



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 16TH DAY OF AUGUST 2021

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

C.S. No.234 of 2012

and

O.A.Nos. 295 to 302 of 2012

M/s.Ultra Tile Pvt. Ltd.,
New No.11, Old No.54,
Jawaharlal Nehru Road,
1st Avenue, Ashok Nagar,
Chennai-600 083.

..Plaintiff/Applicant
(in all original applications)

VS

M/s.OCEAN TILES AND PAVERS,
62/3, Keezhavanjoure Village,
T.R.Pattinam,
Karaikal-611 002.

..Defendant/Respondent
(in all original applications)

Civil suit praying that this Hon'ble Court be pleased to pass a judgment and decree:-

(a) granting permanent injunction restraining the defendant by itself, its men, its servants or agents or anyone claiming through it from in any manner infringing the plaintiff's registered trademark 'CHATHURA' by using the offending trademark 'CHATHURA' or any other mark or marks which are in any way identical, similar or deceptively similar or colourable imitation of the plaintiff's registered trademark 'CHATHURA'.



(b) granting permanent injunction restraining the defendant by itself, its men, its servants or agents or anyone claiming through it from in any manner infringing the plaintiff's registered trademark under No.1914413 being the shape and configuration of the tiles by using the offending shape and configuration as shown in Annexure 'A' to the plaint or any other shape and configuration which is similar or deceptively similar to that of the plaintiff's registered trademark under No.1914413.

(c) granting permanent injunction restraining the defendant by itself, its men, its servants or agents or anyone claiming through it from in any manner infringing the plaintiff's registered trademark under No.1914409 being the shape and configuration of the tiles by using the offending shape and configuration as shown in Annexure 'B' to the plaint or any other shape and configuration which is similar or deceptively similar to that of the plaintiff's registered trademark under No.1914409.

(d) granting permanent injunction restraining the defendant by itself, it men, its servants or agents or anyone claiming through it from in any manner infringing the plaintiff's registered trademark under No.1914411 being the shape and configuration of the tiles by using the offending shape and configuration as shown in Annexure 'B' to the plaint or any other shape



and configuration which is similar or deceptively similar to that of the plaintiff's registered trademark under No.1914411.

(e) granting permanent injunction restraining the defendant by itself, its men, its servants or agents or anyone claiming through it from in any manner passing off its tiles as that of the plaintiff's by using the offending trademark 'CHATHURA' or any other mark or marks which are in any way identical, similar or deceptively similar or colourable imitation of the plaintiff's registered trademark 'CHATHURA'.

(f) granting permanent injunction restraining the defendant by itself, its men, its servants or agents or anyone claiming through it from in any manner passing off its tiles as that of the plaintiff by using the offending shape and configuration of the plaintiff's tiles registered under No.1914413 or any other shape and configuration which is similar or deceptively similar to that of the plaintiff's registered trademark under No.1914413.

(g) granting permanent injunction restraining the defendant by itself, its men, its servants or agents or anyone claiming through it from in any manner passing off its tiles as that of the plaintiff by using the offending shape and configuration of the plaintiff's tiles registered under No.1914409



or any other shape and configuration which is similar or deceptively similar to that of the plaintiff's registered trademark under No.1914409.

(h) granting permanent injunction restraining the defendant by itself, its men, its servants or agents or anyone claiming through it from in any manner passing off its tiles as that of the plaintiff and by using the offending shape and configuration of the plaintiff's tiles registered under No.1914411 or any other shape and configuration which is similar or deceptively similar to that of the plaintiff's registered trademark under No.1914411.

(i) directing the defendant to surrender to the plaintiff the entire stock of unused offending trademark 'CHATHURA' and tiles similar to that of the plaintiff tiles registered under Nos.1914413, 1914409 and 1914411 together with the blocks and dyes, name boards, signboards etc. for destruction.

(j) directing the defendant to render a true and faithful account of the profits earned by it through the sale of the offending tiles bearing the offending trademark 'CHATHURA' and tiles similar to the plaintiff's tiles registered under Nos.1914413, 1914409 and 1914411 and directing payment of such profits to the plaintiff.



(k) directing the defendant to pay to the plaintiff the costs of the suit.

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O.A.NO.295 OF 2012:-

Original Application praying that this Hon'ble Court be pleased to grant interim injunction restraining the respondent by itself, its men, its servants or agents or anyone claiming through it from in any manner infringing the applicant registered trademark "CHATHURA" by using the offending trademark "CHATHURA" or any other mark or marks which are in any way identical, similar or deceptively similar or colourable imitation of the applicant's registered trademark "CHATHURA".

O.A.NO.296 OF 2012:-

Original Application praying that this Hon'ble Court be pleased to grant interim injunction restraining the respondent by itself, its men, its servants or agents or anyone claiming through it from in any manner infringing the Applicant's registered trademark under No. 1914413 being the shape & configuration of the tiles by using the offending shape and configuration or any other shape and configuration which is similar or deceptively similar to that of the plaintiff's registered trademark under No. 1914413.



O.A.NO.297 OF 2012:-

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Original Application praying that this Hon'ble Court be pleased to grant interim injunction restraining the respondent by itself, its men, its servants or agents or anyone claiming through it from in any manner infringing the Applicant's registered trademark under No. 1914409 being the shape & configuration of the tiles by using the offending shape and configuration or any other shape and configuration which is similar or deceptively similar to that of the plaintiff's registered trademark under No. 1914409.

O.A.NO.298 OF 2012:-

Original Application praying that this Hon'ble Court be pleased to grant interim injunction restraining the respondent by itself, its men, its servants or agents or anyone claiming through it from in any manner infringing the Applicant's registered trademark under No. 1914411 being the shape & configuration of the tiles by using the offending shape and configuration or any other shape and configuration which is similar or deceptively similar to that of the plaintiff's registered trademark under No. 1914411.



O.A.NO.299 OF 2012:-

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Original Application praying that this Hon'ble Court be pleased to grant interim injunction restraining the respondent by itself, its men, its servants or agents or anyone claiming through it from in any manner passing off its tiles as that of the Applicant's by using the offending trademark "CHATHURA" or any other mark or marks which are in any way identical, similar or deceptively similar or colourable imitation of the Applicant's registered trademark "CHATHURA".

O.A.NO.300 OF 2012:-

Original Application praying that this Hon'ble Court be pleased to grant interim injunction restraining the respondent by itself, its men, its servants or agents or anyone claiming through it from in any manner passing off its tiles as that of the Applicant by using the offending shape and configuration of the plaintiff's tiles registered under No.1914413 or any other shape and configuration which is similar or deceptively similar to that of the applicant's registered trademark under No.1914413.

O.A.NO.301 OF 2012:-

Original Application praying that this Hon'ble Court be pleased to

grant interim injunction restraining the respondent by itself, its men, its



servants or agents or anyone claiming through it from in any manner passing off its tiles as that of the Applicant by using the offending shape and configuration of the applicant tiles registered under No.1914409 or any other shape and configuration which is similar or deceptively similar to that of the applicant's registered trademark under No.1914409.

O.A.NO.302 OF 2012:-

Original Application praying that this Hon'ble Court be pleased to grant interim injunction restraining the respondent by itself, its men, its servants or agents or anyone claiming through it from in any manner passing off its tiles as that of the Applicant by using the offending shape and configuration of the applicant's tiles registered under No.1914411 or any other shape and configuration which is similar or deceptively similar to that of the applicant's registered trademark under No.1914411.

This Civil suit alongwith these original applications coming on this day before this court for hearing in the presence of Ms.Varsha for M/s. APR Associates, Advocates for the Plaintiff in C.S.No.234 of 2012 and for the Applicant in A.Nos. 295 to 302 of 2012 and upon reading the plaint filed in C.S.No.234 of 2012 and the judges summons and the affidavit of



17.04.2012 made in O.A.Nos. 299 to 302 of 2012, and this court having observed that the Counsel for the plaintiff is unable to take steps to persuade the Interim Resolution Professional appointed by the National Company Law Tribunal to continue to prosecute the suit. it is ordered as follows:-

That the Suit in C.S.No.234 of 2012 be and is hereby dismissed for non-prosecution.

2. That the connected O.A.Nos. 295 to 302 of 2012 be and are hereby closed.

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
16th DAY OF AUGUST 2021.

Sd/-
ASSISTANT REGISTRAR (COMM.CASES)

//Certified to be true copy//
Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)
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02.09.2021

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C.S. No.234 of 2012
and
O.A.Nos. 295 to 302 of 2012

ORDER :-

DATED : 16.08.2021

THE HON'BLE MR.JUSTICE
R.SUBRAMANIAN

FOR APPROVAL: 12/10/2021

APPROVED ON : 20/10/2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2021

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THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.234 of 2012

and

O.A.Nos.295 to 302 of 2012

M/s.ULTRA TILE PVT. LTD.
New No.11, Old No.54,
Jawaharlal Nehru Road
1st Avenue, Ashok Nagar
Chennai – 600 083.

...Plaintiff

.Vs.

M/s.OCEAN TILES AND PAVERS
62/3, Keezhavanoure Village
T.R.Pattinam
Karaikal – 611 002.

... Defendant

Plaint filed under Order IV Rule 1 of the Original Side Rules read with Order VII Rule 1 of the Code of Civil Procedure and Section 134 and 135 of Trademarks Act, 1999 praying for a judgment and decree:

(a) granting permanent injunction restraining the defendant by itself, its men, its servants or agents or anyone claiming through it from in any manner infringing the plaintiff's registered trademark 'CHATHURA' by using the offending trademark 'CHATHURA' or any other mark or marks which are in any way identical, similar or deceptively similar or colourable imitation of the plaintiff's registered trademark 'CHATHURA'.



(b) granting permanent injunction restraining the defendant by itself, its men, its servants or agents or anyone claiming through it from in any manner infringing the plaintiff's registered trademark under No.1914413 being the shape and configuration of the tiles by using the offending shape and configuration as shown in Annexure 'A' to the plaint or any other shape and configuration which is similar or deceptively similar to that of the plaintiff's registered trademark under No.1914413.

(c) granting permanent injunction restraining the defendant by itself, its men, its servants or agents or anyone claiming through it from in any manner infringing the plaintiff's registered trademark under No.1914409 being the shape and configuration of the tiles by using the offending shape and configuration as shown in Annexure 'B' to the plaint or any other shape and configuration which is similar or deceptively similar to that of the plaintiff's registered trademark under No.1914409.

(d) granting permanent injunction restraining the defendant by itself, its men, its servants or agents or anyone claiming through it from in any manner infringing the plaintiff's registered trademark under No.1914411 being the shape and configuration of the tiles by using the offending shape and configuration as shown in Annexure 'B' to the plaint or any other shape and configuration which is similar or deceptively similar to that of the plaintiff's registered trademark under No.1914411.

(e) granting permanent injunction restraining the defendant by itself, its men, its servants or agents or anyone claiming through it from in any manner passing off its tiles as that of the plaintiff's by using the offending trademark 'CHATHURA' or any other mark or marks which are in any way identical, similar or deceptively similar or colourable imitation of the plaintiff's registered trademark 'CHATHURA'.

(f) granting permanent injunction restraining the defendant by itself,



its men, its servants or agents or anyone claiming through it from in any manner passing off its tiles as that of the plaintiff by using the offending shape and configuration of the plaintiff's tiles registered under No.1914413 or any other shape and configuration which is similar or deceptively similar to that of the plaintiff's registered trademark under No.1914413.

(g) granting permanent injunction restraining the defendant by itself, its men, its servants or agents or anyone claiming through it from in any manner passing off its tiles as that of the plaintiff by using the offending shape and configuration of the plaintiff's tiles registered under No.1914409 or any other shape and configuration which is similar or deceptively similar to that of the plaintiff's registered trademark under No.1914409.

(h) granting permanent injunction restraining the defendant by itself, its men, its servants or agents or anyone claiming through it from in any manner passing off its tiles as that of the plaintiff and by using the offending shape and configuration of the plaintiff's tiles registered under No.1914411 or any other shape and configuration which is similar or deceptively similar to that of the plaintiff's registered trademark under No.1914411.

(i) directing the defendant to surrender to the plaintiff the entire stock of unused offending trademark 'CHATHURA' and tiles similar to that of the plaintiff tiles registered under Nos.1914413, 1914409 and 1914411 together with the blocks and dyes, name boards, signboards etc. for destruction.

(j) directing the defendant to render a true and faithful account of the profits earned by it through the sale of the offending tiles bearing the offending trademark 'CHATHURA' and tiles similar to the plaintiff's tiles registered under Nos.1914413, 1914409 and 1914411 and directing payment of such profits to the plaintiff.

(k) directing the defendant to pay to the plaintiff the costs of the suit.



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For Plaintiff : Ms.Varsha
for M/s.APR Associates

J U D G M E N T

Despite several adjournments, the counsel for the plaintiff is unable to take steps to persuade the Interim Resolution Professional appointed by the National Company Law Tribunal to continue to prosecute the suit.

2. Hence, the suit is dismissed for non-prosecution. No costs. Consequently, the connected original applications are closed.

Sd./-(R.S.M.J.)
16.08.2021

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.)
16.08.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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