

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.02.2021

CORAM:

THE HON'BLE JUSTICE C.V.KARTHIKEYAN

C.S.No.709 of 2014

Mr.Naresh M.Mehta,
Mr.Abhay S.Mehta,
Mr.Surender M.Mehta
Partner,
Mehta Jewellery,
Partnership firm
43 C P Ramasamy Road,
Abhiramapuram,
Chennai - 600 108.

... Plaintiff

..Vs..

1.Arun Mehta,
Trading as
M/s.Mehta Jewellers,
No.45, Othavadai Street,
Nammalwarpet,
Purasaiwalkam,
Chennai - 600 012.

2. Ranjith Mehta,
Trading as
M/s.Mehta Jewellers,
No.45, Othavadai Street,
Nammalwarpet,
Purasaiwalkam,
Chennai - 600 012.

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3.M/s.Mehta Jewellers,
No.45, Othavadai Street,
Nammalwarpet,
Purasaiwalkam,
Chennai - 600 012.

... Defendants

PRAYER : Plaintiff filed under and Order IV Rule 1 of the Madras High Court Original Side Rules read with Order VII Rule 1 of the Code of Civil Procedure, 1908 and read with Sections 11, 29, 134 and 135 of Trademarks Act, 1999 prayed for a Judgment and Decree:-

(a) To grant permanent injunction restraining the defendants, their directors, employees, officers, servants, agents and all others acting for and on their behalf from using the trademark, trade name and trading style featuring the mark MEHTA JEWELLERS, Logo MJ or any other name / mark deceptively similar to plaintiff's mark MEHTA JEWELLERY and logo MJ in any manner whatsoever, including in relation to its manufacture and sale of jewellery or any other business, including all use as part of its signage, business cards, labels, promotional materials, advertisements, domain names, company names, URLs, e-mail addresses, screen names, user names, website contents [whether or not visible], staff uniforms, vehicles, documents, reports, data, invoices, receipts, stationery, and on any other

materials and things on which they are using mark MEHTA JEWELLERS or anything similar to plaintiff's mark MEHTA JEWELLERY, amounting to infringement to plaintiff's trademarks MEHTA HEWELLERY Mehta and MJ under registration Nos.722975, 838354, 1242326 and 2037756 in classes 14, 14, 42 & 42 respectively;

(b) To grant permanent injunction restraining the defendants, their directors, employees, officers, servants, agents and all others acting for and on their behalf directors from using the trademark, trade name and trading style featuring the MEHTA JEWELLERS, Logo MJ or any other name / mark deceptively similar to plaintiff's mark MEHTA JEWELLERY and logo MJ in any manner whatsoever, including in relation to its manufacture and sale of jewellery or any other business, including all use as part of its signage, business cards, labels, promotional materials, advertisements, domain names, company names, URLs, e-mail addresses, screen names, user names, website contents [whether or not visible], staff uniforms, vehicles, documents, reports, data, invoices, receipts, stationery, and on any other materials and things on which they are using mark MEHTA JEWELLERS or anything similar to plaintiff's mark MEHTA JEWELLERY amounts to

passing off of plaintiff's trademark MEHTA JEWELLERY;

(c) To grant damages for a sum of Rs.10,00,000/- in favour of the plaintiffs and against the defendant and such other damages as may be quantified by appropriate evaluation of the defendants books of account during the course of present proceedings;

(d) To grant order of delivery up of any brochures / printed material and / or any material which contributes ultimately to the infringement of plaintiff's trademark;

(e) To direct the defendant for rendition of accounts;

(f) Costs and such other relief.

For Plaintiff : Mr.M.S.Bharath

For Defendants : M/s.Ashok Kumar J.Daga

JUDGMENT

A Memo had been filed by the learned counsel for the plaintiff dated 05.02.2021 and presented in the Registry on the same day. The relevant portions of the memo are extracted below:

"3. By Order dated 7th November 2014 this Hon'ble Court was pleased to grant an ex-parte interim order against the Defendants restraining them from using the name **"MEHTA JEWELLERY"**.

4. In compliance with the above order the Defendants have changed the name of their Jewellery shop from **MEHTA JEWELLERY** to **SUKANRAJ MEHTA GOLD HOUSE**.

5. Further, upon conducting a recent investigation into the business of the defendants, it has been confirmed that Defendants have terminated use of the mark **"MEHTA JEWELLERY"** and are continuing their business under the name **"SUKANRAJ MEHTA GOLD HOUSE"**. Copies of photographs evidencing the change in name of business are attached herewith.

6. The Plaintiff humbly submits that the plaintiff wishes to withdraw the present suit with liberty to institute a fresh suit in respect of the subject matter of the suit or part of the claim.

7. Accordingly, it is prayed that this Hon'ble Court may be pleased to dismiss the suit as withdrawn in the interests of justice and equity.

C.V.KARTHIKEYAN, J

rna

*Dated at Chennai on this the 5th day of February
2021.*

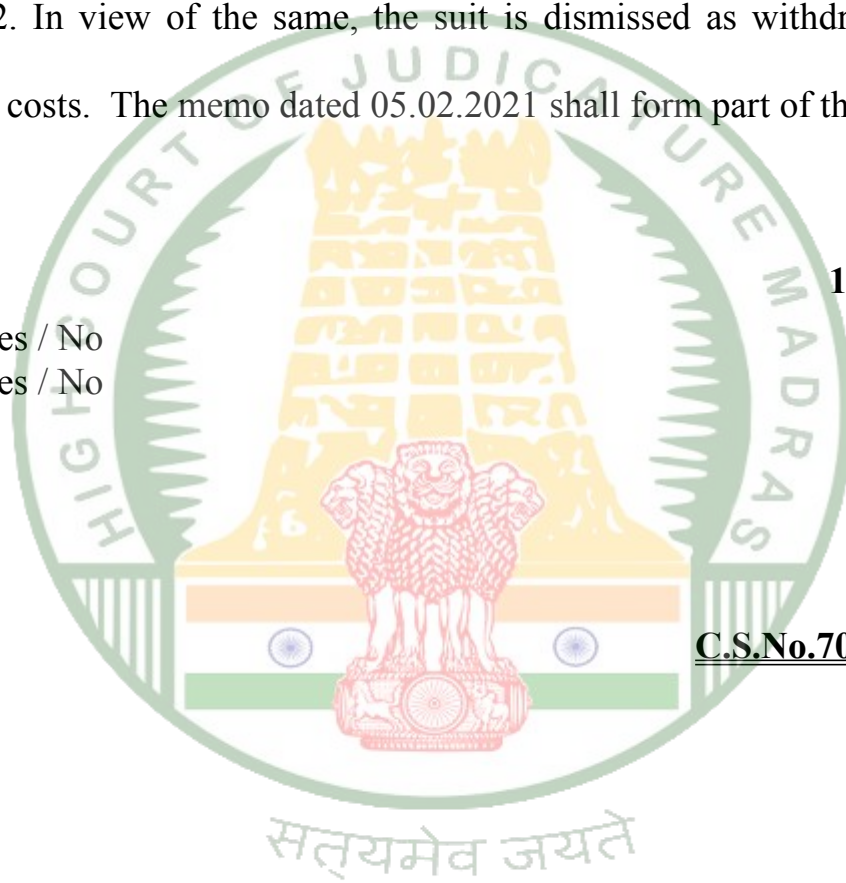
*sd/---,
Counsel for Plaintiff."*

2. In view of the same, the suit is dismissed as withdrawn. No order as to costs. The memo dated 05.02.2021 shall form part of the decree.

Index : Yes / No
Web : Yes / No
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