

A.Nos.706 to 708 of 2020
in
C.S.No.379 of 2020

DR.G.JAYACHANDRAN,J.,

These three applications are filed seeking injunction restraining the respondents from infringing the applicant's registered trademark label POONAM and the artistic design of the plaintiff's copyright for the said trademark.

2. This Court, after prima facie satisfaction of the infringement of the plaintiff's trademark, has granted interim injunction on 16.12.2020.

3. The respondents/defendants has filed counter stating that their trademark PUNITHAM is a registered trademark since 1995 and there is no infringement of the mark or design or their artistic work of the plaintiff. Further, the learned counsel for the respondents would also submit that after the interim order passed by this Court, the defendants have changed their design on the defendants' product.

4. Considering the rival submissions made by the learned counsels and the pleadings, it is made clear that the plaintiff has registered the trademark POONAM under class 29 for milk and milk products. The name POONAM described under capital letter in red colour between oval design with cashew figure on the top. The design of the defendants' product is in imitation of colour and display of that of the plaintiff.

5. Since the design and display of the artistic design altered by the defendants after the interim order of this Court, it is suffice to make the interim order absolute restraining the respondents from using the colour and design of the plaintiff which is more or less visually similar. If the defendants choose to use its registered trademark PUNITHAM with different design and colour, the same shall not be found fault. It is also brought to the notice of this Court that the plaintiff has already moved the IPAB raising objections and rectification petition for the trademark PUNITHAM of the respondents and same is pending.

6. In the light of the fact that the IPAB has been abolished. The

plaintiff is at liberty to take appropriate alternate steps. In the result, the interim order granted in these three applications are made absolute.

rpl

07.07.2021

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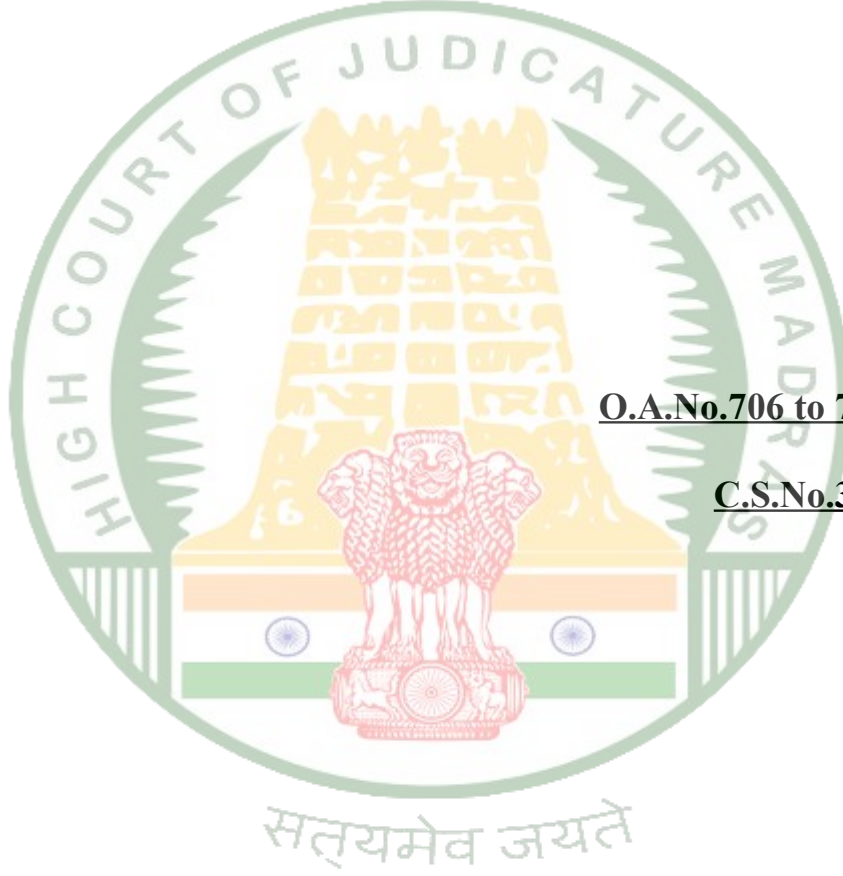


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