

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2021

CORAM

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

C.S(Comm.Div.).No.270 of 2020
and
O.A.Nos.494 & 495 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.

THALAPPAKATTU BIRIYANI,
No.1A, Neelathanallur Main Road,
Old Palakarai, Kumbakonam-612 001. ... 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” 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” 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, 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

For Defendant : Mr.Sasikumar

JUDGMENT

(This case has been heard through video conference)

The defendant has filed an affidavit stating that he was running hotel business by name “AnjuKottai Thalappakkatti” at No.1A, Neelathanallur Main Road, Old Palakarai, Kumbakonam.

2. On receipt of the suit notice, the defendant has changed his hotel name as “Anjukottai Rawther Biriyan & Fast Food Hotel”. The plaintiff has filed a memo stating that the affidavit of the defendant may be taken on record and the suit may be disposed of. The photographs of the present name board of the defendant is also annexed in the memo.

3. In the light of the above fact, recording the affidavit of the defendant and the memo of the plaintiff as stated above, the relief of permanent injunction of infringement of trademark and passing off, sought in prayer (A) and (B) in the suit are allowed without costs. Consequently, connected applications are closed.

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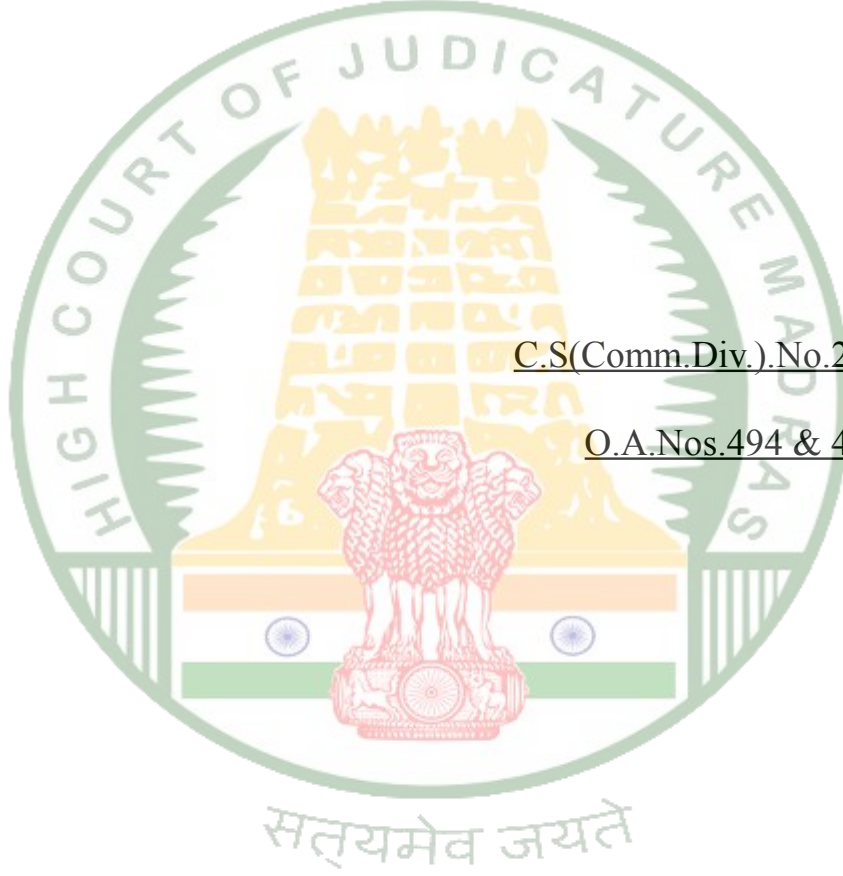
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DR.G.JAYACHANDRAN, J.
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