

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.656 of 2011

M/s.Aravind Laboratories,
3/17, Valluvar Salai,
Ramapuram, Chennai – 600 089.
Represented by its Partner,
Mr.T.Devanathan

...Plaintiff

Vs.

Kaybee Exim PTE Ltd.,
7500A Beach Road,
#13 – 308 The Plaza,
Singapore – 199591.

...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 r/w. Sections 27, 134 & 135 of the Trademarks Act, 1999, praying as follows:-

a) granting a permanent injunction, restraining the Defendant, by itself, its servants, agents, distributors, or anyone claiming through them from manufacturing, selling, advertising and offering for sale using the Trade Mark BEST EYES upon the goods or in any media and use the same in “TEXTILE AND TEXTILE GOODS, NOT INCLUDED IN OTHER CLASSES, BED AND TABLE COVERS, ALL BEING GOODS FALLING IN CLASS 24” by using any other trade mark which is in any way visually,

phonetically or deceptively similar to the Plaintiffs registered Trademark “EYETEX”, or in any manner infringing the plaintiffs registered trademark Nos.124824 & 271583 in Class 3.

b) directing the Defendant to surrender to the Plaintiffs all the packing material, cartons, advertisement materials and hoardings, letter-heads, visiting cards, office stationery and all other materials containing / bearing the Trade Mark BEST EYES or other deceptively similar Trade Mark.

c) for a preliminary decree in favour of the Plaintiffs, directing the defendant to render an account of profits made by them by the use of the Trademark BEST EYES on the goods referred and for a final decree in favour of the Plaintiffs for the amount of the profits found to have been made by the Defendants, after the Defendants have rendered accounts.

d) directing the Defendant to pay to the Plaintiffs the costs of the suit.

For Plaintiff : M/s.C.Daniel & Gladys Daniel

For Defendant : Set exparte

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JUDGMENT

Mrs.Gladys Daniel, learned counsel appearing for the plaintiff would submit that she has got instructions to withdraw the suit.

2.Recording the said statement, this suit is dismissed as withdrawn. No costs.

01.09.2021

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Internet:Yes
Index:No
Non-speaking

List of witness examined on the side of the plaintiff:

Mr.D.Balajhi (P.W.1)

List of documents marked on the side of the plaintiff:

<i>S.No.</i>	<i>Description of Documents</i>	<i>Exhibit</i>
1	The original Authorization letter dated 13.02.2021.	Ex.P1
2	The original Plaintiff's pouch EYETEX.	Ex.P2
3	The Xerox copy of the legal use certificate of Trademark No.124824 is respect of word EYETEX in Class 3 dated 11.09.1946 with renewal along with 65B affidavit enclosed.	Ex.P3
4	The xerox of the legal use certificate of Trademark No.271583 in respect of word EYETEX in Class 3 dated 24.04.1971.	Ex.P4
5	The Xerox copy of the legal use certificate of Trademark No.296914	Ex.P5

S.No.	Description of Documents	Exhibit
	in respect of word EYETEX in Class 3 dated 14.06.1974.	
6	The Xerox copy of the partnership deed dated 01.10.2006	Ex.P6
7	The Trademark journal No.1400 showing the Defendant advertisement in the Trademark Application No.1011987 dated 25.05.2001.	Ex.P7
8	The office copy of the Trademark Opposition papers filed by the plaintiff on 08.12.2008.	Ex.P8
9.	The office copy of the Cease and Desist notice sent by the plaintiff to the Defendant on 23.09.2009.	Ex.P9

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

Nil

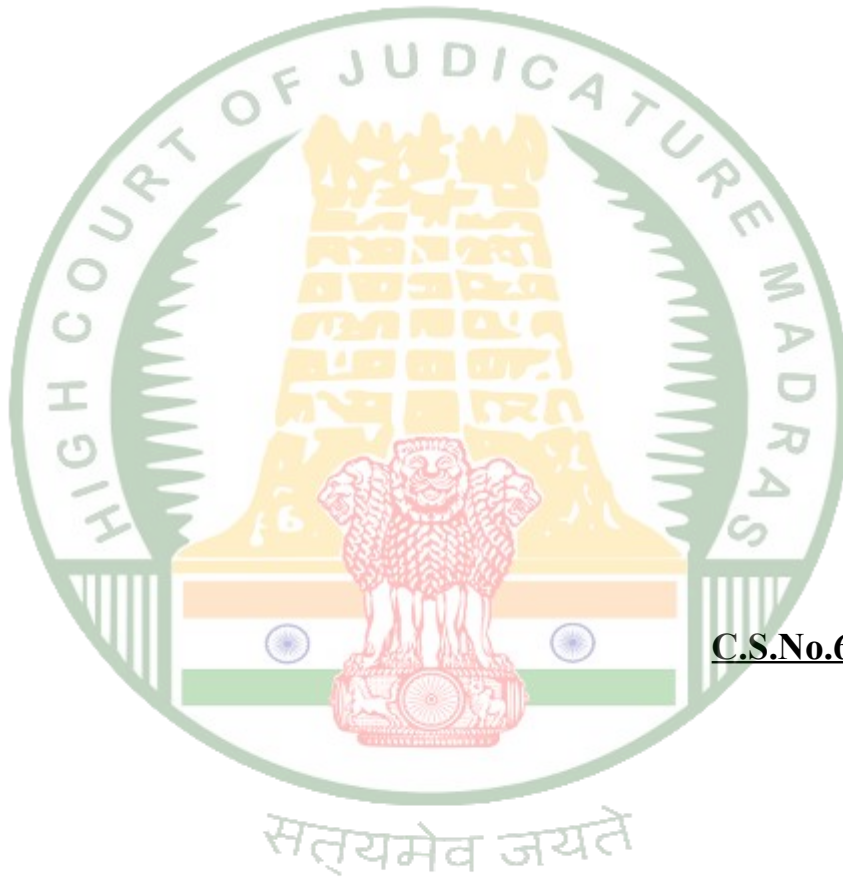
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R.SUBRAMANIAN, J.

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