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C.S. No.908 of 2000

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2022

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR
RAMAMOORTHY

A.No.4391 of 2022 in C.S. No.908 of 2000

&

C.S. No.908 of 2000

ITC Limited
ITC Maurya
Sardar Patel Marg,
Diplomatic Enclave
New Delhi-110 021
Rep. by its Authorised Signatory

... Applicant/
Plaintiff

(Amended as per order dated
22.07.2021 in A.No.2209 of 2021)

vs.

Maurya Hotel (Madras) Pvt. Ltd.
Owners of Hotel Maurya International,
168-169 Arcot Road,
Vadapalani, Chennai-600 026,

... Respondent/
Defendant

PRAYER in A.No.4391 of 2022: Application filed under Order XIV Rule 8 of the Madras High Court Original Side rules Read with Order XXIII Rule 1 and Section 151 of the Code of Civil Procedure praying to permit the applicant/plaintiff to withdraw the present suit with liberty to institute a



C.S. No.908 of 2000

fresh suit against the present defendant for a fresh cause of action.

PRAYER in C.S.No.908 of 2000: Plaintiff filed under and VII Rule 1 of CPC read with Order IV Rule 1 of O.S.Rules read with Section 105 (C) & Section 106 of the Trade and Merchandise Marks Act, 1958 prays for a Judgment and Decree as against the Defendant for

(a) a permanent injunction restraining the Defendant, namely Maurya Hotel (Madras) Pvt. Ltd. by its Executive Director or any other Directors, as the case may be, it is officers, servants, agents or any other person/persons claiming through it or acting on its behalf from in any manner using the name “Hotel Maurya International” or in any manner passing off its services as that of the Plaintiff either by directly or indirectly dealing in hotel or restaurant services or any other name/mark “Maurya International” or any other name/mark as may be identical to or deceptively similar with that of the Plaintiff name “Maurya Sheraton” or from doing any other thing as may amount to passing off of the Defendant's business as the business of the Plaintiff; (aa) A permanent injunction restraining the defendant, its officers, servants, agents, or any other person/persons claiming through it or acting on its behalf from in any manner, directly or indirectly, using the name “Maurya” and/or “Maurya International” either in part or as a whole, as a trademark and/or trade name, in respect of hotel/restaurant services or any other trade name/trade mark which may be identical a deceptively similar to the plaintiff's registered trade mark under Nos.2200824 in Class 43, 1622311 in class 42, 1622312 in Class 42 & 1622313 in Class 42, thereby resulting in infringement of the plaintiff's trade mark as extracted in



C.S. No.908 of 2000

paragraph 11 above.;

(Amended as per order dated 22.07.2021 in A.No.2209 of 2021)

(b) for preliminary decree in favour of the Plaintiff directing the defendant, namely Maurya Hotel (Madras) Pvt. Ltd. to render true and correct account of the profit made by them by selling their services by passing off the same as that of the Plaintiff and follow it up with the final decree in favour of the Plaintiff for the amount so found to have been earned by the defendant; and
(c) for cost of the suit

For Plaintiff / : Mr.K.Premchandar
Applicant Mr.N.C.Vishal

For Defendant/ : Mr.A.Prasanna Venkat
Respondent M/s.APR Associates

J U D G M E N T

The plaintiff has presented this application for leave to withdraw the suit with liberty to institute a fresh suit under specified circumstances.

2. In the affidavit in support of this application, the plaintiff has stated as follows:

“6. It is submitted that though the Plaintiff has been diligently prosecuting the suit, circumstances which were not within their control



delayed the proceedings. The Plaintiff also noticed that since the year 2000 till 2022, the Defendant did not expand its business beyond one location under the name 'Maurya International'.

7. Therefore, considering the above facts and circumstances, the Plaintiff hereby wishes to withdraw the present suit without prejudice to its rights and, with the liberty to institute a fresh suit against the Defendant for a fresh cause of action, should the Defendant expand their business using the impugned trade mark or in any manner expand its business or if they use the mark Maurya in a standalone manner which would affect the rights and business interest of the Plaintiff."

3. In effect, the plaintiff has agreed not to prosecute the suit or institute fresh proceedings with regard to the use of the trade mark "Maurya International" by the defendant for the existing Hotel Maurya International, at 168-169, Arcot Road, Vadapalani, Chennai-600 026. In case the defendant applies the trade mark Maurya in relation to the hotel business or



C.S. No.908 of 2000

any similar business at any other location, the plaintiff seeks leave to institute fresh proceedings.

4. By granting leave to the extent specified in the preceding paragraph, C.S.No.908 of 2000 is dismissed as withdrawn and, consequently, A.No.4391 of 2022 is ordered. In these circumstances, there will be no order as to costs.

20.10.2022

Index : Yes / No

Internet : Yes / No

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C.S. No.908 of 2000

SENTHILKUMAR RAMAMOORTHY,J

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A.No.4391 of 2022 in C.S. No.908 of 2000
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C.S. No.908 of 2000

20.10.2022