



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 27TH DAY OF SEPTEMBER 2021

THE HON'BLE DR. JUSTICE G.JAYACHANDRAN

C.S. No.176 of 2020

1. Mr.Vasanthakumar.H (Deceased),
Proprietor of M/s.Vasanth & Co,
Represented by Power of Attorney
Mr.S.Moorthy,
No.14, Railway Border,
1st street, Kavery Nagar,
Saidapet, Chennai – 600 015.
2. Mrs. Tamilselvi,
W/o. Late Mr.H.Vasanthakumar,
3. Mrs. Thangamalar,
D/o. Late Mr.H.Vasanthakumar,
4. Mr.Vijayakumar,
S/o. Late Mr.H.Vasanthakumar,
5. Mr.Vinothkumar,
S/o. Late Mr.H.Vasanthakumar,
(Legal representative of late Mr.H.Vasanthakumar,
Proprietors of M/s.Vasanth & Co having office at
No.14, Railway Border, 1st Street, Kavery Nagar,
Saidapet, Chennai – 600 015.)

(Plaintiffs 2 to 5 represented by Power of Attorney
Mr.S.Moorthy)

(Plaintiff's 2 to 5 impleaded as legal heirs
of the deceased sole plaintiff as per order
dated 30.09.2020 in A.No.2219 of 2020
and order dated 30.09.2020 in A.No.2220 of 2020)



Versus

Mr.Manikandan Chandran,
Proprietor of M/s.Vel Vasanth & Co,
No.380, TI Cycle Road,
Ambattur,Chennai – 600 053.

... Defendant

Civil suit praying that this Hon'ble Court be pleased to pass a judgment and Decree in favour of the Plaintiff:

(a) Granting a perpetual injunction restraining the defendant, their men, agents, servants, employees, and representatives and any other person claiming under the Defendant from infringing the registered Trade Mark No.2399768, 2399769, 2361438 & 2361439 and/or any other colorable imitations of the same in association with the marketing, sale, and distribution of identification of the Defendant's goods or services.

(b) Granting a preliminary decree in favour of the Plaintiff directing the Defendant to render account of profits made by use of the registered Trade Mark No.2399768, 2399769, 2361438 & 2361439 and/or any other colorable imitations of the same.

(c) Directing the Defendant to pay the Plaintiff a sum of Rs.50,00,000/- as damages.

This Civil Suit coming on this day before this court for hearing in the presence of M/s.Srinidhi for KNS Law Chambers, Advocate for the

<https://hcservices.ecourts.gov.in/hcservices/> : plaintiff's herein and Mr.M.P.Saravanan Advocate for the defendant herein



and upon reading the plaint filed herein and this court having observed that the defendant has filed an affidavit stating that he has been honestly using the name “Vel Vasanth & Co” for his business but after the notice received from this court, he has changed his shop name as “Velammal Stores” and also obtained. GST certificate on 09.09.2021. The Photocopy of the GST Certificate also furnished along with the affidavit which indicates that the defendant has obtained GST Registration for the trade name “Velammal Stores” as proprietor concern for his business at 380, IT Cycles Road, Ambattur, Chennai, Tiruvallur District. The GST Registration No.33 BMAPM 8661A1ZD indicates that the defendant has changed his trade name as “Velammal Stores”. Therefore, the cause of action to sue the defendant does not survive and this court doth recording the affidavit of the defendant and taking into consideration the GST certificate furnished along with the affidavit and **it is ordered as follows:-**

(i) That the suit in C.S.No.176 of 2020 be and is hereby dismissed.

1. That there shall be no order as to costs in this suit.

SCHEDULE - AFFIDAVIT



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01/10/2021

C.S. No.176 of 2020

ORDER

DATED : 27.09.2021

THE HON'BLE DR.JUSTICE

G.JAYACHANDRAN

FOR APPROVAL:20/10/2021

APPROVED ON:25/10/2021



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2021

CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.S. No. 176 of 2020

1.Vasanthakumar.H (Deceased)

Proprietor of M/s.Vasanth & Co.,
Rep. by Power of Attorney,
Mr.S.Moorthy,
No.14, Railway Border,
1st Street, Kaveri Nagar,
Saidapet, Chennai 600 015.

2.Mrs.Tamilselvi

Wife of late H.Vasanthakumar

3.Mrs.Thangamalar

Daughter of late H.Vasanthakumar

4.Mr.Vijayakumar

Son of late H.Vasanthakumar

5.Mr.Vinothkumar

Son of late H.Vasanthakumar

(Legal representative of late Mr.H.Vasanthakumar,
Proprietors of M/s.Vasanth & Co having office
at No.14, Railway Border, 1st Street, Kaveri Nagar,
Saidapet, Chennai 600 015)

(Plaintiffs 2 to 5 represented by Power of Attorney
Mr.S.Moorthy)

(Plaintiffs 2 to 5 impleaded as legal heirs of the deceased
sole plaintiff as per order dated 30.09.2020 in A.No.2219 of 2020 and order
dated 30.09.2020 in A.No.2220 of 2020)



Vs

Mr.Manikandan Chandran,
Proprietor of M/s..Vel Vasanth & Co,
No.380, TI Cycle Road,
Ambattur,
Chennai 600 053.

..Defendant

Prayer: Complaint filed under order IV Rule 1 of O.S. Read with order VII Rule 1 of CPC, 1908, Sections 28, 29 and 134 and 135 of the Trade Marks Act, 1999 and Section 7 Proviso 1 of Commercial Courts Act, 2015, praying to pass the following judgment and decree:

a) Granting a perpetual injunction restraining the defendant, their men, agents, servants, employees and representatives and any other person claiming under the defendant from infringing the registered trade mark No.2399768, 2399769, 2361438 and 2361439 and/or any other colorable imitations of the same in association with the marketing sale and distribution of identification of the defendant's goods or services.

b) Prayer (b) deleted as per order dated 21.08.2020 in A.No.1722 of 2020.

c) granting a preliminary decree in favour of the plaintiff directing the defendant to render account of profits made by use of the registered Trade Mark No. 2399768, 2399769, 2361438 and 2361439 and/or any other colorable imitations of the same.



WEB COPY d) Directing the defendant to pay the plaintiff a sum of Rs.50,00,000/- as damages.

For Plaintiffs : M/s.Srinidhi
for KNS Law Chambers
For Defendant : Mr.M.P.Saravanan

J U D G M E N T

The defendant has filed an affidavit stating that he has been honestly using the name “Vel Vasanth & Co” for his business but after the notice received from this Court, he has changed his shop name as “Velammal Stores” and also obtained GST Certificate on 09.09.2021. The photocopy of the GST Certificate also furnished along with the affidavit, which indicates that the defendant has obtained GST Registration for the trade name “Velammal Stores” as proprietor concern for his business at 380, TI Cycles Road, Ambattur, Chennai, Tiruvallur District. The GST Registration No.33BMAPM8661A1ZD indicates that the defendant has changed his trade name as “Velammal Stores”.

Therefore, the cause of action to sue the defendant does not survive and the suit is dismissed recording the affidavit of the defendant and taking into



consideration the GST certificate furnished along with the affidavit. No order as to costs.

Sd./-G.J.J
27.09.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.