

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2021

CORAM

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

C.S(Comm.Div.).No.272 of 2020  
and  
O.A.Nos.498 & 499 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,  
11<sup>th</sup> Street, Nandanam Extension,  
Chennai-600 035. .... Plaintiff

Vs.

SS THALAPPAKATTI BIRIYANI,  
No.40, Geddalahalli, Opp. Star Market,  
Kothanur Post, Bangalore-560 077. ... 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 “SS THALAPPAKATTI BIRIYANI” 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 “SS THALAPPAKATTI BIRIYANI” 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 “THALAPPAKATTI” 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 “THALAPPAKATTI” with name boards, labels, wrappers, boxes, covers, bags, packets, cartons,

bills, advertisements, materials, reports, envelopes, 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 permanent injunction alleging that the defendant is infringing the registered trademark of the plaintiff's "Thalappakatti Biriyani Hotel" by adopting similar mark "SS THALAPPAKATTI BIRIYANI"

2. The averments as found in the plaint is that the registered trademark of the plaintiff "Thalappakatti Naidu Biriyani Hotel" is adopted by the defendant to his hotel at No.40, Geddalahalli, Opp. Star Market, Kothanur Post, Bangalore-560 077, thereby exploiting the reputation and goodwill of the plaintiff's mark.

3. This Court, on considering the material placed by the plaintiff

being *prima facie* satisfied, had granted interim injunction on 14.10.2020 restraining the defendant from using the name of “SS THALAPPAKATTI BIRIYANI”.

4. Pending suit, the defendant has changed their restaurant name from “SS THALAPPAKATTI BIRIYANI” to “HOTEL NEW TAJ”. The photograph of the new name board of the defendant taken on 24.07.2021 is also annexed along with the memo filed by the plaintiff.

5. Considering the memo dated 23.08.2021 filed by the plaintiff, the suit is disposed of by granting permanent injunction against the defendant from using the mark “SS THALAPPAKATTI BIRIYANI”. All other reliefs sought in the suit are dismissed. No costs. Consequently, connected applications are closed.

rpl

WEB COPY

24.08.2021

DR.G.JAYACHANDRAN, J.

C.S.No.272 of 2020  
and O.A.Nos.498 & 499 of 2020

rpl



C.S(Comm.Div.).No.272 of 2020  
and  
O.A.Nos.498 & 499 of 2020

WEB COPY 24.08.2021