

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2021

CORAM

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

C.S(Comm.Div.).No.160 of 2020
and
O.A.Nos.250 & 251 of 2020

M/s.THALAPPAKATTI NAIDU ANANDHA VILAS BIRIYANI HOTEL,
Represented by its authorized signatory,
V.Kamesh,
having registered office at No.15,
East Car Street, Dindigul-629 001.

having its branch office at Flat No.B3,
New No.17, Old No.18A,
11th Street, Nandanam Extension,
Chennai-600 035.

... Plaintiff

Vs.

TAJ THALAPPAKATTU BIRIYANI,
No.732, Trunk Road,
Opp., to Bus Stand, Poonamallee,
Chennai-600 056.

... 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 “TAJ 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 “TAJ 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, 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 permanent injunction alleging infringement of trademark and passing off and damages as consequential relief, alleging that the defendant is running a business in the name of “TAJ THALAPPAKATTU BIRIYANI” which is deceptively similar to that of the plaintiff.

2. In the above suit, this Court on prima facie satisfaction had granted interim injunction on 16.07.2020 restraining the defendant from using the name of “TAJ THALAPPAKATTU BIRIYANI”.

3. Pending suit, the plaintiff has filed a memo stating that the defendant has changed his restaurant name from “TAJ THALAPPAKATTU BIRIYANI” to “TAJ RESTAURANT BIRIYANI”. Therefore, the said fact may be recorded and the suit may be disposed of accordingly. The photograph of the present name board of the defendant has also been annexed in the memo.

4. In the light of the above fact, the suit is disposed of with effect granting permanent injunction restraining the defendant from using the name of “Thalappakatti Biriyani Hotel”. The plaintiff is not entitled for any other relief. Consequently, connected applications are closed. No costs.

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DR.G.JAYACHANDRAN, J.

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