



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 10TH DAY OF FEBRUARY 2022

THE HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

C.S.(Comm.Div.).No.43 of 2021

1. Aqua Pump Industries
rep. by its Managing Partner
Mr. Ramaswamy Kumaravelu
Thudiyalur Post, Coimbatore 641 034
Having their branch office at
New No.10, Old No.26
Errabalu Chetty Street, Parrys Corner
Chennai - 600 001.

2. Aqua Sub Engineering
rep. by its Managing Partner
Mr. Ramaswamy Kumaravelu
Thudiyalur Post, Coimbatore 641 034
Having their branch office at
New No.10, Old No.26
Errabalu Chetty Street, Parrys Corner
Chennai - 600 001.

... Plaintiffs

versus

Aquatec Engineers
A Partnership firm having
N. Nithyanandham
S. Suganthi
Partners
Having Office at



556/1, Avinashi Road,
Peelamedu, Coimbatore - 641 004
And also at
#7/3A, Kennedy Street,
Karupparayanpalayam,
Coimbatore - 641 062.

... Defendant

Civil Suit praying that this Hon'ble Court be pleased to grant
Judgment and Decree for:-

(a) granting a permanent injunction, restraining the Defendant, by
itself, their servants, agents, distributors, or anyone claiming through them
from manufacturing, selling, advertising and offering for sale using the
marks '  / **AQUATEC / AQUATEC ENGINEERS'** or any other
mark identical or deceptively similar to the Plaintiffs' registered Trade
Marks  , **AQUATEX**,  , **AQUASUB**,
AQUASUB ENGINEERING, AQUAPUMP & AQUAPUMP
INDUSTRIES as such mark with prefix or suffix in Pumps, Electric Motors
or any other pumps or motors and its spares or in any other goods
manufactured and sold by the Defendant or its trading style or in any media
and use the same in invoices, letter heads and visiting cards or by using any
other trade mark which is in any way visually, phonetically and deceptively



similar to the Plaintiffs' registered Trade Marks



,

AQUATEX,



,AQUASUB, AQUASUB ENGINEERING,

AQUAPUMP & AQUAPUMP INDUSTRIES., AQUA GROUP

INDUSTRIES or in any manner infringing the Plaintiffs Registered Trade

Mark Nos. 762990, 1285017, 1285018, 1409010, 1961986, 1961987,

1983236 and other **AQUATEX** (word) and (device) registrations, **AQUA**

SUB ENGINEERING and **AQUA PUMP INDUSTRIES** and **AQUA**

GROUP registrations as set out in paragraph 10 of the plaint.

(b) granting a permanent injunction, restraining the Defendant, by itself, their servants, agents, distributors, or anyone claiming through them from manufacturing, selling, advertising and offering for sale using the

marks '



/AQUATEC / AQUATEC ENGINEERS' or any

other mark identical or deceptively similar to the Plaintiffs Trade Marks



, AQUATEX,



, AQUASUB,

AQUASUB ENGINEERING, AQUAPUMP & AQUAPUMP

INDUSTRIES, as such mark with prefix or suffix in Pumps, Electric

Motors or any other pumps and motors and its spares or in any other goods

manufactured and sold by the Defendant and its trading style or in any

media and use the same in invoices, letter heads and visiting cards or by



using any other trade mark which is in any way visually, phonetically and deceptively similar to the Plaintiffs Trade Marks



, **AQUATEX**,



, **AQUASUB**,

AQUASUB ENGINEERING, AQUAPUMP & AQUAPUMP INDUSTRIES or in any manner pass off the Plaintiffs' goods.

(c) directing the defendant to surrender to the Plaintiffs all the goods, packing materials, cartons, advertisement materials and hoardings, letter-heads, visiting cards, office stationery and all other materials

containing/bearing the Trade Mark '



/ **AQUATEC** /

AQUATEC ENGINEERS' or other deceptively similar to the Plaintiffs'

registered Trademarks



, **AQUATEX**,



,

AQUASUB, AQUASUB ENGINEERING, AQUAPUMP & AQUAPUMP INDUSTRIES.

(d) directing the defendant to render an account of profits made by them by the use of the impugned trademarks

,



/ **AQUATEC** / **AQUATEC ENGINEERS'** on the

goods, Pumps and Motors and decree the suit for the profits found to have

been made by the Defendant, after the Defendant have rendered accounts.



(e) directing the Defendant to pay to the Plaintiffs the costs of the suit.

This Civil Suit coming on this day before this Court for hearing in the presence of Ms. T.Hemalatha for M/s. C.Daniel, Advocates for the plaintiffs herein and the defendant herein not appeared in person or by advocate and the said defendant herein having been set ex-parte vide an order dated 16.12.2021 and upon reading the plaint filed herein and the other exhibits therein referred to and upon perusing the evidence adduced therein and the order dated 12.11.2021 made in C.S.No.43 of 2021, **it is ordered and decreed as follows:-**

That Aquatec Engineers, A partnership firm having N.Nithyanandham, S.Suganthi, partners the defendant herein, by itself, their servants, agents, distributors, or anyone claiming through them be and is hereby restrained by an order of permanent injunction from

(a) manufacturing, selling, advertising and offering for sale using the marks '  / **AQUATEC / AQUATEC ENGINEERS'** or any other mark identical or deceptively similar to the Plaintiffs' registered Trade





AQUASUB ENGINEERING, AQUAPUMP & AQUAPUMP

INDUSTRIES as such mark with prefix or suffix in Pumps, Electric Motors or any other pumps or motors and its spares or in any other goods manufactured and sold by the Defendant or its trading style or in any media and use the same in invoices, letter heads and visiting cards or by using any other trade mark which is in any way visually, phonetically and deceptively similar to the Plaintiffs' registered Trade Marks ,

AQUATEX, , **AQUASUB, AQUASUB ENGINEERING, AQUAPUMP & AQUAPUMP INDUSTRIES., AQUA GROUP INDUSTRIES** or in any manner infringing the Plaintiffs Registered Trade Mark Nos. 762990, 1285017, 1285018, 1409010, 1961986, 1961987, 1983236 and other **AQUATEX** (word) and (device) registrations, **AQUA SUB ENGINEERING** and **AQUA PUMP INDUSTRIES** and **AQUA GROUP** registrations as set out in paragraph 10 of the plaint and

(b) manufacturing, selling, advertising and offering for sale using the marks '  /**AQUATEC / AQUATEC ENGINEERS'** or any other mark identical or deceptively similar to the Plaintiffs Trade Marks

, **AQUATEX,** , **AQUASUB, AQUASUB ENGINEERING, AQUAPUMP & AQUAPUMP INDUSTRIES,** as such

mark with prefix or suffix in Pumps, Electric Motors or any other pumps and motors and its spares or in any other goods manufactured and sold by



the Defendant and its trading style or in any media and use the same in invoices, letter heads and visiting cards or by using any other trade mark which is in any way visually, phonetically and deceptively similar to the Plaintiffs Trade Marks  , **AQUATEX**,  , **AQUASUB, AQUASUB ENGINEERING, AQUAPUMP & AQUAPUMP INDUSTRIES** or in any manner pass off the Plaintiffs' goods.

2) That the defendant herein be and is hereby directed to surrender to the Plaintiffs all the goods, packing materials, cartons, advertisement materials and hoardings, letter-heads, visiting cards, office stationery and all other materials containing/bearing the Trade Mark

'  /**AQUATEC / AQUATEC ENGINEERS'** or other deceptively similar to the Plaintiffs' registered Trademarks  , **AQUATEX**,  , **AQUASUB, AQUASUB ENGINEERING, AQUAPUMP & AQUAPUMP INDUSTRIES.**

3) That the defendant herein be and is hereby directed to render an account of profits made by them by the use of the impugned trademarks

'  /**AQUATEC / AQUATEC ENGINEERS'** on the goods, Pumps and Motors and decree the suit for the profits found to have



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13.04.2022

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C.S.(Comm.Div.).No.43 of 2021

DECREE

DATED : 10.02.2022

THE HON'BLE MR. JUSTICE
SENTHILKUMAR RAMAMOORTHY

FOR APPROVAL : 21.04.2022

APPROVED ON : 22.04.2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2022

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR
RAMAMOORTHY**

C.S.(Comm.Div) No.43 of 2021

1.Aqua Pump Industries
rep. by its Managing Partner
Mr.Ramaswamy Kumaravelu
Thudiyalur Post, Coimbatore 641 034
Having their branch office at
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2.Aqua Sub Engineering
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... Plaintiffs

vs.

Aquatec Engineers
A Partnetship firm having
N.Nithyanandham
S.Suganthi
Partners
Having Office at
556/1, Avinashi Road,
Peelamedu, Coimbatore 641 004
and also at



#7/3A, Kennedy Street,
Karupparayanpalayam,
Coimbatore - 641 062.

... Defendant

PRAYER: Plaintiff filed under and Order IV Rule 1 of the Original Side Rules and Order VII Rule 1 of the CPC read with Sections 27, 134 and 135 of the Trademarks Act 1999, prayed for a Judgment and Decree:-

(a) granting a permanent injunction, restraining the Defendant, by itself, their servants, agents, distributors, or anyone claiming through them from manufacturing, selling, advertising and offering for sale using the marks **AQUATEC / AQUATEC ENGINEERS'** or any other mark identical or deceptively similar to the plaintiffs' registered Trademarks **AQUA GROUP, AQUATEX, AQUASUB, AQUASUB ENGINEERING, AQUAPUMP & AQUAPUMP INDUSTRIES** as such mark with prefix or suffix in Pumps, Electric Motors or any other pumps or motors and its spares or in any other goods manufactured and sold by the Defendant or its trading style or in any media and use the same in invoices, letter heads and visiting cards or by using any other trade mark which is in any way visually, phonetically and deceptively similar to the plaintiffs' registered Trademarks **AQUA GROUP, AQUATEX, AQUASUB, AQUASUB ENGINEERING, AQUAPUMP & AQUAPUMP INDUSTRIES., AQUA GROUP INDUSTRIES** or in any manner infringing the plaintiffs Registered



Trademark Nos. 762990, 1285017, 1285018, 1409010, 1961986, 1961987, 1983236 and other **AQUATEX** (word) and (device) registrations, **AQUA SUB ENGINEERING** and **AQUA PUMP INDUSTRIES** and **AQUA GROUP** registrations as set out in paragraph 10 of the plaint.

(b) granting permanent injunction, restraining the Defendant, by itself, their servants, agents, distributors, or anyone claiming through them from manufacturing, selling, advertising and offering for sale using the marks **AQUATEC / AQUATEC ENGINEERS'** or any other mark identical or deceptively similar to the plaintiffs Trademarks **AQUA GROUP, AQUATEX, AQUASUB, AQUASUB ENGINEERING, AQUAPUMP & AQUAPUMP INDUSTRIES**, as such mark with prefix or suffix in Pumps, Electric Motors or any other pumps and motors and its spares or in any other goods manufactured and sold by the Defendant and its trading style or in any media and use the same in invoices, letter heads and visiting cards or by using any other trade mark which is in any way visually, phonetically and deceptively similar to the plaintiffs Trademarks **AQUA GROUP, AQUATEX, AQUASUB, AQUASUB ENGINEERING, AQUAPUMP & AQUAPUMP INDUSTRIES** or in any manner pass off the plaintiffs' goods.

(c) directing the defendant to surrender to the plaintiffs all the

goods, packing materials, cartons, advertisement materials and hoardings,



letter-heads, visiting cards, office stationery and all other materials containing / bearing the Trademark **AQUATEC / AQUATEC ENGINEERS'** or other deceptively similar to the plaintiffs' registered Trademarks **AQUA GROUP, AQUATEX, AQUASUB, AQUASUB ENGINEERING, AQUAPUMP & AQUAPUMP INDUSTRIES.**

(d) directing the defendant to render an account of profits made by them by the use of the impugned trademarks **AQUATEC / AQUATEC ENGINEERS'** on the goods, Pumps and Motors and decree the suit for the profits found to have been made by the Defendant, after the Defendant have rendered accounts.

(e) directing the defendant to pay to the plaintiffs the costs of the suit.

For Plaintiff : Ms.T.Hemalatha for

M/s.C.Daniel

J U D G M E N T

This suit is filed seeking permanent injunction restraining the defendant from infringing the plaintiffs' trademarks **AQUATEX ENGINEERS'** by using the infringing marks or any other trade mark which is in any way visually or phonetically deceptively similar and from passing



off the defendant's goods as that of the plaintiffs. Relief by way of surrendering the infringing material and rendition of accounts is also prayed for.

2. In spite of service of suit summons, the defendant failed to enter appearance in this suit. Therefore, by order dated 16.12.2021, the defendant was set ex parte.

3. In order to establish its claims, the plaintiffs exhibited 11 documents, which were marked as Exs.P1 to P11.

4. The plaintiffs contend that the Trademark is registered under Class 7 which pertains to pumps and bore wells. The certificates are on record as Ex.P1. By adverting to Ex.P7, which is a representation of the plaintiffs' Trademark, the plaintiffs submit that the defendant's applications for registration of Trademarks in the same Class establish beyond doubt that the plaintiffs' Trademarks have been infringed. For such purpose, Exs.P8 to P10 are relied upon. On perusal thereof, it is evident that the defendant has applied for registration under the same Class. On comparison of the registered Trademark of the plaintiffs with the proposed mark of the

defendant, it is evident that there is ocular and phonetic similarity between



the marks. The plaintiffs have also placed before the Court evidence of the expenditure incurred towards building the brand and goodwill. As such, the plaintiffs are entitled to succeed.

5. Accordingly, this suit is decreed by granting the reliefs set out in paragraph 24(a) to (e) thereof. The defendant is directed to pay costs assessed in a sum of Rs.2,00,000/- (Rupees Two Lakhs only) to the plaintiffs.

SD/-S.K.R.J.
10.02.2022

Plaintiff side witness:

-NIL-

Plaintiff side documents:

Nos.	Exhibits
Ex.P1	Photo copy of the Sample Registration Certificates pertaining to the AQUA Group and other AQUA formative trademarks registered in favour of the plaintiffs. (For Page Nos.1, 2, 13 to 28, 30, 31, 33, 34 Original Produced, compared and it is undertaken by the plaintiff that it can be produced as and when required. Rest of the pages are printout taken from the Trademark Registry for which Certificate Under Section 65B of Indian Evidence Act is filed.)
Ex.P2	Photocopy of the Sample Sale Invoices dated 1998 - 2020.
Ex.P3	Photocopy of the Sample Advertisement dated 1999 - 2019.
Ex.P4	Original Chartered Accountant Certificate.
Ex.P5	Photocopy of the Awards obtained by Plaintiffs dated 1998 -



Nos.	Exhibits
	2016. (Except Page No.1 for all other pages Original is produced, compared and it is undertaken by the Plaintiffs that it can be produced as and when required.)
Ex.P6	Photocopy of the Plaintiffs Firm Registration Certificate dated 1977 - 1982.
Ex.P7	Printout of the Plaintiffs' Label. Printout taken out from the plaintiffs' website for which certificate under Section 65B of Indian Evidence Act is filed.
Ex.P8	Printout of the status of the Trademark under Application No.1002580 dated 10.04.2001 in Class 7.
Ex.P9	Printout of the Status of the Trademark under Application No.1286484 dated 27.05.2004 in Class 7.
Ex.P10	Printout of the Status of the Trademark under Application No.4561214 dated 08.07.2020 in Class 7.
Ex.P8 to Ex.P10 are the Printout taken from the Trademark Registry for which Certificate Under Section 65B of Indian Evidence Act.	
Ex.P11	Affidavit Under Section 65B of the Indian Evidence Act.

Defendant side witness and documents:

-NIL-

//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.