



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 23RD DAY OF SEPTEMBER 2021

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

C.S. No.24 of 2013

Cadila Health care Limited,
a company registered under the
provisions of the companies Act, 1956
and having its registered office at
“Zydus Tower” Satellite Cross Road,
Ahmedabad – 380 015.

And having Branch Office at
First Floor, New No.24, Old No.16,
Dr.Subbrayan Nagar,
4th Street, Kodambakkam,
Chennai – 600 024.

Represented by General Manager (Legal)
Mr.Mehul A. Pathak

... Plaintiff

Versus

M/s.TCF Pharma Lab Pvt. Ltd.,
F-4, Anna Nagar East,
Chennai – 600 102,
Tamil Nadu.

... Defendant

Civil suit praying that this Hon'ble Court be pleased to pass a
Judgment and Decree for:-

(a) granting a permanent injunction, restraining by an order of
perpetual injunction, the Defendant, its Directors, their employees, agents,
stockists, dealers or others directly or indirectly involved, from in any
manner using in relation to any medicinal or pharmaceutical preparation, in



manufacturing or marketing the pharmaceutical product bearing the trademark LEVOZYNE or any other trademark which is deceptively or confusingly similar to the Plaintiffs registered Trade Mark LEVODAY No.1023745 in Class 05.

(b) granting a permanent injunction, restraining the Defendant, by themselves, their servants, agents, men or anyone claiming through them from manufacturing, marketing, distributing, offering or advertising for sale any pharmaceutical preparation using the Trade Mark LEVOZYNE or any other name which is in any way phonetically or deceptively similar to the Plaintiff's Trade Mark LEVODAY and pass off their pharmaceutical preparations as the pharmaceutical preparation of the Plaintiff's or enable others to pass off in any manner.

(c) direct and decree the Defendant to deliver to the Plaintiff all the goods, dies, labels, wrappers, packages, cartons, boxes, articles, literature and all other material bearing reference whatsoever with respect to the offending trademark LEVOZYNE for destruction without compensation;

(d) The Defendant be ordered and directed to render true and faithful accounts of the profits illegally earned by the Defendant by using the deceptively similar and confusing trade name LEVOZYNE and a decree for the said amount be passed in favour of the plaintiff against the Defendant;



(e) directing the Defendant to pay to the Plaintiff's the costs to the suit.

This Civil Suit coming on this day before this court for hearing in the presence of Mrs. Gladys Daniel, Advocate for the plaintiff herein and upon reading the plaint filed herein and the learned counsel appearing for the plaintiff would seek permission to withdraw the suit with liberty to file a fresh suit if there is future cause of action. She has also filed a memo to that effect and **it is ordered as follows:-**

- (i) That the suit in C.S.No.24 of 2013 be and is hereby dismissed as withdrawn with liberty to file a fresh suit, if there is a future cause of action.
- (ii) That there shall be no costs in this suit.
- (iii) That the Connected Applications do stand closed.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
23RD DAY OF SEPTEMBER 2021.

Sd./-

ASSISTANT REGISTRAR (O.S.I)

//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.



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4

VSP
04/10/2021

C.S. No.24 of 2013

ORDER

DATED : 23.09.2021

THE HON'BLE MR.JUSTICE
R.SUBRAMANIAN

FOR APPROVAL:11/10/2021

APPROVED ON: 22/10/2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.24 of 2013

Cadila Healthcare Limited,
a Company registered under the Provisions
of the Companies Act, 1956 and
having its Registered Office at
'Zydus Tower', Satellite Cross Road,
Ahmedabad – 380 015 and having Branch Office at
First Floor, New No.24, Old No.16,
Dr.Subbarayan Nagar, 4th Street,
Kodambakkam, Chennai – 600 024.
Represented by General Manager (Legal),
Mr.Mehul A.Pathak

...Plaintiff

Vs.

M/s.TCF Pharma Lab Pvt. Ltd.,
F-4, Annanagar East,
Chennai – 600 102, Tamilnadu.

...Defendant

Prayer: Complaint filed under Order VII Rule 1 of the Civil Procedure Code r/w.

Order IV Rule 1 of the Original Side Rules and Section 27, 134 and 135 of
the Trademarks Act, 1999, praying as follows:-

a) granting a permanent injunction, restraining by an order of
perpetual injunction, the Defendant, its Directors, their employees, agents,
stockists, dealers or others directly or indirectly involved, from in any
manner using, in relation to any medicinal or pharmaceutical preparation, in
manufacturing or marketing the pharmaceutical product bearing the



trademark LEVOZYNE or any other trademark which is deceptively or confusingly similar to the plaintiff's registered Trade Mark LEVODAY No.1023745 in Class 05.

b) granting a permanent injunction, restraining the Defendant, by themselves, their servants, agents, men, or anyone claiming through them from manufacturing, marketing, distributing, offering or advertising for sale any pharmaceutical preparation using the Trade Mark LEVOZYNE or any other name which is in any way phonetically or deceptively similar to the Plaintiffs Trade Mark LEVODAY and pass off their pharmaceutical preparation as the pharmaceutical preparation of the Plaintiffs or enable others to pass off in any manner.

c) direct and decree the Defendant to deliver to the Plaintiff all the goods, dies, labels, wrappers, packages, cartons, boxes, articles, literature and all other materials bearing reference whatsoever with respect to the offending trademark LEVOZYNE for destruction without compensation.

d) the Defendant be ordered and directed to render true and faithful accounts of the profits illegally earned by the Defendant by using the deceptively similar and confusing trade name LEVOZYNE and a decree for the said amount be passed in favour of the plaintiff against the Defendant.

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



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For Plaintiff : Mrs.Gladys Daniel

J U D G M E N T

Mrs.Gladys Daniel, learned counsel appearing for the plaintiff would seek permission to withdraw the suit with liberty to file a fresh suit, if there is a future cause of action. She has also filed a memo to that effect. The said memo is taken on record and this suit is dismissed as withdrawn with liberty to file a fresh suit, if there is a future cause of action. No costs. Consequently, connected applications, if any, are closed.

Sd./-R.S.M.J
23.09.2021

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

Nil

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

Nil

Sd./-R.S.M.J
23.09.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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