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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 27TH DAY OF JULY 2021

THE HON'BLE DR. JUSTICE G.JAYACHANDRAN

C.S.(Comm.div)NO.406 of 2020

And

O.A.NO.756 of 2020

And

A.NOS.1338 and 1339 of 2021

**C.S.(Comm.div)No.406 of 2020:-**

M/s.Saasboomi Foundation,  
No.164 B-13 Arun Flats,  
Lake View Road West Mambalam,  
Chennai – 600 033.

...Plaintiff

Versus

**Dell International Services Private Limited,**  
Divyasree Greens, Ground Floor,  
No.12/1, Ghallaghatta Village, Varthur Hobli,  
Bangalore – 560 071.

(Amended as per order dated  
25.03.2021 in A.No.1336 of 2021)

...Defendant

Civil Suit praying that this Hon'ble Court be pleased to pass orders and grant judgement and decree (a) Declaring that the threats held out by the Defendant via legal notice dated 07.02.2020 that the Plaintiff is infringing the Defendant's Trademark 'DELL BHOOMI' having registration numbers 3872315 and 3872316 and the Defendant's proposal to take infringement action against the Plaintiff are unjustified;



(b) Declaring that the Plaintiff's trade name 'SAASBOOMI' does not infringe the Defendant's Trademark 'DELL BHOOMI' having registration numbers 3872315 and 3872316;

(c) Granting a permanent injunction restraining the Defendant by themselves or through their agents, servants, licensees, employees and distributors and anyone claiming through them and/or all those in active concert and participation with them from continuing the issuance of threat, that the, Plaintiff is infringing the Defendant's trademark 'DELL BHOOMI' having registration numbers 3872315 and 3872316 and/or the Defendant is contemplating infringement action or the threats of like nature against the Plaintiff;

(d) For an order for cost of the suit in favour of the Plaintiff.

**O.A.No.756 of 2020:-**

M/s.Saasboomi Foundation,  
No.164 B-13 Arun Flats,  
Lake View Road West Mambalam,  
Chennai – 600 033.

...Applicant/Plaintiff

Versus

Dell India Private Limited,  
Divyasree Greens, Ground Floor,  
No.12/1, Ghallaghatta Village,  
Varthur Hobli,  
Bangalore – 560 071.

...Respondent/Defendant

Original Application praying that this Hon'ble Court be pleased to

**Grant an order of interim injunction restraining the Respondent by**

themselves or through their agents, servants, licensees, employees and



distributors and anyone claiming through them and/or all those in active concert and participation with them from continuing the issuance of threat, that the, Applicant is infringing the Respondent's trademark 'DELL BHOOMI' having registration numbers 3872315 and 3872316 and/or the Respondent is contemplating infringement action or the threats of like nature against the Applicant.

**A.Nos.1338 And 1339 of 2021:-**

M/s.Saasboomi Foundation,  
No.164 B-13 Arun Flats,  
Lake View Road West Mambalam,  
Chennai – 600 033.

...Applicant/Plaintiff in  
O.A.NO.1339 of 2021

Versus

1. Dell International Services Private Limited,  
(formerly known as 'Dell India Private Limited'),  
Divyasree Greens, Ground Floor,  
No.12/1, Ghallaghatta Village, Varthur Hobli,  
Bangalore – 560 071.

...Respondent1/Defendant1  
in O.A.NO.1339 of 2021

2. Dell Inc.  
One Dell Way, Round Rock,  
Texas 78682, U.S.A

...Proposed Respondent2/  
Proposed Defendant2 in  
O.A.NO.1339 of 2021

**A.No.1338 of 2021:-**

Application praying that this Hon'ble Court be pleased to (a) implead Dell Inc. having office at One Dell Way, Round Rock, Texas 78682, U.S.A as Defendant 2 in CS 406 of 2020.



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**A.No. 1339 of 2021:-**

Application praying that this Hon'ble Court be pleased to (a) implead Dell Inc. having office at One Dell Way, Round Rock, Texas 78682, U.S.A as Respondent 2 in O.A. 756 of 2020 in C.S. 406 of 2020.

This suit along with these applications coming on this day before this court for hearing in the presence of Mr.K.Harishankar, Advocate for the plaintiff in C.S.No.406 of 2020 and for the applicant in O.A.No.756 of 2020 and A.Nos. 1338 and 1339 of 2021 and Mr.Diwakar, Advocate for the defendant in C.S.No.406 of 2020 and for respondent in O.A.No.756 of 2020 and for the 1<sup>st</sup> respondent in A.Nos.1338 and 1339 of 2021 and upon reading the plaint filed in C.S.No.406 of 2020 and the judge's summon and the affidavit of Tarun Davuluri filed in O.A.No.756 of 2020 and A.Nos.1338 and 1339 of 2021 and this court having observed that the plaintiff seeks leave of this court to withdraw the present suit with liberty to file fresh suit against the appropriate entity which has caused the cease and deceit notice, considering the request, this court permits the plaintiff to withdraw the suit with liberty as sought for, **it is ordered as follows:-**

That the suit in C.S.No.406 of 2020 be and in hereby dismissed as withdrawn.



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2) That these O.A.No.756 of 2020 and A.Nos.1338 and 1339 of 2021 do stand closed.

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

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,  
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE  
27TH DAY OF JULY 2021.

Sd./-

ASSISTANT REGISTRAR (Comm.Cases)

//Certified to be true copy//

Dated at Madras this the      day of      2021.

COURT OFFICER(O.S.)

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16/08/2021

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C.S.NO.406 OF 2020  
AND  
O.A.NO.756 O 2020  
AND  
A.NOS.1338 AND 1339 OF 2021

ORDER

DATED: 27.07.2021

THE HON'BLE DR.JUSTICE  
G.JAYACHANDRAN

APPROVAL ON:08/10/2021

APPROVED ON:20/10/2021



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.07.2021

CORAM:

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

C.S.(Com.Div.) No.406 of 2020  
and O.A.No.756 of 2020  
and A.Nos.1338 & 1339 of 2021

M/s.Saasboomi Foundation,  
No.164 B-13 Arun Flat,  
Lake View Road West Mambalam,  
Chennai – 600 033.

.. Plaintiff

/versus/

Dell International Services Private Limited,  
Divyasree Greens, Ground Floor,  
No.12/1, Ghallaghatta Village, Varthur Hobli,  
Bangalore-560071

.. Defendant

This Civil Suit is filed under Order IV Rule 1 Original Side Rules read with Order VII Rule 1 of CPC Read With Section 142 of the Trademarks Act, 1999, R/W Section 2(i)(c) XVII R/W 1<sup>st</sup> Proviso of Section 7 of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015, prayed for (a) Declaring that the threats held out by the Defendant via legal notice dated 07.02.2020 that the plaintiff is infringing the Defendant's Trademark 'DELL BHOOMI'



proposal to take infringement action against the Plaintiff are unjustified;

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(b) Declaring that the Plaintiff's trade name 'SAASBHOO MI' does not infringe the Defendant's Trademark 'DELL BHOOMI' having registration numbers 3872315 and 3872316;

(c) Granting a permanent injunction restraining the Defendant by themselves or through their agents, servants, licensees, employees and distributors and anyone claiming through them and / or all those in active concert and participation with them from continuing the issuance of threat, that the, Plaintiff is infringing the Defendant's trademark 'DELL BHOOMI' having registration numbers 3872315 and 3872316 and / or the Defendant is contemplating infringement action or the threats of like nature against the Plaintiff;

(d) For an order of costs of the Suit in favour of the Plaintiff;

For plaintiff : Mr.K.Harishankar

For Defendant : Mr.Diwakar

### **JUDGMENT**

The suit is filed for groundless threat. After the appearance of the defendant, the plaintiff seeks leave of this Court to withdraw the present suit with liberty to file fresh suit against the appropriate entity which has caused the cease and deceit notice.



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2. Considering the request, this Court permits the plaintiff to withdraw the suit with liberty as sought for. Accordingly, the Suit is dismissed as withdrawn. Consequently, all other connected applications are closed. There shall be no order as to costs.

Sd./-G.J.J  
27.07.2021

//Certified to be true copy//

Dated at Madras this the      day of      2021.

COURT OFFICER(O.S.)

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