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C.S. (COMM.DIV.) No.41 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.11.2023

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.S. (Comm.Div.) No.41 of 2021

K.Suresh Prabhu

.. Plaintiff

/versus/

S.Ramesh

.. Defendant

Prayer: Civil Suit has been filed under Order VII, Rule 1 of the Code of Civil Procedure and under Order IV Rule 1 of the Original Side Rules and under Section 7(1) of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Court Act, 2015 read with Sections 134 and 135 of the Trademarks Act 1999 prays for a judgment and decree:

a)granting permanent injunction restraining the Defendant, his men, servant, agents or any one claiming through or under him from in any manner passing off of his services as and that of the Plaintiff's by using the offending Trade Mark



and/or any other Trade Mark which is similar or identical to the Plaintiff's Trade Mark "C3 FITNESS SCIENCE" and logo



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C.S. (COMM.DIV.) No.41 of 2021



and/or



as and for the Plaintiff's celebrated services including "Health Club Services, Health and Fitness Training" under the Plaintiff's Trade Mark "**C3 FITNESS SCIENCE**" and logo



either by rendering or offering services or in any manner advertising the same from No.125, Anna Indra Gandhi Nagar, New Washermenpet, Chennai – 600 081 or any other place;

b)granting permanent injunction restraining the Defendant, his men, servant, agents or any one claiming through or under him from in any manner advertising under the banner, Trade Mark "**C3 FITNESS SCIENCE**" and logo



and/or



and/or any other Trade Mark which is similar or identical to the plaintiff's Trade Mark "**C3 FITNESS SCIENCE**" and logo



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C.S. (COMM.DIV.) No.41 of 2021



c)directing the Defendant to surrender to the Plaintiff the entire stock of unused offending labels, unused hoardings, pamphlets, Banners, notices, Invitations and or any advertisement materials etc bearing the offending Trade Mark



and/or any other Trade Mark which is similar or identical to the plaintiff's Trade Mark "**C3 FITNESS SCIENCE**" and logo



along with the blocks and dyes for destruction;

d)for a preliminary decree in favour of Plaintiff directing the Defendant to render a true and faithful account of the profits earned by the Defendant through the services offered by him, bearing the offending Trade Mark



and/or any other Trade Mark which is similar or identical to the plaintiff's Trade Mark "**C3 FITNESS SCIENCE**" and logo



C.S. (COMM.DIV.) No.41 of 2021

WEB COPY

| 3

and for a final decree in favour of the Plaintiff for the amount of profit found to have been made by the Defendant after the defendant has rendered accounts for the passing off committed by the Defendant;

e)directing the Defendant to pay to the Plaintiff the cost of the suit.

For Plaintiff : No appearance

For Defendant : No appearance

J U D G M E N T

The matter is listed under the caption 'for dismissal' today. There is no representation on the side of the plaintiff once again. Even on the last hearing date on 16.10.2023, there was no representation on the side of the plaintiff. It can now be inferred that the plaintiff is not interested in prosecuting the case. Accordingly, this suit is dismissed for non prosecution. No costs.

08.11.2023

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C.S. (COMM.DIV.) No.41 of 2021

ABDUL QUDDHOSE, J.

vga

C.S. (COMM.DIV.) No.41 of 2021

08.11.2023