

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2021

CORAM:

THE HON'BLE JUSTICE C.V.KARTHIKEYAN

C.S.No.451 of 2013
and O.A.No.495 of 2013
and A.No.2865 of 2013

A.R.Safiullah,
Sole Proprietor & trading as,
S.A.Safiullah & Co.,
152, Kodambakkam High Road,
Nungambakkam,
Chennai - 600 034.

... Plaintiff

..Vs..

1.Sri Ayyappan Fine Arts,
4/652, Kamarajapuram Colony,
Sivakasi East - 626 189.

2.Mahasakthi Plastics,
35/1, Malayaperumal Street,
Chennai - 600 001.

3.Saro Marketing,
72, Malayaperumal Street,
Chennai - 600 001.

4.Om Murugan Screen,
60, Malayaperumal Street,
Chennai - 600 001.

Defendants

...

PRAYER : Plaintiff filed under and Order IV Rule 1 of the Madras High Court Original Side Rules read with Order VII Rules 1 and 2 of the Code of Civil Procedure, 1908 and read with Sections 48, 104, 108 of the Patents Act, 1970, Section 22 of the Designs Act, 2000 and Sections 27, 134, 135 of the Trademarks Act, 1999 prayed for a Judgment and Decree:-

(a) A permanent injunction restraining the defendants by themselves, their partners, heirs, their legal representatives, successors - in - business, agents, stockists, distributors, assigns, representatives, or any one claiming under them from in any manner infringing the plaintiff's patent no. 198079 for "Food Grade Laminated Paper, Method And Apparatus For Manufacturing The Laminated Paper" and / or from using the technology / invention described in the said Patent no.198079 by manufacturing, marketing, selling, offering for sale or exporting artificial laminated banana leaves identical or similar to the plaintiff's artificial laminated banana leaves;

(b) A permanent injunction restraining the defendants by themselves, their partners, heirs, legal representatives, successors - in -

business, agents, stockists, distributors, assigns, representatives, or any one claiming under them from in any manner infringing the plaintiff's registered design under No. 182931 by manufacture and sale of artificial laminated banana leaf identical or similar to the shape and configuration of plaintiff's artificial laminated banana leaf registered under the Designs Act;

(c) A permanent injunction restraining the defendants by themselves, their partners, heirs, legal representatives, successors - in - business, agents, stockiest, distributors, assigns, representatives, or any one claiming under them from in any manner passing off food grade laminated paper resembling banana leaf / artificial banana leaves manufactured and sold by them as and for applicant's food grade laminated paper resembling banana leaf / artificial banana leaves by using identical / or deceptively similar same colour scheme, getup and layout, imitation of plaintiff's trade dress in his unique, distinctive artificial laminated banana leaf or in any other manner whatsoever;

(d) For mandatory injunction directing the defendant to surrender for destruction to the plaintiff all materials and implements used for creation

of the infringing goods to be forfeited or destroyed as the Court deems fit in the facts and circumstances of the case;

(e) The defendants be directed to pay to the plaintiff, a sum of Rs.10,05,000/- as damages;

(f) For costs of the suit.

For Plaintiff : Mr.Arun C.Mohan

For Defendants : M/s.Ram & Rajan Associates
T.Ramkumar for D1
D2, D3, D4 set exparte

J U D G M E N T

Heard the learned counsel for the plaintiff and the learned counsel for the first defendant. The learned counsel for the plaintiff had addressed the following letter to the Assistant Registrar of the Original Side, Commercial Division of the Madras High Court.

2. The Letter is extracted below:

"AAM/RS/1603/

Assistant Registrar,
Original Side - II,
Commercial Division
Madras High Court
Chennai.
Dear Sir,

Ref: Madras High Court - **CS (Commercial)**
No.451 of 2013 - A.R.Safiullah -vs-
Sri Ayyappan Fine Arts and 3 others.

We write on behalf of the Plaintiff in the above captioned matter.

We hereby withdraw the **Civil Suit (Commercial Division) No.451 of 2013** as per our client's instructions.

The said suit and injunction are listed for hearing before Hon'ble Mr.Justice C.V.Karthikeyan on 15th February 2021.

Kindly take this as an endorsement and do the needful.

Yours faithfully,
sd/----
(ARUN C.MOHAN)
Counsel for

Plaintiff."

C.V.KARTHIKEYAN, J

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3. In view of the same, suit is dismissed as withdrawn. No order as to costs. Consequently, the connected applications are closed.

15.02.2021

Index : Yes / No
Web : Yes / No
rna



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