

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2021

CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.S.Nos.897 of 2016
and
A.No.339 of 2021

V.V.D.& Sons Private Limited,
 No.6/18, Casa Blanca,
 4th Floor, Casa Major Road,
 Egmore, Chennai 600 008.

.. Plaintiff

..VS..

M/s.Mythile Traders,
 rep. by its Proprietor Sivakumar Menon,
 No.37, Subramaniam Street,
 Shevapet, Salem.

...Defendant

Prayer:Civil Suit filed under Order IV Rule I of the O.S.Rules with Order VII Rule I of the CPC 1908, read with Section 134 (a) and © and Section 135 of the Trademark Act, praying for the following:

a) a permanent injunction restraining the defendant by themselves, their men, agents, heirs, legal representatives, successors-in business, assigns, servants, distributors, retailers, stockists or any one claiming through them from in any manner infringing the plaintiff's registered trademark 'VVD GOLD' by use of an almost identical and/or similar mark 'ABC GOLD' or its variants or any mark deceptively similar thereto on their goods, packaging, advertising or promotional material, stationery, website/s or any media whatsoever or in any other manner whatsoever;

b) a permanent injunction restraining the defendant by themselves, their men, agents, heirs, legal representatives, successors-in business, assigns, servants, distributors, retailers, stockists or any one claiming through them from in any manner passing off or enabling others to pass off their goods and business as by using/adopting the trade dress

and packaging format deceptively similar to that of the plaintiff either on their goods or packaging or in websites, internet domain name, corporate films, e-publications, stationery and advertising materials or in any other manner whatsoever;

c) the defendant be ordered to surrender to plaintiff for the purpose of destruction all materials including dyes, blocks, screen prints, cylinders, letter heads, visiting cards, sachets, packaging and other materials bearing the Trade Mark 'abc gold and/or containing the trade dress or packaging format which is almost identical and/or deceptively similar to plaintiff's trademark 'VVD GOLD' and trade dress and packaging form;

d) The defendant to be ordered to render true and faithful accounts of profits earned by them on account of adoption and use of the trademark 'ABC GOLD' in relation to their goods and business and the plaintiff undertakes to pay actual court fees after the defendants rendered its accounts;

e) the defendant be directed to the plaintiff as compensation and punitive damages a sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs only) for the infringement activities and acts of passing off committed by him;

f) for costs of the suit;

For Plaintiff : M/s.Giridhar & Sai

J U D G M E N T

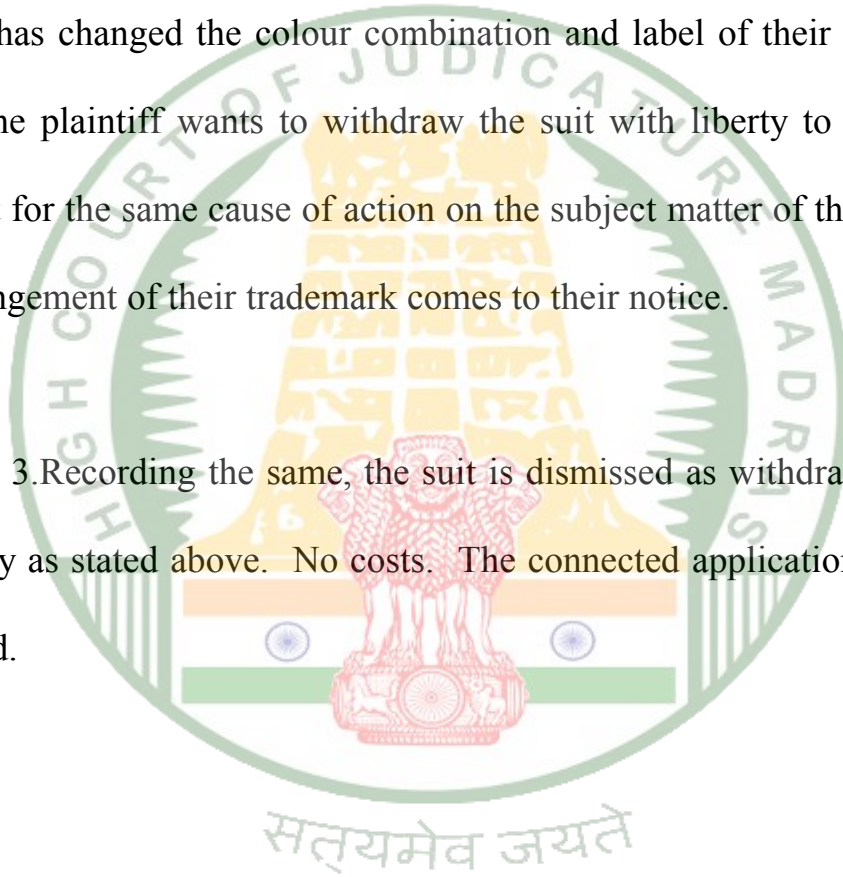
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The suit is filed for permanent injunction restraining the defendant from infringing the trademark of the plaintiff and passing off their goods as that of the plaintiff.

2. It is now reported by the learned counsel appearing for the plaintiff that after the interim order passed by this Court, the defendant

has changed the label and also shifted their business premises. Therefore, the suit summons could not be served. The present address of the plaintiff is “M/s.S.K Agro Products, 341/2, Pillayar Nagar, Narasimha Chetty Road, Shevapet, Salem 636 002.” However, now the plaintiff has changed the colour combination and label of their product. Hence, the plaintiff wants to withdraw the suit with liberty to institute fresh suit for the same cause of action on the subject matter of the suit, if any infringement of their trademark comes to their notice.

3. Recording the same, the suit is dismissed as withdrawn with the liberty as stated above. No costs. The connected application is also dismissed.



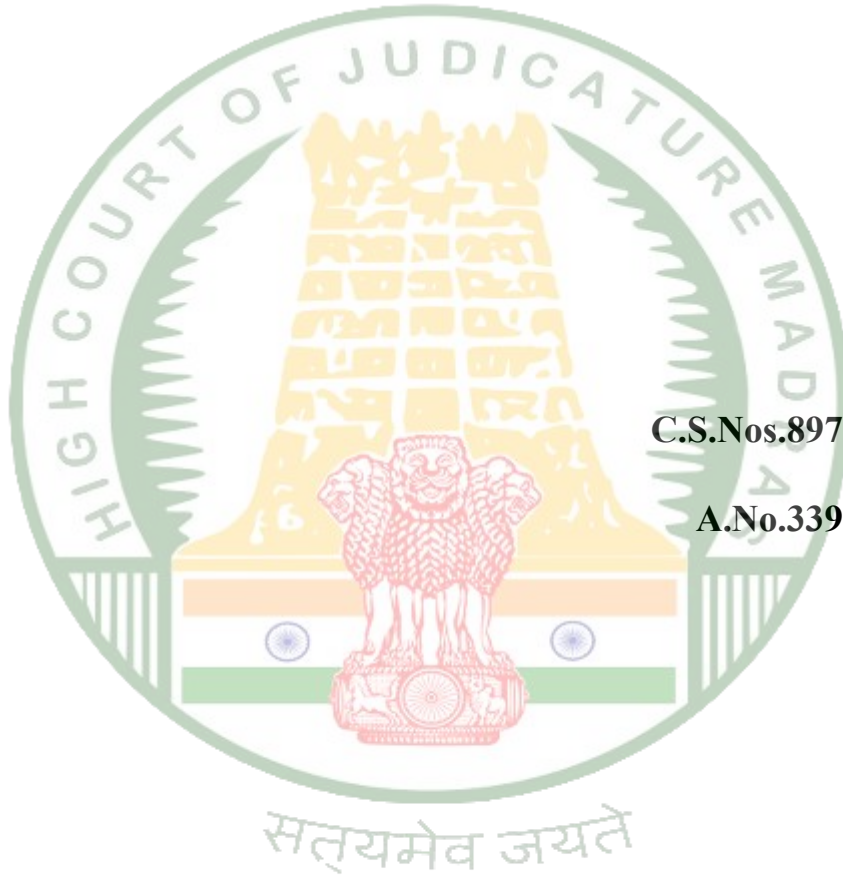
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DR.G.JAYACHANDRAN,J.

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