



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 2ND DAY OF MARCH 2022

THE HON'BLE MRS. JUSTICE V. BHAVANI SUBBAROYAN

C.S. No.642 of 1996

1. Hercules Hoists Limited,
110, Minerva Industrial Estate,
Mulund (West),
Mumbai 400 080.
Represented by its Power of Attorney
2. M/s. Shree Abhay Industries,
A Partnership Firm,
Main Road, Shegaon,
District Buldhana,
Maharashtra
Represented by its Power of Attorney. ... Plaintiffs

Versus

M/s. Madras Chains & Slings,
No.11, Errabalu Chetty Street,
Madras 600 001. ... Defendant

Civil Suit praying that this Hon'ble Court be pleased to pass a
judgment and decree:

- a) for a permanent injunction restraining the Defendant, its men,
servants, agents, distributors or any other person under or through it from in
any manner manufacturing, marketing, distributing or selling chain pulley



blocks and electrical hoists by the use of the mark INDEF or any other mark or name deceptively similar thereof or otherwise infringing the First Plaintiff's aforesaid trade mark INDEF.

b) for a permanent injunction restraining the defendant, its men, servants, agents, distributors or any other person under or through it from in any manner manufacturing, marketing, distributing or selling its goods under the device of a mark of a standing man hoisting a chain or any other device deceptively similar thereof or otherwise infringing the First plaintiff's registered mark of a standing man hoisting a chain.

c) for a permanent injunction restraining the defendant, its men, servants, agents, distributors or any other person under or through it from passing off its goods by use of the registered trade mark INDEF or device of a standing man hoisting a chain any other mark or device deceptively similar to the First Plaintiff's registered trade mark Nos.219559 and 224125.

d) for an order of rendition of accounts of profits illegally made by the defendant on account of the use of the impugned Trade mark INDEF and device of a standing man hoisting a chain and a decree for the amount so found due be passed in favour of the plaintiffs.

e) directing the defendant to pay a sum of Rs.10,00,000/- or such other sum as damages as may be found due on rendition of accounts as per



f) for an order directing the defendant, its men, servants, agents, distributors from in any manner selling offering for sale or advertising of the plaintiffs' products from which parts have been removed or which have been reassembled in a form other than the form in which they were assembled by the plaintiffs, which have been in any manner tampered with and/or altered or modified by the defendant and from using the test certificates issued by the plaintiffs in respect of the goods manufactured by them on the goods so altered or modified by the defendant.

g) for a mandatory order and direction of this Court ordering and directing the defendant to issue registered notices to all parties to whom the defendant has sold chain pulley blocks and electrical hoists originally manufactured by the plaintiffs by modifying or altering the same by the defendant, to recall the same and to warn the said unwary purchasers to desist from using the unauthorizedly modified and altered chain pulley blocks and electrical hoists.

h) for costs of the suit.

This suit coming on this day before this court for hearing, and the plaintiffs and the defendant herein not appearing in person or by advocate and upon reading the plaint filed herein and **It is ordered as follows:-**



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That the suit in C.S.No. 642 of 1996 be and is hereby dismissed for non-prosecution.

(2) That there shall be no costs of this suit.

WITNESS THE HON'BLE MR. JUSTICE MUNISHWAR NATH BHANDARI, CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 2ND DAY OF MARCH, 2022.

Sd/-
ASSISTANT REGISTRAR (O.S.I)

//Certified to be true copy//

Dated at Madras this the day of 2022.

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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MS

25.03.2022

C.S. No.642 of 1996

ORDER:

DATED : 02.03.2022

THE HON'BLE MRS. JUSTICE
V. BHAVANI SUBBAROYAN

FOR APPROVAL: 11.05.2022

APPROVED ON: 12.05.2022



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.03.2022

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THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.S.[Comm.Div] No.642 of 1996

1. Hercules Hoists Limited,
No.110, Minerva Industrial Estate,
Mulund (West)
Mumbai – 400 080
rep. By its Power of Attorney

2. M/s Shree Abhay Industries
Partnership Firm,
Main Road, Shegaon,
District Buldhana, Maharashtra
rep. By its Power of Attorney

... Plaintiffs

Vs.

M/s Madras Chains & Slings
No.11, Errabalu Chetty Street,
Chennai – 600 001

...Defendant

Civil Suit filed under Order VII Rule 1 CPC r/w Order IV Rule 1
of O.S.Rules and Sections 105 and 106 of the Trade & Merchandise Marks
Act, 1958 praying for the following Judgment and Decree against the
defendants:

a) To grant a permanent injunction restraining the defendant, its

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

men, servants, agents, distributors or any other person under or through it



from in any manner manufacturing, marketing, distributing or selling chain pulley blocks and electrical hoists by the use of the mark INDEF or any other mark or name deceptively similar thereof or otherwise infringing the first plaintiff's aforesaid trade mark INDEF.

b) To grant a permanent injunction restraining the defendant, its men, servants, agents, distributors or any other person under or through it from in any manner manufacturing, marketing, distributing or selling its goods under the device of a mark of a standing man hoisting a chain or any other device deceptively similar thereof or otherwise infringing the First plaintiff's registered mark of a standing man hoisting a chain.

c) To grant a permanent injunction restraining the defendant, its men, servants, agents, distributors or any other person under or through it from passing off its goods by use of the registered trade mark INDEF or device of a standing man hoisting a chain any other mark or device deceptively similar to the First Plaintiff's registered trade mark nos.29559 and 224125.

d) for an order of rendition of accounts of profits illegally made

by the defendant on account of the use of the impugned Trade mark INDEF



and device of a standing man hoisting a chain and a decree for the amount so found due be passed in favour of the plaintiffs.

e) directing the defendant to pay a sum of Rs.10,00,000/- or such other sum as damages as may be found due on rendition of accounts as per prayer (d) supra

f) for an order directing the defendant, its men, servants, agents, distributors from in any manner selling offering for sale or advertising of the plaintiffs' products from which parts have been removed or which have been reassembled in a form other than the form in which they were assembled by the plaintiffs, which have been in any manner tampered with and / or altered or modified by the defendant and from using the test certificates issued by the plaintiffs in respect of the goods manufactured by them on the goods so altered or modified by the defendant.

g) for a mandatory order and direction of this Court ordering and directing the defendant to issue registered notices to all parties to whom the defendant has sold chain pulley blocks and electrical hoists originally manufactured by the plaintiffs by modifying or altering the same by the defendant, to recall the same and to warn the said unwary purchasers to



desist from using the unauthorizedly modified and altered chain pulley blocks and electrical hoists.

h) for costs of the suit;

For Plaintiffs : No appearance

For Defendant : No appearance

J U D G M E N T

On an earlier occasion, viz., 28.02.2022, the present suit was listed under the caption 'to determine the jurisdiction' Thereafter, the Jurisdiction was determined on the same day and since there was no representation on either side, the matter was directed to be posted on 02.03.2022 under the caption 'for dismissal'. Today, viz., 02.03.2022, when the suit is taken up for hearing, there is no representation on either side, hence, the present suit is dismissed as non-prosecution. No costs.

Sd./-V.B.S.J
02.03.2022

//Certified to be true copy//

Dated at Madras this the 02nd day of March 2022.

COURT OFFICER(O.S.)

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