



C.S.(Comm.)No.742 of 2018
and
O.A.Nos.991, 992 and 990 of 2018

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 06.09.2021

Coram::

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

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and
O.A.Nos.991, 992 and 990 of 2018

M/s TTK Prestige Limited,
1st Floor, 91, Santhome High Road,
Santhome, Chennai 600 028,
represented by its Authorized Signatory,
Mr.G.Ramesh Babu.

.. Plaintiff

/versus/

1.Annas Prestige Home Shoppe
Aniyarapady, Nethalloor,
Karukachal, Kottayam,
Kerala 686 540.

2.Annas Prestige Home Shoppe
Vattamapalady, Pampady,
Kottayam,
Kerala 686 502.

..Defendants

Prayer: Civil Suit has been filed under Order IV, Rule 1 O.S. Rules read with Order VII, Rule 1 CPC, Sections 27,28,29,134 and 135 of the Trade Marks Act, 1999, Sections 51, 55 and 62 of the Copyrights Act, 1957 and Section 7 of the



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Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, No.4 of 2016, praying to grant a judgment and decree on the following terms:-

(a) a perpetual injunction restraining the defendants, by themselves, their partners/proprietors, heirs, legal representatives, successors-in-business, assigns, servants, agents, distributors, representatives or any of them from in any manner infringing the Plaintiff's registered trademarks 'PRESTIGE' by use of identical trademark 'PRESTIGE' or any other deceptively similar mark in any manner whatsoever.

(b) a perpetual injunction restraining the Defendants, by themselves, their partners/proprietors, heirs, legal representatives, successors-in-business, assigns, servants, agents, distributors, representatives or any of them from in any manner infringing the Plaintiffs registered copyright in the artistic works PRESTIGE logo by use of a deceptively similar logo bearing the artistic work PRESTIGE, which is a slavish imitation of the Plaintiff's said artistic works or in any other manner whatsoever;

(c) a perpetual injunction restraining the Defendants, by themselves, their partners/proprietors, heirs, legal representatives, successors-in-business, assigns, servants, agents, distributors, representatives or any of them from passing off and enabling others to pass off the Defendants' establishment as and for the Plaintiffs by use of identical trademark and artistic work PRESTIGE or any other deceptively similar mark or artistic work whatsoever;

(d) a preliminary decree be passed in favour of the plaintiff directing the



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Defendants to render account of profits made by use of identical trademark and artistic work 'PRESTIGE", and a final decree be passed in favour of the Plaintiff for the amount of profits thus found to have been made by the Defendants after the latter have rendered accounts.

(e) The defendant be ordered to pay to the plaintiff a sum of Rs. 1,00,000/- as damages for committing acts of infringement of trademark and copyright and passing off;

(f) for costs of the suit.

For Plaintiff :Mr.Ramkumar for
Mr.Arun C.Mohan
For Defendants :Exparte

J U D G M E N T

(The case has been heard through video conferencing)

The suit filed for perpetual injunction restraining the defendants, from infringing the plaintiff's registered trade mark 'Prestige' in any manner by using identical trade mark 'Prestige'; for perpetual injunction restraining the defendants from infringing the plaintiff's registered copyright in the artistic work/logo in any manner by the defendants by using deceptively similar logo bearing the artistic work 'Prestige'; also for perpetual injunction restraining the defendants from passing off and enabling others to pass off the defendants establishment as that of



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the plaintiff; consequentially preliminary decree in rendition of accounts and damages as prayed for.

2.The case of the plaintiff is that, they are the registered trade mark proprietor of the word 'Prestige'. The word 'Prestige' has been written upon the inverted curve in a stylish manner. The trade mark 'Prestige' and the copyright over the design is registered and has gained reputation among the general public by its quality and goodwill. While so, the plaintiff came across advertisement by the defendants for the shop in the name 'Prestige Appliances'. Having come to know about that, the plaintiff has issued cease and desist notice to the defendants informed through e-mail that they will change the trade mark as 'Anna's Prestige Home Appliances'. However, the word 'Prestige' used and adopted the plaintiff is identical and the design is deceptively similar to that of the registered copyright of the plaintiff. Hence, the present suit is filed for the aforesaid prayer.

3.In spite of receipt of the suit summon, the defendants have not entered appearance to defend the case. Hence, this Court forfeited the defendants right to file the written statement and thereafter, had proceeded to examine the witnesses.



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4. On behalf of the plaintiff, one witness by name N.Krishnamurthy, Authorized Signatory of the plaintiff company was examined as PW-1. 17 documents were marked as Ex.P1 to Ex.P17.

5. The Photocopy of the certificate of registration of trademark “Prestige” is marked as Exs.P4 to P9. The word 'Prestige' written in a stylish manner upon the inverted curve is marked as Ex.P11. To show the reputation and presence of the plaintiff's products in the market, the sales invoices and advertisements and promotional materials are marked as Ex.P12, Ex.P13, Ex.P14. The plaintiff has issued cease and desist notice dated 28.06.2018 which is marked as Ex.P15. The defendant has replied through e-mail on 09.07.2018 which is marked as Ex.P16, wherein the defendant has admitted the adoption of the name “Prestige” and given an undertaking that he will prefix the word 'Anna' before 'Prestige'. However, the grievance of the plaintiff is that, the word 'Prestige' for which they claim exclusive trade mark ownership, has been slavishly used by the defendants and the design has been used in their name board identically. For the said purpose, the learned counsel appearing for the plaintiff would show that the trade mark and copyright of the plaintiff is marked as Ex.P8 and Ex.P11 to compare with the picture of the



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defendants' infringed use of the word mark 'Prestige' and the artistic design of the word 'Prestige' upon inverted curve.

6.On perusing the documents, this Court is of the view that the registered trade mark of the plaintiff 'Prestige' and the design of its logo is adopted by the defendants dishonestly in order to exploit the reputation and goodwill of the plaintiff. In spite of giving an undertaking to add prefix the word “Anna's” to the mark 'Prestige', the defendants had knowingly using the identical mark and logo for its trade, which amounts to infringement. Since there is every possibility for the consumers to associate the defendants trade with that of the plaintiff. There is a possibility of misleading the gullible public. It is clear case of mala fide intention to exploit the goodwill and reputation of the plaintiff for advantage of the defendants. Hence, the Civil Suit is allowed as prayed for with costs. Consequently, connected applications are closed.

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Index : Yes/No.
Speaking order/Non-Speaking order
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List of Witness examined on the side of the Plaintiff:-

Mr.N.Krishnamurthy (PW1)

List of Witness examined on the side of the Defendant :-

Nil

List of the Exhibits marked on the side of the Plaintiff:-

Sl. Nos.	Exhibits	Dated	Description of documents
1.	Ex.P.1	23.09.1999	Photocopy of Power of Attorney authorising Mr. N.Krishnamurthy dated 23.09.1999.
2.	Ex.P.2	23.09.1999	Photocopy of certificate of registration of Trademark "PRESTIGE" along with copy of Trademark journal (word per se) under No.877974 dated 23.09.1999
3.	Ex.P.3	16.06.1981	photocopy of certificate of registration of Trademark "PRESTIGE" along with copy of Trademark journal (word per se) under No.877975 dated 16.06.1981.
4.	Ex.P.4	12.02.2001	Photocopy of certificate of registration of Trademark "PRESTIGE" along with copy of Trademark journal (word per se) under No.989583 dated 12.02.2001
5.	Ex.P.5	14.12.1949	Certified copy of registration of Trademark "PRESTIGE"(word per se) under No.141602 dated 14.12.1949.
6.	Ex.P.6	28.12.2015	Photocopy of registration of Trademark "PRESTIGE" along with copy of Trademark journal (word per se) under No.3140154 dated 28.12.2015
7.	Ex.P.7	28.07.2017	Photocopy of certificate of registration of Trademark "PRESTIGE" along with copy of Trademark journal (word per se) under No.3601625, dated 28.07.2017
8.	Ex.P.8	16.03.2001	Photocopy of certificate of registration of Trademark "Prestige"(logo) along with copy of trademark journal under No.997201 dated 16.03.2001
9.	Ex.P.9	21.12.1999	Photocopy of certified copy of registration of



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Sl. Nos.	Exhibits	Dated	Description of documents
			trademark “Prestige” (logo) under No.893137 dated 21.12.1999
10.	Ex.P.10		Photocopy of list of all plaintiff's registered trademarks “Prestige” in various classes.
11.	Ex.P.11		Photocopy of certificate of copyright registration under No.A-59619/2001.
12.	Ex.P.12		Photocopy of sales invoices of products sold under the trade mark “Prestige”
13.	Ex.P13		Photocopies of plaintiff's advertisements and promotional material of “Prestige” and invoices.
14.	Ex.P14		Photocopy of advertisement in the Malayalam newspaper 'Malayala Manorama'
15.	Ex.P15	28.06.2018	Office copy of cease and desist letter sent to defendants
16.	Ex.P16	09.07.2018	E-mail from defendants
17.	Ex.P17		Photocopy of the pictures of defendant's infringing use of “Prestige”



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