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C.S.No.41 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2021

CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.41 of 2014

and

A.Nos.2239 and 2457 of 2014

M/s.N.RANGA RAO & SONS PRIVATE LIMITED,
PB No.52, Vani Vilas Road,
Mysore:570 004
and also at
25-B, Industrial Estate
Chennai:600 097
Represented by its Director
M.Arjun Ranga

[Amended as per order dated 12.08.2021
in A.No.2715 of 2021]

...Plaintiff

.Vs.

ROHIT MARKETING
Incense & Allied Products,
#380, 1st Cross Road, Robertsonpet,
K.G.F, Karnatak

... Defendant

Plaint filed under Order VII Rule 1 of the Code of Civil Procedure
and under Order IV Rule 1 of the Original Side Rules read with Sections
134 and 135 of the Trade Marks Act, 1999 praying for a judgment and
decree:



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(a) Granting permanent injunction restraining the defendant by itself, its servants, agents or any one claiming through it from in any manner infringing the plaintiff's well known, registered Trademark and artistic work "CYCLE BRAND Three-in-One" with the device of a cycle by using the identical and/ or deceptively similar offending Trade Mar "Tri Cycle 3-in-1" with the device of a Cycle or any other mark or marks which are in way identical, deceptively similar to or a colourbale imitation of the plaintiff's registered Trademark and artistic work 'CYCLE BRAND Three-in-One' with the device of a cycle either by manufacturing or selling or offering for sale or in any manner advertising the same.

(b) Granting permanent injunction restraining the defendant by itself, its servant, agents or any one claiming through it from in any manner passing off of its "Incense Sticks" bearing the offending Trade Mar "Tri Cycle 3-in-1 with the device of a Cycle" as and for the plaintiff's celebrated products including "Incense Sticks and Dhoop Sticks" bearing the plaintiff's registered Trademark and artistic work 'CYCLE BRAND Three-in-One with the device of a cycle' either by manufacturing or selling or offering for sale or in any manner advertising the same.

(c) Directing the defendants to surrender to the plaintiff the entire stock of unused offending labels and cartons bearing the offending Trade



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Mark “Tri Cycle 3-in-1 with the device of a Cycle” along with the blocks and dyes for destruction

(d) Directing the defendant to render a true and faithful account of the profits earned by the defendant through the sale of its products, including the products bearing the offending Trade Mark “Tri Cycle 3-in-1 with the device of a Cycle” and direct payment of such profits to the plaintiff for the passing off committed by the defendant and

(e) directing the defendant to pay to the plaintiff the cost of the suit.

For Plaintiff : Mr.S.Diwakar
for Mr.Rajesh Ramanathan

For Defendant : Mr.S.P.Vijayaraghavan

J U D G M E N T

The Plaintiff, who is the registered Proprietor of the trade mark “CYCLE BRAND Three-in-One” Agarbathies, with a device of Cycle seeks injunctive reliefs restraining the defendant from using “Tri Cycle 3-in-1, with a device of Cycle for their Agarbathies and injunction restraining the defendant from passing off their goods as that of the plaintiff. The reliefs of accounting and mandatory injunction for



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surrendering the products with offending marks have also been sought for.

2. When the suit is taken up for hearing, Mr.S.P.Vijayaraghavan, learned counsel appearing for defendant had filed a memo stating that defendant ceased using the trade mark subject to the proceedings even in the year 2014 and it is also stated that they do not intend using the said trade mark in future for Agarbathies. The letter written by the defendant addressed to the counsel has also been produced. In view of the above there is no prohibition in granting the injunctive reliefs sought for in the suit.

3. Mr.Diwakar learned counsel for the plaintiff would give up the prayers (c) and (d) viz., mandatory injunction and accounting.

4. In view of the above, the memo filed by the defendant is recorded and the suit is decreed only for the reliefs of (a) and (b) alone and with respect to the reliefs of (c) and (d), the suit is dismissed as not



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pressed. The parties are directed to bear their own costs. Consequently,
the connected applications are closed.

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Index : No

Internet : Yes

Speaking order

List of the witnesses examined on the side of the plaintiff: Nil

List of Exhibits marked on the side of the plaintiff : Nil

List of the witnesses examined on the side of the defendant: Nil

List of Exhibits marked on the side of the defendant : Nil

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