

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.07.2021

CORAM:

**THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN**

C.S.(Com.Div.) No.293 of 2020  
and  
O.A.Nos.549 & 550 of 2020

1.Mr.A.D.Padmasingh Isaac,  
Proprietor,  
Aachi Spices and Foods  
Old No.4, New No.181/1,  
6<sup>th</sup> Avenue, Thangam Colony,  
Anna Nagar, Chennai-600 040.

2.Aachi Masala Foods Private Limited,  
No.1926, 34<sup>th</sup> Street, I Block,  
Ishwarya Colony, Anna Nagar West,  
Chennai-600 040.  
Represented by its Director  
Mr.Ashwin Pandian

3.Aachi Spices and Foods Private Limited,  
No.1926, 34<sup>th</sup> Street, I Block,  
Ishwarya Colony, Anna Nagar West,  
Chennai-600 040.  
Represented by its Director  
Mr.Ashwin Pandian

4.Aachi Special and Foods Private Limited,  
No.1926, 34<sup>th</sup> Street, I Block,

Ishwarya Colony, Anna Nagar Wast,  
Chennai-600 040.

Represented by its Director  
Mr.Ashwin Pandian

5.Aachi Spices and Condiments Private Limited,  
No.1926, 34<sup>th</sup> Street, I Block,  
Ishwarya Colony, Anna Nagar Wast,  
Chennai-600 040.

Represented by its Director  
Mr.Ashwin Pandian

.. Plaintiffs

/versus/

Aachiamman Chit Funds Private Limited,  
No.A.P.234, Ground Floor,  
Kambar Colony,  
31<sup>st</sup> Street, Anna Nagar West,  
Chennai-600 040.

.. Defendant

This Civil Suit is filed under Order IV Rule 1 Original Side Rules read with Order VII Rule 1 of CPC Read With Sections 27[2], 29, 134 and 135 of the Trademarks Act, 1999 (a) granting a permanent injunction, restraining the Defendant, by himself, his servants, agents,, distributors, or any one claiming through him from manufacturing, selling advertising and offering for sale using the name 'AACHIAMMAN CHIT FUNDS P Ltd' or any other similar trademark 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 trademark/name which is in any way visually or deceptively or phonetically similar to the 1<sup>st</sup> plaintiffs' Trademark/name "AACHI" and

use the same in pouches, packets or use the mark in invoices, letters heads and visiting cards or part of their chit fund name any other trade literature or boucher by using any other trademark which is in any way visually or phonetically similar to the plaintiffs' registered Trademark Nos.838786, 3370965, or in any manner infringing the 1<sup>st</sup> plaintiff's registered trademark referred herein;

(b) granting a permanent injunction, restraining the Defendant, by itself, its servants, agents, distributors, or any one 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 'AACHIAMMAN CHIT FUNDS P Ltd' in relation to the chit fund or with respect to or any other trade or on any other business the impugned trademark/name which is in any manner deceptively or phonetically confusingly similar to the plaintiff's trademark/name AACHI or in any other manner pass off their business or goods as and for that of the plaintiffs;

(c) directing the Defendant to surrender to the Plaintiffs' all the packing materials, cartons, advertisement materials and hoardings, letter-heads, visiting cards, office stationery and all other materials containing / bearing the name 'AACHIAMMAN CHIT FUNDS P Ltd' or other identical trade mark used in the pouches and packets bearing the word AACHI;

(d) directing the Defendant to render an account of profits made by them by the use of the impugned Trademark 'AACHIAMMAN CHIT FUNDS P Ltd' 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; and

(e) directing the Defendant to pay to the Plaintiffs' the costs to the suit.

For plaintiff : Ms.Gladys Daniel

**JUDGMENT**

On going through the plaint, this Court finds that the plaintiff herein claims an exclusive right over the use of the name Aachi, which is his registered Trademark for food products and spices. Hence, the present suit is filed against the defendant who is running a private chit fund limited by name AACHIAMMAN CHIT FUNDS P Ltd.

2. This Court has entertained the suit at inception and ordered summons to the defendant. From the Registry record this Court finds that the defendant has left the premises and therefore, summons returned unserved as vacated. Even though the defendant has not found and not served, this Court is disturbed by the way in which this sort of suit is

filed alleging infringement of copy right and trademark. This is the case where this Court finds that there is no semblance of apprehension for the plaintiff to say that Aachi Amman chit fund private limited causes infringement of his trademark “Aachi”. “Aachi” and “Aachiamman” are neither phonetically similar nor visually similar. The plaintiff is not in the business of finance. The word “Aachi” is a generic term however have been widely identified to the food products and Indian spices sold by the plaintiff. But, this does not vest any right to the plaintiff to claim monopoly on the word “Aachi” wherever and whenever used with or without suffix or prefix for other goods and services. Therefore, there is no possibility of success for the plaintiff even if the matter is put for trial.

3. Hence, invoking the power under Order XIII A of the CPC as amended by Commercial Courts Act, this suit is dismissed summarily. Consequently, connected applications are also dismissed. No costs.

**07.07.2021**

Index : yes/no  
rpl

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**Dr.G.JAYACHANDRAN,J.**

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