendant be ordered to pay to the plaintiff a sum of Rs.20,00,000/- by way of damages.

d) a preliminary decree be passed in favour of the plaintiff directing the Defendant to render a true and faithful account of all profits made by it, using the plaintiff's said registered design and trade dress, and a final decree be passed in favour of the plaintiff for the amount of profits thus found to have been made by the Defendant, together with interest, after the Defendant have rendered accounts.

e) the Defendant be directed to deliver-up to the plaintiff for destruction, of all packaging, blocks, dyes, all other print materials, stickers, signage, visiting cards, letter heads, catalogues, pamphlets, brochures, all other advertising and promotional material, all stationery, and such other material used in making the packages which, infringe the plaintiff's registered design No.222936 in class 07-02 and amount to passing off under the plaintiff's trade dress of size, shape, method of sealing and finishing of dates packages.

f) for costs.



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For Plaintiff : Mr.G.K.Muthukumar

For Defendant : Mr.N.R.Srinath for
Mr.P.C.N.Raghupathy

J U D G M E N T

The complaint of the plaintiff is that the defendant has substantially copied the lay out, color scheme and the manner of packing of its products namely, dates, is deceptively similar to that of the plaintiff. It is on the said ground the plaintiff would contend that the defendant has infringed the registered design as well as the trademark of the plaintiff.

2.The defendant has filed an affidavit stating that it has stopped using the similar packaging and it has substantially changed the method of packing as well as labelling of its products. The photograph of the present packaging has also been given in the affidavit. On comparison, I find that there is a substantial change. The defendant has also prayed that the suit may be decreed on the above terms and without costs.

3.In view of the affidavit filed by the defendant, this suit is decreed for the prayer A & B alone. The suit in respect of other prayer will stand dismissed. No costs. Needless to say that the plaintiff would be entitled to sue, if there is any new cause of action.

Sd./- R.S.M.J.
27.10.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of
the Orders/Judgments/Decrees in this format.