

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2021

CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.S. No.271 of 2020
and
O.A.Nos.496 and 497 of 2020

M/S. Thalappakatti Naidu Anandha Vilas Biriyani Hotel,
Represented by its authorized signatory,
V.Kamesh (M-39 years),
having its branch office at Flat No.B3,
New No. 17, Old No.18A,
11th Street, Nandanam Extension,
Chennai- 600 035.

..... Plaintiff

Versus

Thalapakattu Biriyani,
No.61, Trunk Road,
Poonamallee,
Chennai- 600 056.

...Defendant

Prayer: Complaint under Order VII Rule 1 of CPC read with Order IV Rule 1 of the Madras High Court Original Side Rules and Section 134 and Section 135 of the Trade Marks Act, 1999 praying for the following:

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 “**THALAPAKATTU BIRIYANI**” or any other mark or marks which are similar or in any way deceptively similar to or a colourable imitation of the Plaintiffs Trade Mark “Thalappakatti Biriyani hotel”.

B) Granting a permanent injunction restraining the Defendant, their men, servants, 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 “**THALAPAKATTU BIRIYANI**” or any other mark or marks which are similar or in any way deceptively similar to or a colourable imitation of the Plaintiffs 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 “**THALAPAKATTU**” 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 “**THALAPAKATTU**” with name boards, labels, wrappers, boxes, covers, bags, packets, cartons, bills, advertisements, materials, reports, envelopes, brochures, printing blocks, etc. bearing the offending Trademark for destruction.

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

For Plaintiff : Mr. Vijayan Subramanian
For Defendant : Exparte

J U D G M E N T

The suit is filed for permanent injunction restraining the defendant from using the registered trademark of the plaintiff “Thalpakkatti Briyani”.

2. The allegation in the plaint is that the defendant is running a hotel in the name of “Thalapakkattu Briyani” at No.61, Trunk Road, Poonamallee, Chennai 56, being infringed the plaintiff trademark, the suit is filed for infringement of the registered trademark.

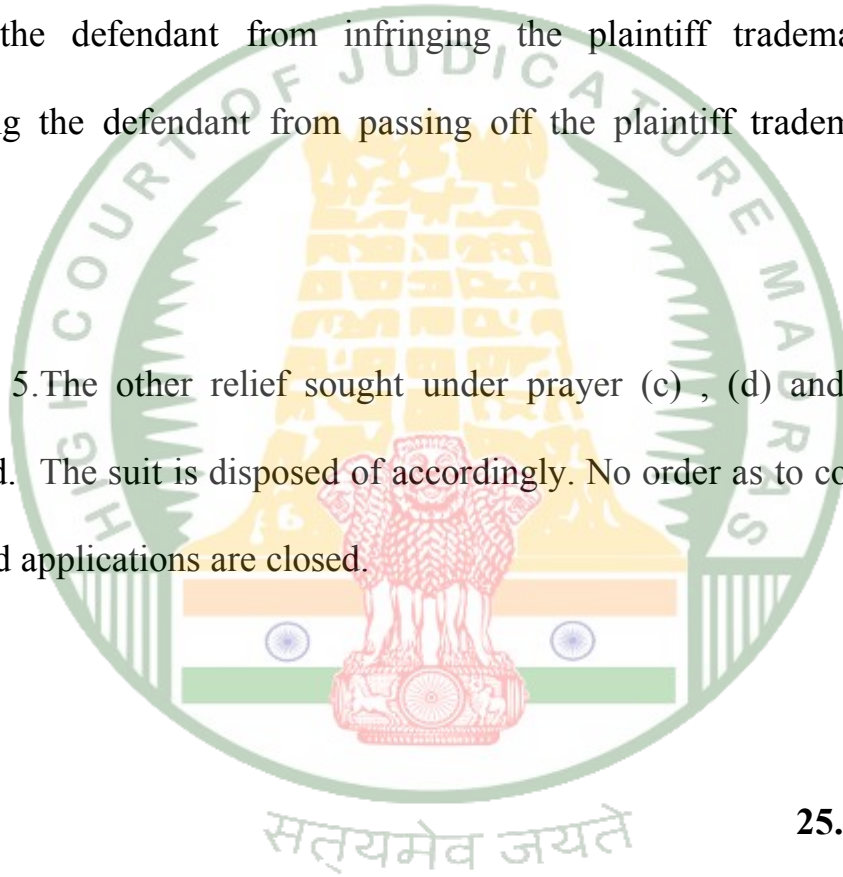
3. The sole defendant was served summon on 30.11.2020. Pending suit, the plaintiff has filed the present memo dated 21.08.2021 reporting that the defendant has now changed the respondent name from “Thalapakattu Briyani” to “Hotel Saka's” and she seek disposal of the suit regarding the change of name by the defendant. The photograph of the name board of the defendant hotel is also annexed along with this

DR.G.JAYACHANDRAN,J.

VRI

4.Under the said circumstances, in view of the memo filed by the plaintiff, permanent injunction sought under prayer (a) and (b) to restrain the defendant from infringing the plaintiff trademark and restraining the defendant from passing off the plaintiff trademark are granted.

5.The other relief sought under prayer (c) , (d) and (e) are dismissed. The suit is disposed of accordingly. No order as to costs. The connected applications are closed.



25.08.2021

vri

WEB COPY

C.S.No.271 of 2020