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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 11TH DAY OF MARCH 2021

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

C.S. No.151 of 2013

1. A.D. Padmasingh Isaac,
Plot No.1926, 34th Street,
I Block, Ishwarya Colony,
Anna Nagar West,
Chennai - 600 040.

2. M/s. Aachi Masala Foods (P) Ltd.,
Old No.4, New No.181/1,
6th Avenue, Thangam Colony,
Anna Nagar, Chennai - 600 040.
Represented by its Director
Mr.Ashwin Pandian

... Plaintiffs

Vs.

Aachi Aappakadai Chettinad A/c Restaurant,
No.834/596, Poonamallee High Road,
Opp Panchali Amman Koil,
Arumbakkam, Chennai-600 106.

... Defendant

Civil Suit praying that this Hon'ble Court be pleased to (a) granting a permanent injunction restraining the defendant, by himself, his servants, agents, distributors, or anyone claiming through him from manufacturing, selling, advertising and offering for sale using the same name AACHI used

<https://hcservices.ecourts.gov.in/hcservices/>

by the plaintiffs and the trade mark/name AACHI AAPAKADAI



CHETTINADU A/c Restaurant or any other similar Trade Mark name or similar sounding expression in any media and use the same in name board, invoices, letter heads and visiting cards or by using any other trade mark/name which is in any way visually or deceptively or phonetically similar to the plaintiff trade mark/name AACHI/AACHI CHETTINADU RESTAURANT and use the same in pouches, packets or use the mark in invoices, letters heads and visiting cards or part of their Hotel/Restaurant name any other trade literature or Menu card by using any other trade mark which is in any way visually, or phonetically similar to the plaintiff registered Trade Mark No.1116254 or in any manner infringing the plaintiff's registered Trade Marks referred herein.

(b) granting a permanent injunction restraining the defendants by itself, its agents or servants or anyone claiming through or under him any business marketing, selling advertising using in trade literature, menu cards, invoices, name boards, website, internet advertisements the mark/name Aachi Appakadai Chettinad A/c Restaurant in relation to the Restaurant or with respect to or any other food preparation or on any other business the impugned trademark/name which is in any manner deceptively or phonetically confusingly similar to the plaintiff's Trade Mark/name AACHI/AACHI CHETTINADU RESTAURANT or in any other manner pass off their business or goods as and for that of the plaintiffs.



(c) directing the defendant to surrender to the plaintiffs all the packing material, cartons, advertisement materials and hoardings, letter-heads, visiting cards, office stationary and all other materials containing/bearing the name Aachi Aappakadai Chettinad A/c Restaurant or other identical trade mark used in the pouches and packets bearing the word AACHI.

(d) directing the defendant to render an account of profits made by them by the use of the impugned trademark Aachi Aappakadai Chettinad A/c Restaurant on the service referred and decree the suit for the profits found to have been made by the defendants, after the defendants have rendered accounts.

(e) directing the Defendant to pay to the Plaintiffs the costs to the suit.

This suit coming on this day before this court for hearing in the presence of M/s.Daniel and Gladys Daniel, Advocates for the plaintiffs herein and Mr.Avinash, Advocate for the defendant herein and upon reading the plaint filed herein and this court having observed that since the defendant had changed their name to "Kattumara Chettinad Restaurant", they have no inclination to participate in the present judicial proceedings, it is ordered and decreed as follows:-



herein, by himself, his servants, agents, distributors, or anyone claiming through him, be and is hereby restrained by an order of permanent injunction (a) from manufacturing, selling, advertising and offering for sale using the same name AACHI used by the plaintiffs and the trade mark/name AACHI AAPAKADAI CHETTINADU A/c Restaurant or any other similar Trade Mark name or similar sounding expression in any media and use the same in name board, invoices, letter heads and visiting cards or by using any other trade mark/name which is in any way visually or deceptively or phonetically similar to the plaintiff trade mark/name AACHI/AACHI CHETTINADU RESTAURANT and use the same in pouches, packets or use the mark in invoices, letters heads and visiting cards or part of their Hotel/Restaurant name any other trade literature or Menu card by using any other trade mark which is in any way visually, or phonetically similar to the plaintiff registered Trade Mark No.1116254 or in any manner infringing the plaintiff's registered Trade Marks referred herein

(b) any business marketing, selling advertising using in trade literature, menu cards, invoices, name boards, website, internet advertisements the mark/name Aachi Appakadai Chettinad A/c Restaurant in relation to the Restaurant or with respect to or any other food preparation or on any other business the impugned trademark/name which is in any manner deceptively

or phonetically confusingly similar to the plaintiff's Trade Mark/name



AACHI/AACHI CHETTINADU RESTAURANT or in any other manner
pass off their business or goods as and for that of the plaintiffs.

2) That the suit C.S.No. 151 of 2013 be and is hereby dismissed
with respect to the reliefs (c) and (d) in suit prayer.

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

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
11th DAY OF MARCH 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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06.05.2021

C.S. No.151 of 2013

DECREE:

DATED: 11.03.2021

THE HON'BLE MR. JUSTICE
C.V.KARTHIKEYAN

FOR APPROVAL: 20/07/2021

APPROVED ON: 22/07/2021



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

C.S.No. 151 of 2013

1. A.D. Padmasingh Isaac,
2. M/s. Aachi Masala Foods (P) Ltd.,
Old No.4, New No.181/1,
6th Avenue, Thangam Colony,
Anna Nagar, Chennai - 600 040.
Represented by its Director
Mr.Ashwin Pandian

... Plaintiffs

Vs.

Aachi Aappakadai Chettinad A/c Restaurant,
No.834/596, Poonamallee High Road,
Opp Panchali Amman Koil,
Arumbakkam, Chennai-600 106.

... Defendant

Prayer:

Civil Suit is filed under Sections 27(2), 29, 134 and 135 of the Trade Marks Act, 1999 and Order VII, Rule 1 of the Code of Civil Procedure, (a) granting a permanent injunction restraining the defendant, by himself, his servants, agents, distributors, or anyone claiming through him from manufacturing, selling, advertising and offering for sale using the same name **AACHI** used by the plaintiffs and the trade mark/name **AACHI**



AAPAKADAI CHETTINADU A/c Restaurant or any other similar Trade Mark name or similar sounding expression in any media and use the same in name board, invoices, letter heads and visiting cards or by using any other trade mark/name which is in any way visually or deceptively or phonetically similar to the plaintiff trade mark/name AACHI/AACHI CHETTINADU RESTAURANT and use the same in pouches, packets or use the mark in invoices, letters heads and visiting cards or part of their Hotel/Restaurant name any other trade literature or Menu card by using any other trade mark which is in any way visually, or phonetically similar to the plaintiff registered Trade Mark No.1116254 or in any manner infringing the plaintiff's registered Trade Marks referred herein.

(b) granting a permanent injunction restraining the defendants by itself, its agents or servants or anyone claiming through or under him any business marketing, selling advertising using in trade literature, menu cards, invoices, name boards, website, internet advertisements the mark/name Aachi Appakadai Chettinad A/c Restaurant in relation to the Restaurant or with respect to or any other food preparation or on any other business the impugned trademark/name which is in any manner deceptively or phonetically confusingly similar to the plaintiff's Trade Mark/name AACHI/AACHI CHETTINADU RESTAurant or in any other manner pass off their business or goods as and for that of the plaintiffs.



(c) directing the defendant to surrender to the plaintiffs all the packing material, cartons, advertisement materials and hoardings, letter-heads, visiting cards, office stationary and all other materials containing/bearing the name Aachi Aappakadai Chettinad A/c Restaurant or other identical trade mark used in the pouches and packets bearing the word AACHI.

(d) directing the defendant to render an account of profits made by them by the use of the impugned trademark Aachi Aappakadai Chettinad A/c Restaurant on the service referred and decree the suit for the profits found to have been made by the defendants, after the defendants have rendered accounts and (e) for costs of the suit.

For Plaintiffs : Mr.Daniel and Gladys Daniel

For Defendant : Mr.Avinash

J U D G M E N T

The suit had been filed under Sections 27(2), 29, 134 and 135 of the Trade Marks Act, 1999, seeking a judgment and decree against the defendant “Aachi Appakkadai Chettinad A/c Restaurant at No.834/596, Poonamallee High Road, Opp Panchali Amman Koil, Arumbakkam, Chennai-600 106, restraining them from using the name AACHI, since it is a registered Trade Mark of the plaintiff.



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2. It had been informed that the matter had finally reached the Division Bench in O.S.A. Nos.109 and 110 of 2014 wherein, the defendant had given an undertaking which was also recorded that they have changed the name of their business to Kattumara Chettinad Restaurant.

3. The learned counsel for the defendant stated that though communication had been forwarded to the defendant there is no response from the defendant. It is clear that since the defendant had changed their name to "Kattumara Chettinad Restaurant", they have no inclination to participate in the present judicial proceedings.

4. As a matter of fact, even if the suit summons are directed, it can not be served owing to the fact that the defendant has apparently changed their name. The description given in the cause title as on date is not correct. Liberty is granted to the plaintiffs to institute a fresh suit, if they find that the defendant is once again infringing the trademark "AACHI" in any combination of words whatsoever.

5. With the above observation, the Civil Suit is partly decreed with respect to reliefs (a) and (b) and dismissed with respect to reliefs (c)



and (d). No order as to costs.

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Sd./- C.V.K.J.
11.03.2021

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Dated at Madras this the day of 2021.

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