



WEB COPY

1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 23rd DAY OF NOVEMBER 2021

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

C.S. No. 294 of 2020
(Comm. Suit)

1.Mr.A.D.Padmasingh Isaac

Proprietor,
Aachi Spices and Foods
Old No.4, New No.181/1,
6th Avenue, Thangam Colony,
Anna Nagar, Chennai – 600 040

2. M/s.Aachi Masala Foods Private Limited

No.1926, 34th Street, I Block,
Ishwarya Colony, Anna Nagar West,
Chennai – 600 040
Represented by its Director
Mr.Ashwin Pandian

3. M/s.Heavenly Food Pvt. Ltd.

No.1926, 34th Street, I Block,
Ishwarya Colony, Anna Nagar West,
Chennai -600 040
Represented by its Director
Mrs. Shiny Ashwin

... Plaintiffs

-Versus-

Aachi Mes
MMR Complex, Loop Road,
Acharapakkam,
Melmaruvathur – 603301

.... Defendant

Civil Suit praying that this Hon'ble Court be pleased to pass a



judgment and decree on the following terms:

WEB COPY

(a) granting a permanent injunction restraining the Defendant, by himself, his servants, agents, distributors, or anyone claiming through him from manufacturing, selling, advertising and offering for sale or providing services using the name 'AACHI MES' or any other similar Trade Mark name or similar sounding expression in any media and use the same in name board, invoices, letter heads and visiting cards or by using any other trade mark/name which is in any way visually or deceptively or phonetically similar to the 1st plaintiff's trade mark/name 'AACHI/ AACHI CHETTINAD RESTAURANT/AACHI KITCHEN' and use the same in pouches, packets or use the mark in invoices, letters heads and visiting cards or part of their restaurant name any other trade literature or Menu card by using any other trade mark which is in any way visually, or phonetically similar to the plaintiffs' registered Trade Mark Nos.838786, 1116254, 1479159, 1715718 & 2965624 or in any manner infringing the 1st plaintiff's registered Trade Marks referred herein.

(b) granting a permanent injunction restraining the defendant by itself, its agents or servants or anyone claiming through or under him any business marketing, selling advertising using in trade literature, menu cards, invoices, name boards, website, internet advertisements the mark/name



food preparation or on any other business the impugned trademark/name which is in any manner deceptively or phonetically confusingly similar to the plaintiffs Trade Mark/name 'AACHI/ AACHI CHETTINAD RESTAURANT/AACHI KITCHEN or in any other manner pass off their hotel, business or goods as and for that of the plaintiffs.

C) directing the defendant to surrender to the plaintiffs all the packing material, cartons, advertisement materials and hoardings, letter-heads, visiting cards, office stationery and all other materials containing /bearing the name 'AACHI MES' or other identical trade mark used in the pouches and packets bearing the word AACHI/ AACHI CHETTINAD RESTAURANT/AACHI KITCHEN.

d) directing the defendant to render an account of profits made by them by the use of the impugned trademark 'AACHI MES' on the service referred and decree the suit for the profits found to have been made by the defendant, after the defendant has rendered accounts;

e) directing the defendant to pay to the plaintiffs the costs to the suit.

This civil suit coming on this day before this court for hearing in the presence of Mrs.Gladys Daniel, Advocate for the plaintiffs herein and

Mr.Baskar, Advocate for the defendant herein, and upon reading the plaint



filed herein in C.S.No.294 of 2020 and the memorandum of compromise signed by the plaintiffs and the defendant with their respective advocate and the said advocates for the parties hereto praying this court to pass a decree in terms of memorandum of compromise morefully set out in the schedule hereunder it is in term thereof ordered and decreed as follows:-

1. That the defendant herein had running a restaurant name and style of AACHI MESS and further he doesn't have any knowledge and previous intimation about the trademark AACHI in word and various registration by the plaintiff.

2. That the plaintiffs herein have been registered the word in various registration hence the defendant doesn't want to continue his business in the name and style of AACHI MESS.

3. That the defendant herein doesn't wants to any conflict, disputes, quarrel and dissension with the plaintiffs and to run the restaurant as well as not wants to confrontation before the court of law with the plaintiff for using the word AACHI, hence the defendant has modified the restaurant name and style of all the restaurants and branches to 'KARAIKUDI THAYAMMA MESS' in lieu of Aachi mess.

4. That the defendant herein never use or claim the word “AACHI” at any time for his business.



5. that the defendant herein never adopt and shall not adopt any of the word or visual features of the plaintiffs trademark AACHI in future.

6. That the defendant herein shall not make any application for registration of the trademark AACHI or its formative marks in future.

7. That the plaintiffs herein have no objection to the defendant changing restaurant name and style of KARAIKUDI THAYAMMA MESS instead of AACHI MESS.

8. That plaintiffs herein assures that hereafter he never disturb the defendant's business to run in the name and style of “ KARAIKUDI THAYAMMA MESS”.

9. That there shall be no order as to costs of this suit.

Memorandum of Compromise



WEB COPY

T.E.

01.12.2021

6

C.S. No.294 of 2020
(Comm. Suit)

DECREE :-

DATED: 23.11.2021

THE HON'BLE MR.JUSTICE
N.ANAND VENKATESH

FOR APPROVAL: 18.02.2022

APPROVED ON: 23.02.2022



WEB COPY

7

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 23.11.2021

CORAM

THE HONOURABLE Mr. JUSTICE N.ANAND VENKATESH

Civil Suit No.294 of 2020
(Comm. Suit)

1. A.D.Padmasingh Isaac
Proprietor,
Aachi Spices and Foods,
Old No.4, New No.181/1,
6th Avenue, Thangam Colony,
Anna Nagar, Chennai-600 040.
2. M/s. Aachi Masala Foods Private Limited
No.1926, 34th Street, I Block,
Ishwarya Colony, Anna Nagar West,
Chennai-600 040
Represented by its Director
Mr.Ashwin Pandian
3. M/s.Heavenly Foods Pvt Ltd,
No.1926, 34th Street, I Block,
Ishwarya Colony, Anna Nagar West,
Chennai-600 040
Represented by its Director
Mrs.Shiny Ashwin

.. Plaintiffs

Vs.

Aachi Mes
MMR Complex, Loop Road,
Acharapakkam,
Melmaruvathur-603301.

.. Defendant



WEB COPY Prayer:-

Civil Suit has been filed under Order IV, Rule 1 of O.S. Rules and Order VII, Rule 1 of the Code of Civil Procedure read with Sections 27(2), 29, 134 and 135 of the Trade Marks Act, 1999, praying to pass judgment and decree against the defendants.

(a) granting a permanent injunction, restraining the defendant, by himself, his servants, agents, distributors, or anyone claiming through him from manufacturing, selling, advertising and offering for sale or providing services using the name 'AACHI MES' or any other similar Trade Mark name or similar sounding expression in any media and use the same in name board, invoices, letter heads and visiting cards or by using any other trade mark/name which is in any way visually or deceptively or phonetically similar to the 1st plaintiff's trade mark/name AACHI/AACHI CHETTINAD RESTAURANT/AACHI KITCHEN and use the same in pouches, packets or use the mark in invoices, letters heads and visiting cards or part of their restaurant name any other trade literature or Menu card by using any other trade mark which is in any way visually, or phonetically similar to the plaintiffs' registered Trade Mark Nos.838786, 1116254, 1479159, 1715718 & 2965624 or in any manner infringing the 1st plaintiff's registered Trade



(b) granting a permanent injunction, restraining the defendant, by itself, its agents or servants or anyone claiming through or under him any business marketing, selling, advertising using in trade literature, menu cards, invoices, name boards, website, internet advertisements the mark/name 'AACHI MES' in relation to the Restaurant or with respect to or any other food preparation or on any other business the impugned trademark/name which is in any manner deceptively or phonetically confusingly similar to the plaintiff's trade mark/name AACHI/AACHI CHETTINAD RESTAURANT/AACHI KITCHEN or in any other manner pass off their hotel, business or goods as and for that of the plaintiffs.

(c) directing the defendant to surrender to the plaintiff all the packing material, cartons, advertisement materials and hoardings, letter-heads, visiting cards, office stationery and all other materials containing/bearing the name 'AACHI MES' or other identical trade mark used in the pouches and packets bearing the word AACHI/AACHI CHETTINAD RESTAURANT/AACHI KITCHEN.

(d) directing the defendant to render an account of profits made by them by the use of the impugned trademark 'AACHI MES' on the service referred and decree the suit for the profits found to have been made by the defendant, after the defendant has rendered accounts:

(e) directing the defendant to pay to the plaintiffs the costs to the suit;



WEB COPY

10

For Plaintiffs : Mrs.Gladys Daniel

For Defendant : Mr.Baskar

J U D G M E N T

The plaintiffs, who were aggrieved with the infringement of the registered trademark, approached this Court and filed a suit against the defendant seeking for various reliefs. During the pendency of the suit, the parties were able to reach a compromise and accordingly, a memo of compromise signed by the parties and their respective counsel has been filed before this Court.

2. The terms of the memorandum of compromise are extracted hereunder:

'1. The defendant submit that he had running a restaurant name and style of AACHI MESS and further he doesn't have any knowledge and previous intimation about the trademark AACHI in word and various registration by the plaintiff.

2. The plaintiffs has claimed in the above suit that they have been registered the word in various registration hence the



WEB COPY

defendant doesn't want to continue his business in the name and style of AACHI MESS.

3. The defendant submit that hereafter he doesn't wants to any conflict, disputes, quarrel and dissension with the plaintiffs and to run the restaurant as well as not wants to confrontation before the court of law with the plaintiff for using the word AACHI hence the defendant has modified the restaurant name and style of all the restaurants and branches to 'KARAIKUDI THAYAMMA MESS' in lieu of Aachi mess

4. The defendant submit that hereafter he never use or claim the word "AACHI" at any time for his business.

5. The defendant submit that hereafter he never adopt and shall not adopt any of the word or visual features of the plaintiffs trademark AACHI in future.

6. The defendant shall not make any application for registration of the trademark AACHI or its formative marks in future.

7. The plaintiffs have no objection to the defendant changing restaurant name and style of KARAIKUDI THAYAMMA MESS instead of AACHI MESS.

8. The plaintiffs assures that hereafter he never disturb



the defendant's business to run in the name and style of

WEB COPY “KARAIKUDI THAYAMMA MESS”

In view of the above compromise, the confliction between the plaintiffs and the defendant have ended.

It is therefore prayed that this Memo of Compromise may be recorded and the suit may be decreed in terms of the Memo of Compromise and thus render Justice.'

3. In view of the above, the suit is decreed in terms of the memorandum of compromise and the memorandum of compromise shall form part of the decree. In the facts and circumstances of the case, there shall be no order as to costs.

Sd/-N.A.V.J.
23.11.2021

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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