

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2021

CORAM

THE HONOURABLE **DR.JUSTICE G.JAYACHANDRAN**

C.S(Comm.Div.).No.273 of 2020
and
O.A.Nos.500 & 501 of 2020

M/s.THALAPPAKATTI NAIDU ANANDHA VILAS BIRIYANI HOTEL,
Represented by its authorized signatory,
V.Kamesh
having its branch office at Flat No.B3,
New No.17, Old No.18A,
11th Street, Nandanam Extension,
Chennai-600 035. ... Plaintiff

Vs.

M/s.THALAPPAKATTU BIRIYANI & FAST FOOD,
Near Golden India Aquarist,
No. 69/4, 1st Main Road, C.I.T. Nagar
Chennai – 600 035 ... Defendant

Prayer: The Civil Suit has been filed under Order IV Rule 1 of the Original Side Rules read with Order VII Rule 1 of C.P.C, and Sections 134 and 135 of the Trade Marks Act, praying for

(A) Granting a permanent injunction restraining the Defendant, their men, servants, agents or anyone claiming through or under them from in any manner infringing the Plaintiff Trade Mark and Trading style “Thalappakatti Biriyani Hotel” by using the offending Trade Mark and Trading style “THALAPPAKATTU BIRIYANI & FAST FOOD” or any other mark or marks which are similar or in any way deceptively similar to or a colourable imitation of the Plaintiff's Trade Mark “Thalappakatti Biriyani Hotel”;

(B) Granting a permanent injunction restraining the Defendant, their men, agents, or anyone claiming through or under them from in any manner Passing off the Plaintiff Trade Mark and Trading style “Thalappakatti Biriyani Hotel” by using the offending Trade Mark and Trading style “THALAPPAKATTU BIRIYANI & FAST FOOD” or any other mark or marks which are similar or in any way deceptively similar to or a colourable imitation of the Plaintiff's Trade Mark “Thalappakatti Biriyani Hotel”;

(C) Directing the defendant to render a true and faithful account of the profits earned by them through the sale of food products bearing the offending trade mark “THALAPPAKATTU” and directing payment of such profits to the Plaintiff by way of damages for infringement committed by the Defendant;

(D) Directing the Defendant to surrender to Plaintiff the entire stock of unused offending goods with Trade Mark “THALAPPAKATTU” with name boards, labels, wrappers, boxes, covers, bags, packets, cartons, bills, advertisements, materials, reports, envelops, brochures, printing blocks, etc., bearing the offending Trade Mark for destruction;

(E) Directing to the defendant to pay the Plaintiff the costs of the suit.

For Plaintiff : Mr.Vijayan Subramanian

JUDGMENT

(This case has been heard through video conference)

The suit is filed for infringement of trademark and passing off and for damages as consequentially.

2. According to the plaintiff, the defendant is running out let at 1st Main Road, C.I.T. Nagar, Chennai in the name and style of “THALAPPAKATTU BIRIYANI & FAST FOOD”, which has deceptively similar to that of the plaintiff.

3. This Court on *prima facie* satisfaction had granted interim injunction on 14.10.2020.

4. Pending suit, the plaintiff has filed a memo dated 23.08.2021 stating that after the interim injunction, the defendant had changed their restaurant name from “THALAPPAKATTU BIRIYANI & FAST FOOD” to “AL RAHMAN BIRIYANI & FAST FOOD”. The photograph of the new name of the defendant has also been annexed along with the memo filed by the plaintiff.

5. In view of the facts and circumstances, taking note of the memo filed by the plaintiff, the suit for injunction restraining the defendant from using the name “Thalappakatti Biriyani Hotel” and passing off is allowed. The other reliefs sought in the suit are dismissed. No costs. Consequently, connected applications are closed.

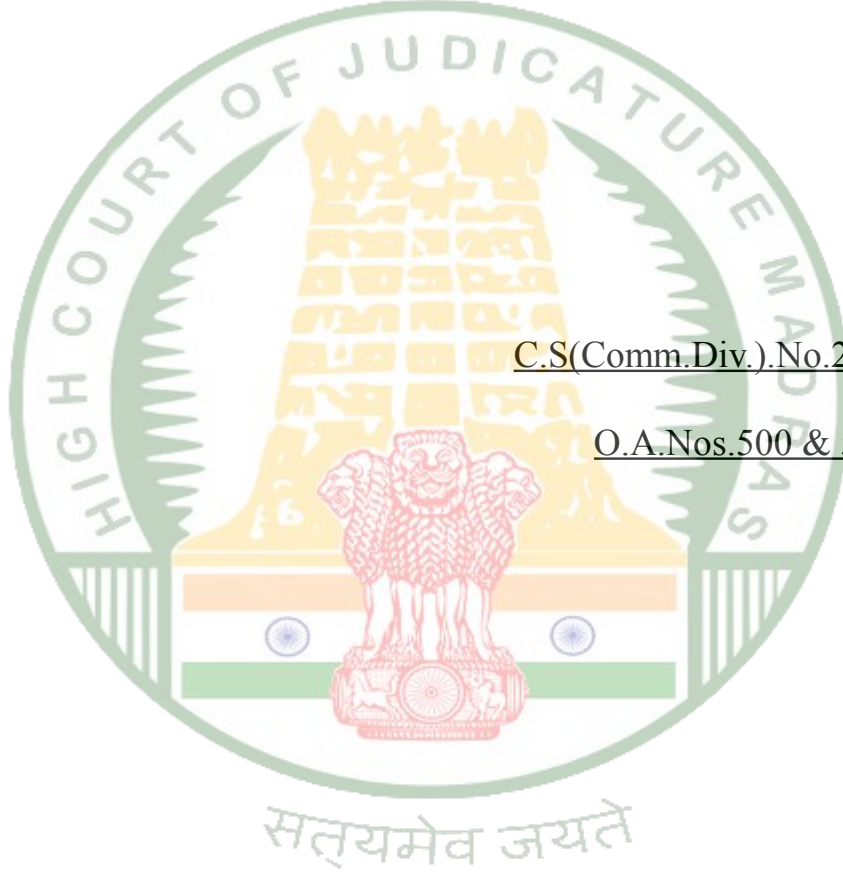
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24.08.2021
3/4

4/5

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DR.G.JAYACHANDRAN, J.
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C.S(Comm.Div.).No.273 of 2020
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24.08.2021
3/4