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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 23RD DAY OF MARCH 2022

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

CS.No.767 of 2008

M/s.TVS Sundaram Iyengar and Sons Limited
Rep.by its Vice President Mr.Girish Paliath
MyTVS Services
No.7B, West Veli Street,
Madurai - 625 001

...Plaintiff

vs

Mr.K.R.Palaneappan
Proprietor
M/s.KRSA Auto Care,
14, Giriappa Road,
G.N.Chetty Road, T.Nagar,
Chennai- 600 017

....Defendant

Civil Suit praying that this Hon'ble Court be pleased to pass a judgment and decree against the defendant as follows:

a)Grant a permanent injunction restraining the defendant, his men, agents, servants or persons acting on his behalf from infringing the plaintiff's registered mark "TVS" in any manner including by the use of the "MyTVS" logo/mark;

b)Grant a permanent injunction restraining the defendant, his men, agents, servants or person acting on his behalf from using the "myTVS"



logo/mark and thereby pass off his goods/services as that of the plaintiff;

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c)Direct the defendant to pay the plaintiff a sum of Rs.10,00,000/- as damages for improper use of the plaintiff's mark/logo after termination and further account for the profits of his business after 31.05.2007 and pay the same to the plaintiff, along with interest @ 18% per annum from date of plaint till realisation;

d)Directing the defendant to pay costs of the suit.

This civil suit coming on this day before this Court for hearing in the presence of Mr.T.K.Bhaskar, Advocate for the plaintiff herein and the defendant herein having not appeared in person or by advocate and upon reading the plaint filed herein and the memo dated 22.03.2022 having been filed by the learned counsel for the plaintiff herein and he is seeking permission of this Court to withdraw this suit and this Court doth recording the said memo and

It is ordered as follows:-

That the suit in C.S.No.767 of 2008 be and is hereby dismissed as withdrawn.

2. That the plaintiff herein shall be at liberty to file a fresh suit against

the defendant in the event the defendant continues to infringe the plaintiff's mark in any manner whatsoever in the future.



WEB COPY 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 23RD 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.



WEB COPY 06.04.2022

C.S.No.767 of 2008

ORDER

DATED : 23.03.2022

THE HON'BLE MRS. JUSTICE
V.BHAVANI SUBBAROYAN

FOR APPROVAL: 07.04.2022

APPROVED ON : 07.04.2022



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2022

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THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.S.No.767 of 2008

M/s.TVS Sundram Iyengar and Sons Limited
Rep by its Vice President Mr.Girish Paliath
My TVS Services
No.7B, West Veli Street,
Madurai - 625 001.

... Plaintiff

Vs.

Mr.K.R.Palaneappan
Proprietor
M/s.KRSA Auto Care
14, Giriappa Road
G.N.Chetty Road, T.Nagar
Chennai - 600 017.

... Defendant

Plaint filed under Sections 134 & 135 of the Indian Trademark Act 1999 read with Order IV Rule 1 of O.S. Rules and Order VII Rule 1 of CPC, praying for a judgment and decree as follows :

a) Grant a permanent injunction restraining the defendant, his men, agents, servants or persons acting on his behalf from infringing the plaintiff's registered mark "TVS" in any manner including by the use of the



b) Grant a permanent injunction restraining the defendant, his men, agents, servants, or persons, acting on his behalf from using the “MyTVS” logo/mark and thereby pass off his goods / services as that of the plaintiff.

c) Direct the defendant to pay the plaintiff a sum of Rs.10,00,000/- as damages for improper use of the plaintiff's mark/logo after termination and further account for the profits of his business after 31.05.2007 and pay the same to the plaintiff along with interest @ 18% per annum from the date of plaint till realisation.

d) Directing the defendant to pay costs of the suit.

For Plaintiff : Mr.T.K.Bhaskar

For Defendant : Mr.Kalyan Kailasam

JUDGMENT

The learned counsel appearing for the plaintiff seeks permission of this Court to withdraw this suit. He has also filed a memo dated 22.03.2022 to the following effect :

“1. The plaintiff had instituted the instant suit in 2008 under Sections 134 & 135 of the Trademarks Act, 1999 inter alia for grant of a permanent injunction restraining the defendant, his men, agents, servants or persons acting on his behalf from infringing the plaintiff's registered mark 'TVS' in any manner including by the use of the “My TVS” logo/mark, a



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permanent injunction restraining the defendant, his men, agents, servants or persons acting on his behalf from using the “My TVS” logo/mark and thereby passing off his goods/services as that of the plaintiff and for payment of damages.

2. The plaintiff had also filed interim applications i.e. O.A.No.890 and 891 of 2008 seeking for an interim injunction restraining the defendant from infringing the plaintiff's registered mark 'TVS' in any manner including by the use of the “My TVS” logo/mark and for an interim injunction restraining the defendant from using the “My TVS” logo/mark and thereby passing off the plaintiff's goods and services as his own pending disposal of the suit. This Hon'ble Court was pleased to grant an interim injunction vide order dated 19.08.2008 restraining the defendant from using the name of the plaintiff for a period of four weeks.

3. The defendant has since the interim order discontinued the usage of the plaintiff's mark. Therefore, the plaintiff desires to withdraw the present suit and has given us the instructions to withdraw the suit with liberty to file fresh proceedings in case the defendant continues to infringe the plaintiff's mark in any manner in the future.”

2. The aforesaid memo dated 22.03.2022 is recorded by this Court. In



the plaintiff, this Civil Suit is dismissed as withdrawn with liberty to the plaintiff to file a fresh suit against the defendant in the event the defendant continues to infringe the plaintiff's mark. No costs.

Sd./-V.B.S.J.
23.03.2022

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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