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1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 11th DAY OF FEBRUARY 2022

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.S. No.744 of 1999

M/s.Gotewala R.G.Bros.

(*) Proprietorship Concern,

Represented by Mr.Surya Kumar Agarwal,

Proprietor,

148, Mint Street,

Chennai - 600 079.

(*) The name of Plaintiff in Cause title is
Amended as per order dated 31.10.2007
in appl No.7041/2007 by substituting
as above i n the place of partnership firm
by Roopchand Agarwal, Partner

... Plaintiff

-Vs-

M/s.Gose & CO.,

123, Corporation Line,

Chennai - 600 012.

... Defendant

Civil Suit praying that this Hon'ble Court be pleased to a judgment
and decree against the defendants granting:-

(i) Permanent injunction restraining the defendants, their men, agents,
servants or any one claiming through them from in any manner infringing
the Plaintiff's trademark and trademark label 'GOTEWALA' as found in

M.O.1 by using the offending Trade Mark and Trade Mark label '

GOSEWALA' as found in M.O2 or any other mark label or device which is



identical or deceptively similar to or a colourable imitation of the Plaintiff's trademark and Trademark label 'GOTEWALA'.

B) Permanent injunction restraining the defendants, their men, agents, servants or any one claiming through them from in any manner passing of their goods as that of the plaintiff's by using the offending trade mark and trade mark label 'GOSEWALA' as and for the plaintiff's products with the well established Trade Mark and Trade Mark Label 'GOTEWALA' or any other mark label or device which is identical or deceptively similar to or a colourable imitation of the Plaintiff's trademark and trademark label 'GOTEWALA' either manufacturing or offering for sale or in any manner advertising the same.

c) Permanent injunction restraining the defendants, their men, agents, servants or any one claiming through them from in any manner infringing the Plaintiff's Copy Right over the Trade Mark and Trade Mark label 'GOTEWALA' by using the offending Trade Mark label 'GOSEWALA' or any other trade mark or trade mark label which is identical or similar to the Plaintiff's trade mark and trade mark label 'GOTEWALA'.

d) Directing the Defendants to surrender to the Plaintiffs the entire stock of unused offending Trade Mark label 'GOSEWALA' together with blocks and dies for destruction.

e) Directing the defendants to render a true and faithful account of the



profits earned by them through the sale of their products bearing the offending trade mark and trade mark label 'GOSEWALA' and directing payment of such profits to the Plaintiffs.

f) Directing the defendants to pay the costs of the suit to the Plaintiffs.

This suit coming on this day before this court for hearing in the presence of Mr.A.Prabhakara Reddy, Advocate for the plaintiff herein and Mr.Inamdar Ameenur Rahman, Advocate for the defendant herein and upon reading the plaint filed herein and the memo dated 10.02.2022 filed herein and this Court doth recording the same, to that effect,

it is ordered as follows:-

That the suit in C.S.No.744 of 1999 be and is hereby dismissed as withdrawn.

2. That the plaintiff herein, shall be at liberty to file a fresh suit, if he intends to file.

WITNESS THE HON'BLE MR.JUSTICE MUNISHWAR NATH BHANDARI ACTING CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 11th DAY OF FEBRUARY 2022.

Sd./-

ASSISTANT REGISTRAR (O.S-I)

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)



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06.04.2022

4

C.S. No.744 of 1999

ORDER

DATED : 11.02.2022

THE HON'BLE MRS. JUSTICE
V.BHAVANI SUBBAROYAN

FOR APPROVAL:11.04.2022

APPROVED ON: 12.04.2022



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5

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2022

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THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.S.No.744 of 1999

M/s.Gotewala R.G.Bros.
Proprietorship Concern,
Represented by Mr.Surya Kumar Agarwal,
Proprietor,
148, Mint Street,
Chennai - 600 079.

[The proprietor Mr.Surya Kumar Agarwal is amended
as per the order dated 31.10.2007 in A.No.7041/2007]

... Plaintiff

Vs.

M/s.Gose & CO.,
123, Corporation Line,
Chennai - 600 012.

... Defendant

Civil Suit is filed under Order IV Rule 1 of O.S. Rules read with
Order VII Rule 1 CPC & Section 105 and 106 of the Trade and
Merchandise Marks Act 1958 & Section 55 and 62 of the Copy Right Act
1957, seeking permanent injunction restraining the defendant from
infringing the plaintiff's copyright, trademark and passing off the



defendant's product and directing the defendant to surrender the entire unused stocks and to pay the profits earned by them through the sale of their products to the plaintiff.

For Plaintiff : Mr.A.Prabhakara Reddy

For Defendant : M/s.Inamdar Ameenur Rahman

ORDER

The learned counsel for the plaintiff seeks permission of this Court to withdraw this Civil Suit. He has also filed a memo dated 10.02.2022 to the effect that the suit was filed in the year 1999 seeking an injunction restraining the defendant from infringing the plaintiff's copyright, trademark and passing off the defendant's product. This Court had allowed the application for interim injunction and the defendant has stopped using the offending trademark / trade label. In view of the considerable period of time that has passed since the order of this Court in the interlocutory stage and the fact that the defendant has ceased to exist at this point of time, the plaintiff seeks leave of this Court to withdraw the present suit with a liberty to initiate fresh suit in case the plaintiff comes across a fresh case of violation by the defendants.



2. The aforesaid memo dated 10.02.2022 is recorded by this Court. In view of the permission sought for by the learned counsel for the plaintiff, this Civil Suit is dismissed as withdrawn with liberty to the plaintiff to file a fresh suit, if he intends to file.

Sd/-V.B.S.J
11.02.2022

//Certified to be true copy//
Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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