



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 14TH DAY OF JULY, 2021

THE HON'BLE DR. JUSTICE G.JAYACHANDRAN

C.S.No. 387 of 2020

and

O.A.Nos. 720 to 722 of 2020

and

A. Nos. 3148 and 3149 of 2020

M/s. MRF Limited,

Having regd. Office at No. 114, Greams Road,

Chennai – 600 006.

Rep. By its Dy.General Manager-Market Development/POA,

Mr.P.Charles Pravin Kumar.

... Plaintiff/Applicant

-Versus-

Sumit Gumber,

Sole Proprietor, Shiva Tyres,

Chandigarh Road,

Narayangarh Chowk,

Baldev Nagar, Ambala City,

Haryana 134 007.

... Defendants/ Respondents

C.S.No. 387 of 2020

Civil Suit praying that this Hon'ble Court be pleased to pass a

Judgement and Decree for:-

a) A perpetual injunction restraining the Defendant, his distributors,

stockists, servants, agents, retailers, representatives or any other



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Plaintiff's Registered Trade Marks 'MRF', 'MRF Connected Letter Device, the MRF Muscleman Device and/or MRF Tiretok tyres and service Franchise Display Board by using the said trademarks or any other mark, which is identical with and/or deceptively similar to the plaintiff's trademarks 'MRF', 'MRF Connected Letter Device, the MRF Muscleman Device and/or MRF Tiretok tyres and service Franchise Display Board in connection with business of the defendant or in any other manner whatsoever;

- b) A perpetual injunction restraining the Defendant, his distributors, stockists, servants, agents, retailers, representatives or any other person claiming under/through him from in any manner using the trademarks 'MRF', 'MRF Connected Letter Device, the MRF Muscleman Device and/or MRF Tiretok tyres and service Franchise Display Board and/or any other mark, which is identical with or deceptively similar to the plaintiffs trademarks 'MRF', 'MRF Connected Letter Device, the MRF Muscleman Device and/or MRF Tiretok tyres and service Franchise Display Board in respect of the business including the tyre dealership /distribution/ sale business so as to pass of the defendant's business as that of a Franchise of the plaintiff and wrongfully associate themselves with the plaintiff's business or in any other manner whatsoever;



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- c) A perpetual injunction restraining the Defendant, his distributors, stockists, servants, agents, retailers, representatives or any other person claiming under/through him from in any manner infringing the plaintiff's copyright in the 'MRF CONNECTED LETTER DEVICE' filed as Plaintiff Document No.1, or 'MRF MUSCLEMAN DEVICE' filed as Plaintiff Document No.2 or MRF Tiretok tyres and service Franchise Display Board filed as Plaintiff Document No.3 by using the above mentioned Artistic works or any substantial reproduction of the same on or in connection with the business of the defendant or in any other manner whatsoever.
- d) The Defendant be ordered to remove all painted displays, and other display material being used by the Defendant containing MRF Corporate Trademarks/Artistic Works and/or MRF Tiretok tyres & service Franchise Display Board or any other mark which is deceptively similar and/or is a substantial reproduction of the plaintiff's trademarks 'MRF', 'MRF Connected Letter Device, the MRF Muscleman Device and/or MRF Tiretok tyres and service Franchise Display Board, and surrender to plaintiff the glow sign board, all goods, labels, dyes, blocks, moulds, screen prints, packing materials, bills, vouchers, literature, publicity material, letterheads, invoices, challans, visiting cards, job cards, delivery notes, rate list,



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sign boards, glow signs, blow ups and all reprographic materials and other materials bearing any of the trademarks or artistic works of the Plaintiff:

- e) A preliminary decree be passed in favour of the Plaintiff directing the Defendant to render account of profits made by use of MRF Tiretok tyres & service Franchise Display Board or any other mark which is deceptively similar and/or is a substantial reproduction of the plaintiff's trademarks 'MRF', 'MRF Connected Letter Device, the MRF Muscleman Device and/or MRF Tiretok tyres and service Franchise Display Board, and a final decree be passed in favour of the plaintiff for the amount of profits thus found to have been made by the defendant after the latter have rendered accounts;
- f) The Defendant be ordered and decreed to pay to the plaintiff's a sum of Rs. 25,01,000/- as damages;
- g) For costs of the suit;

O.A. No.720 of 2020:

Original Application praying that this Hon'ble Court be pleased to grant an ad-interim injunction restraining the respondent/Defendant his distributors, stockists, servants, agent, retailers, representatives or any other person claiming under/through him from in any manner using the



Device and/or MRF Tiretok tyres and service Franchise Display Board and/or any other mark which is identical with or deceptively similar to the applicant's/plaintiff's trademarks 'MRF', 'MRF Connected Letter Device, the MRF Muscleman Device and/or MRF Tiretok tyres and service Franchise Display Board in respect of any of his business, including the tyre dealership/ distribution/ sale business, so as to pass off the respondents'/ Defendants business as that of the Franchise of the applicant/plaintiff's and wrongfully associate himself with the applicant's/plaintiff's business or in any other manner whatsoever, pending disposal of the suit.

O.A. No.721 of 2020:

Original Application praying that this Hon'ble Court be pleased to grant an ad-interim injunction restraining the respondent/Defendant his distributors, stockists, servants, agents, retailers, representatives or any other person claiming under/through him from in any manner infringing the applicant's/Plaintiff's Registered Trade Marks 'MRF', 'MRF Connected Letter Device, the MRF Muscleman Device and/or MRF Tiretok tyres and service Franchise Display Board by using the said trademarks or any other mark, which is identical with and/or deceptively similar to the applicant's/plaintiff's trademarks 'MRF', 'MRF Connected Letter Device, the MRF Muscleman Device and/or MRF Tiretok tyres and service Franchise

Display Board in connection with the business carried on by the



respondent/Defendant including the tyre dealership/distribution/sale business of the repondents or in any other manner whatsoever, pending disposal of the suit.

O.A. No.722 of 2020:

Original Application praying that this Hon'ble Court be pleased to grant an ad-interim injunction restraining the respondent/Defendant his distributors, stockists, servants, agent, retailers, representatives or any other person claiming under/through him from in any manner infringing the applicant's/Plaintiff's copyright in the 'MRF CONNECTED LETTER DEVICE' filed as Complaint Document No.1, or 'MRF MUSCLEMAN DEVICE' filed as Complaint Document No.2 or MRF Tiretok tyres and service Franchise Display Board filed as Complaint Document No.3 by using the above mentioned Artistic works or any substantial reproduction of the same on or in connection with the business of the respondent or in any other manner whatsoever, pending disposal of the suit.

A. Nos. 3148 of 2020:-

Application praying that this Hon'ble Court be pleased to appoint an advocate commissioner to visit and inspect the premises of the respondent at Shiva Tyres, Chandigarh Road, Narayangarh Chowk, Baldev Nagar, Ambala City, Haryana- 134007, its godowns, warehouse, stock points, billing centers and such other premises in the direct or indirect control of



the respondent or his suppliers or stockists or any person associated with him, along with local police protection to break open if necessary, and seize and take into custody all painted displays, and other display material containing MRF Corporate Trademarks/Artistic Works and/or MRF Tiretok tyres & service Franchise Display Board or any other mark which is deceptively similar and/or is a substantial reproduction of the applicant's trademarks 'MRF', 'MRF Connected Letter Device', the MRF Musclemans Device and/or MRF Tiretok tyres & service Franchise Display Board.

A. Nos. 3149 of 2020:-

Application praying that this Hon'ble Court be pleased to permit joinder of causes of action in respect of infringement of trademark, passing off and infringement of copyright in a single suit.

This suit along with the these applications coming on this day before the court for hearing in the presence of Mr. Madhan Babu, Advocate for the plaintiff in C.S.No. 387 of 2020 and for the applicant in O.A. Nos. 720 to 722 of 2020 and A.Nos. 3148 and 3149 of 2020 and Mr. R. Uma Shankar, Advocate for the defendant in C.S.No.387 of 2020 and for the respondent in O.A. Nos. 720 to 722 of 2020 and A.Nos. 3148 & 3149 of 2020 and upon reading the plaint filed to in C.S.No.387 of 2020 and the order dated 29.06.2021 made in O.A.No. 720 to 722 of 2020 and A.Nos. 3148 & 3149 of 2020 and this court having observed that the plaintiff herein, can always exercise his right of making a counter claim in the



pending suit at Sirsa, which has seized the issue regarding validity of the Franchise agreement, **it is ordered and decreed as follows:**

That Sumit Gumber, Sole Proprietor, Shiva Tyres, the defendant herein, his distributors, stockists, servants, agents, retailers, representatives or any other person claiming under/through him, be and is hereby restrained by an order of perpetual injunction from:

- (a) in any manner infringing the plaintiff's trademarks 'MRF', 'MRF Connected Letter Device, the MRF Muscleman Device and/or MRF Tiretok tyres and service Franchise Display Board by using the said trademarks or any other mark, which is identical with and/or deceptively similar to the plaintiff's trademarks 'MRF', 'MRF Connected Letter Device, the MRF Muscleman Device and/or MRF Tiretok Tyres and service Franchise Display Board in connection with any of the business carried on by the defendant including the tyre dealership/distribution/sale business of the defendant or in any other manner whatsoever;
- (b) in any manner using the trademarks 'MRF', 'MRF Connected Letter Device, the MRF Muscleman Device and/or MRF Tiretok tyres and service Franchise Display Board and/or any other mark, which is identical with or deceptively similar to the plaintiffs trademarks 'MRF', 'MRF Connected Letter Device, the MRF Muscleman Device



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and/or MRF Tiretok tyres and service Franchise Display Board in respect of the business including the tyre dealership/distribution/sale business so as to pass of the defendant's business as that of a Franchise of the plaintiff and wrongfully associate themselves with the plaintiff's business or in any other manner whatsoever; and

(c) In any manner infringing the plaintiff's copyright in the 'MRF Connected Letter Device' filed as Plaint Document No.1, or 'MRF Musclemann Device' filed as Plaint Document No.2 or MRF Tiretok tyres and service Franchise Display Board filed as Plaint Document No.3 by using the above mentioned Artistic works or any substantial reproduction of the same on or in connection with the business of the defendant or in any other manner whatsoever.

2) That the relief sought under prayer (d) already complied, hence, the prayer (d) in suit is infructuous.

3) That as far as relief sought in prayer (e) and (f) are concerned, leave is granted to the plaintiff to agitate the same before Sirsa Court by way of counter claim without prejudice to their application questioning the jurisdiction of the Sirsa court.

4) That the O.A.Nos. 720 to 722 of 2020 and A.Nos. 3148 and 3149 of 2020 do stand closed.



5) That there shall be no order as to costs of this suit.

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WITNESS, THE HON'BLE MR.JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT OF MADRAS AFORESAID, THIS THE
14TH DAY OF JULY 2021.

Sd/-
ASSISTANT REGISTRAR(Comm. Div.)

//Certified to be true copy//
Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)
From 25th Day of September 2008 the Registry is issuing certified copies
of the Orders/Judgments/Decrees in this format.



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C.S.No. 387 of 2020
and
O.A.Nos. 720 to 722 of 2020
and
A. Nos. 3148 and 3149 of 2020

DECREE
DATED :14/07/2021

THE HON'BLE DR.JUSTICE
G. JAYACHANDRAN

FOR APPROVAL: 11.10.2021

APPROVED ON: 20.10.2021



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2021

CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.S.No.387 of 2020

and

O.A.Nos.720 to 722 of 2020, A.Nos.3148, 3149 of 2020

M/s.MRF Limited,
Having Regd Office at
No.114, Greams Road,
Chennai 600 006,
Rep. by Dy.General Manager-Market Development/POA,
Mr.P.Charles Pravin Kumar.

.. Plaintiff

VS

Sumit Gumber,
Sole Proprietor, Shiva Tyres,
Chandigarh Road,
Narayangarh Chowk,
Baldev Nagar, Ambala City,
Haryana 134 007.

...Defendant

Prayer: Civil Suit filed under Order IV Rule I of the O.S.Rules, Sections 28,29,134 and 135 of the Trade Marks Act, 1999 and Sections 51, 55 & 62 of the Copyright Act, 1957 praying for the following:

a. perpetual injunction restraining the defendant, his distributors,

<https://hcservices.ecourts.gov.in/hcservices/>

stockists, servants, agents, retailers, representatives or any other person



claiming under/through him from in any manner infringing the plaintiff's trademarks 'MRF', 'MRF Connected Letter Device, the MRF Muscleman Device and/or MRF Tiretok tyres and service Franchise Display Board by using the said trademarks or any other mark, which is identical with and/or deceptively similar to the plaintiff's trademarks 'MRF', 'MRF Connected Letter Device, the MRF Muscleman Device and/or MRF Tiretok tyres and service Franchise Display Board in connection with any of the business carried on by the defendant including the tyre dealership/distribution/sale business of the defendant or in any other manner whatsoever;

b) a perpetual injunction restraining the defendant, his distributors, stockists, servants, agents, retailers, representatives or any other person claiming under/through him from in any manner using the trademarks 'MRF', 'MRF Connected Letter Device, the MRF Muscleman Device and/or MRF Tiretok tyres and service Franchise Display Board and/or any other mark, which is identical with or deceptively similar to the plaintiff's trademarks 'MRF', 'MRF Connected Letter Device, the MRF Muscleman Device and/or MRF Tiretok tyres and service Franchise Display Board in respect of the business including the tyre dealership/distribution/sale business so as to pass off the defendant's



themselves with the plaintiff's business or in any other manner whatsoever;

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c) a perpetual injunction restraining the defendant, his distributors, stockists, servants, agents, retailers, representatives or any other person claiming under/through him from in any manner infringing the plaintiff's coyright in the 'MRF Connected Letter Device' filed as Plaint Document No.1, or 'MRF Muscleman Device' filed as Plaint Document No.2 or MRF Tiretok tyres and service Franchise Display Board filed as Plaint Docuent NO.3 by using the above mentioned Artistic works or any substantial reproduction of the same on or in connection with the business of the defendant or in any other manner whatsoever;

d) The defendant be ordered to remove all painted displays and other display material being used by the defendant containing MRF Corporate Trademarks/Artistic Works and/or MRF Tiretok tyres and service Franchise Display Board or any other mark which is deceptively similar and/or is a substantial reproduction of the plaintiff's trademarks 'MRF', 'MRF Connected Letter Device, the MRF Muscleman Device and/or MRF Tiretok tyres and service Franchise Display Board and surrender to plaintiff the glow sign board, all goods, labels, dyes, blocks, moulds, screen



letterheads, invoices, challans, visiting cards, job cards, delivery notes, rate list, sign boards, glow signs, blow ups and all reprographic materials and other materials bearing any of the trade marks or artistic works of the plaintiff.

e) A preliminary decree be passed in favour of the plaintiff directing the defendant to render account of profits made by use of MRF Tiretok tyres and service Franchise Display Board or any other mark which is deceptively similar and/or is a substantial reproduction of the plaintiff's trademarks 'MRF', 'MRF Connected Letter Device, the MRF Musclemans Device and/or MRF Tiretok tyres and service Franchise Display Board and a final decree be passed in favour of the plaintiff for the amount of profits thus found to have been made by the defendant after the latter have rendered accounts;

f) The defendant be ordered and decreed to pay to the plaintiff's a sum of Rs.25,01,000/- as damages;

g) For costs of the suit;

For Plaintiffs : Mr.Madhan Babu

For Defendant : Mr.R.Uma Shankar

**J U D G M E N T**

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The suit against the defendant is preliminarily alleging infringement of the plaintiff's trademark 'MRF', 'MRF Connected Letter Device, the MRF Musclemann Device and/or MRF Tiretok tyres and service Franchise Display Board by using the said trademark.

2.The facts of the case in brief is that the defendant was appointed as a Franchisee by the plaintiff at Ambala under a Franchise Agreement dated 10.10.2008. The said Agreement is for a period of 7 years. On expiry of the validity of the said Franchise, the parties have entered into a fresh Franchise Agreement dated 22.11.2017. According to the plaintiff on the request of the defendant, the termination of the dealership Agreement came to force on 01.04.2020. Further in the plaint, it is alleged that since July 2019, the defendant has defaulted in payment of monthly franchise fees to the plaintiff. It is alleged in the plaint that though permission granted to the defendant to use the plaintiff's trademark, artistic work till the Franchise agreement was in force, on and after the termination of the Franchise Agreement, the defendant cannot use “MRF” mark. However it came to the notice of the plaintiff that the defendant is continuing to use the mark “MRF”. To restrain the defendant from using the plaintiff's registered trademark and for damages, the suit has been filed.



3. Soon after receipt of the notice, the defendant had filed an affidavit stating that the defendant was forced to terminate the Franchise Agreement. The plant and machineries implanted by the plaintiff started giving trouble and failed to perform. The plaintiff have taken away the machineries but not settled the due payable to the defendant for the investments made by the defendant for putting up a showroom as mandated by the plaintiff. In this connection, the defendant has already initiated the civil suit before the Additional Civil Judge, Sirsa, assailing the termination of the Franchise Agreement and for ancillary reliefs. It is also stated in the said affidavit that a criminal complaint before the Chief Judicial Magistrate Court, Sirsa, has also been lodged against the plaintiff and his officials. Without prejudice to these allegations and averments in the affidavit, the defendant has categorically stated that he is not using the trademark of the plaintiff “MRF” either independently or jointly with any word or in any form and he has no intent to use the same in future. He has also specifically stated that he has removed all the display and display materials having trademark of the plaintiff. It is also stated in the affidavit that presently, the defendant is appointed as a Dealer for Appollo, Bridgestone and Michelin Tyres, which indicates that there is no more reason for him to use in his showroom the trademark of the plaintiff.

4. The affidavit of the defendant clearly indicates that the cause of



action in the suit no more survives as far as the allegation of infringement of the plaintiff's trademark. Hence, being a commercial suit, it is a fit case to pass summary judgment regarding the relief of injunction restraining the defendant from using the plaintiff's trademark, artistic work, etc., in any manner whatsoever.

5. The other reliefs sought in the suit regarding the rendition of account of profits made by use of the plaintiff's trademark and damages for passing off, this Court on taking note of the fact that there is suit initiated by the defendant in Court of Sirsa, where termination of Franchise Agreement itself is under challenge. The question of damages for passing off and rendition of account depends on the outcome of the suit C.S.No.457 of 2020 initiated by the defendant. Unless the termination of the Franchise Agreement is justified, the question of passing off and rendition of accounts and damages for passing off will not arise. In any event, the plaintiff herein can always exercise his right of making a counter claim in the pending suit at Sirsa, which has seized the issue regarding validity of the Franchise agreement.

6. In the result, the suit is partly allowed by passing summary judgment in the following terms:

i) The injunction relief sought in prayer a, b and c is granted.

ii) The relief sought under prayer (d) already complied. Hence,



the prayer infructuous.

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ii) As far as the relief sought in prayer (e) and (f) are concerned, leave is granted to the plaintiff to agitate the same before Sirsa Court by way of counter claim without prejudice to their application questioning the jurisdiction of the Sirsa Court. No order as to costs. The connected applications are closed.

Sd/- G.J.J.
14/07/2021

//Certified to be true copy//
Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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