

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2021

CORAM

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

C.S(Comm.Div.).No.275 of 2020
and
O.A.Nos.502 & 503 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,
1/165, Poonamallee High Road,
Iyyapanthangal,
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 “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, 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 against the defendant from infringing the registered trademark of the plaintiff “Thalappakatti Biriyani Hotel” and other consequential relief.

2. This Court had granted interim injunction restraining the defendant from using the name of “Thalappakatti Biriyani Hotel” which is deceptively similar to that of the plaintiff mark.

3. Pending suit, the plaintiff has filed a memo dated 23.08.2021 stating that the defendant has changed their restaurant name from “THALAPPAKATTU BIRIYANI” to “DHUM BIRIYANI” and therefore, recording the same, necessary orders may be passed. The suit may be disposed of.

4. In the light of the above memo, the suit is disposed of, granting injunction against the defendant from using the name “Thalappakatti Biriyani Hotel”. The other relief sought in the plaint are dismissed. No costs. Consequently, connected applications are closed.

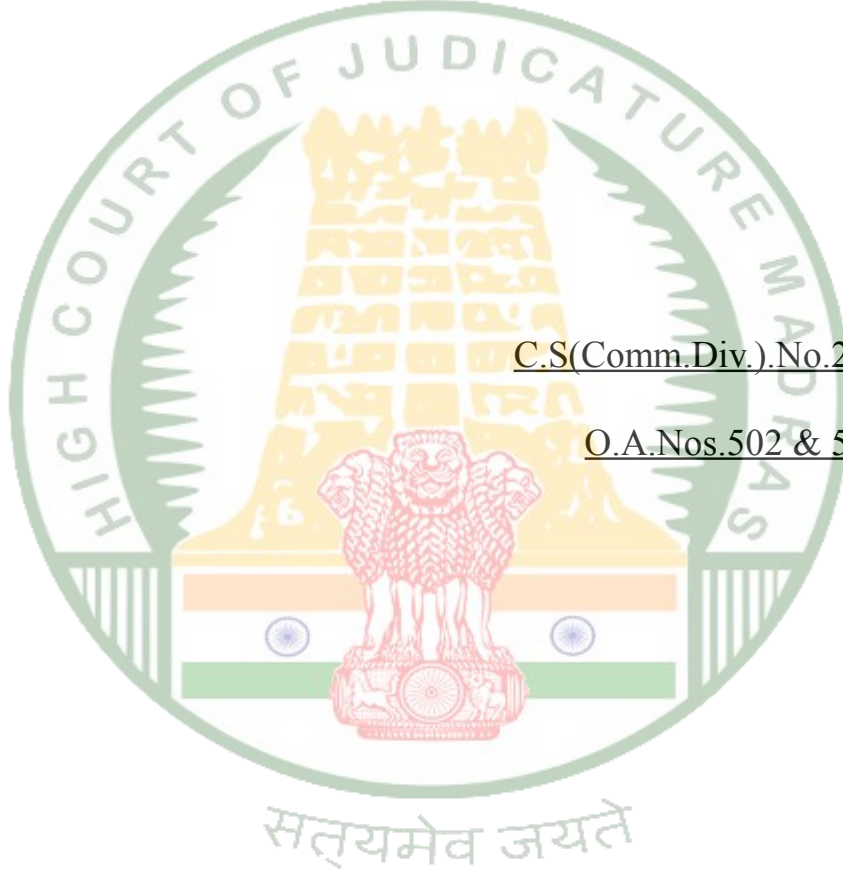
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DR.G.JAYACHANDRAN, J.
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