



*C.S.(Comm. Div.)No.77 of 2021
and A.Nos.3228, 3229 & 3230 of 2021
in C.S.(Comm. Div.)No.77 of 2021*

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: **21.11.2022**

CORAM

THE HON'BLE Mr.JUSTICE **M.SUNDAR**

C.S.(Comm. Div.)No.77 of 2021

and

A.Nos.3228, 3229 & 3230 of 2021

in

C.S.(Comm. Div.)No.77 of 2021

Cavinkare Pvt. Limited-Trends Division,
12 Poonthamalee Road,
Ekkatuthangal, Chennai-600 032.

... Plaintiff

Vs.

1. P & P Associates,
a Partnership firm represented by
its Partner S.Pradeepraj,
No.133, Near HDFC Bank,
Amma Mandapam Main Road,
Srirangam, Tiruchirappalli-626 006.
2. S.Pradeepraj
Partner P & P Associates,
No.133, Near HDFC Bank,
Amma Mandapam Main Road,
Srirangam, Tiruchirappalli-626 006.
3. R.Prithiviraj
Partner P & P Associates,
No.133, Near HDFC Bank,
Amma Mandapam Main Road,
Srirangam, Tiruchirappalli-626 006.

... Defendants



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This Civil Suit is preferred under Order VII, Rule 1 of CPC and Order IV, Rule 1 of O.S. Rules read with Sections 27, 28, 29, 134 and 135 of the Trademarks Act, 1999 and Sections 51, 55, 62 of the Copyrights Act, 1957, praying

(a) A permanent injunction restraining the defendants, by themselves, its partners, men, servants, agents, distributors, stockiest, representatives or any one claiming through or under them from in any manner infringing the plaintiff's registered trademark GREEN TRENDS under No.2966630; 3681377, 4167924 in Class 44 by using the identical trademark GREEN TRENDS or any other trademark deceptively similar to the plaintiff's registered trademarks or in any other manner whatsoever;

(b) A permanent injunction restraining the defendants, by itself, its partners men, servants, agents, distributors, stockiest, representatives or any one claiming through or under them from in any manner committing acts of copyright infringement by using, in the course of trade, artistic works which are a substantial reproduction of Plaintiffs' copyright in colour scheme, get up and layout for their products under the artistic work GREEN TRENDS or in any other manner whatsoever;

(c) a permanent injunction restraining the Defendants, by itself, its partners, men, servants, agents, distributors, stockiest, representatives or any one claiming through or under them from in any manner passing off and/or enabling others to pass off the Defendants' services under the trademark GREEN TRENDS as and for the plaintiffs' services by using, offering for



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services, selling, or carrying on business, displaying, printing, advertising their services with a trademark GREEN TEAMS or any other trademark which identical or similar to the plaintiff's trade mark GREEN TRENDS or in any other manner whatsoever;

(d) The defendant be ordered to surrender to plaintiff for destruction of all products, labels, cartons, dyes, blocks, moulds, screen prints, packing materials and other materials bearing the trade mark GREEN TRENDS or any mark deceptively similar to plaintiffs' registered trademark GREEN TRENDS;

(e) A preliminary decree be passed in favour of the plaintiff directing the defendants to render account of profits made by use of trademark GREEN TRENDS and a final decree be passed in favour of the Plaintiffs for the amount of profits thus found to have been made by the defendant after the latter have rendered accounts;

(f) for costs of the suit; and

(g) pass such further or other relief as this Hon'ble Court deem fit and necessary in the circumstances of the case and thereby render justice.

For Plaintiff : Mr.R.Sathish Kumar

For Defendants : Mr.T.Shanmugam

J U D G M E N T

This Judgement/common order will now dispose of the captioned main suit and captioned three applications.



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2. To be noted, captioned matter is listed under the cause list caption 'FOR REPORTING SETTLEMENT'. In this judgment/order parties shall be referred to by their respective ranks in the main suit for the sake of convenience and clarity.

3. Mr.R.Sathish Kumar, learned counsel on record for the sole plaintiff and Mr.T.Shanmugam, learned counsel on record for all the three defendants are before this Commercial Division. Both learned counsel submit that the plaintiff and defendants have arrived at a settlement and they have reduced the terms of settlement to writing vide a 'Memorandum of Compromise entered between the plaintiff and defendants dated 12.11.2022' [hereinafter 'said MOC' for the sake of convenience and clarity].

4. A scanned reproduction of said MOC together with one Annexure notice dated 04.06.2022 is as follows:



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IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Ordinary Original Civil Jurisdiction)
C.S.(Comm.Div) No. 77/2021

Cavinkare Pvt Limited - Trends Division,
12, Poonthamalee Road,
Ekkatuthangal, Chennai - 600032, Plaintiff

Vs

1. P & P Associates
a Partnership firm represented by
its Partner S. Pradeepraj,
No. 133, Near HDFC Bank,
Amma Mandapam Main Road,
Srirangam, Trichy - 626006.

2. S. Pradeepraj,
Partner P & P Associates
No. 133, Near HDFC Bank,
Amma mandapam Main Road,
Srirangam, Trichy - 626006.

3. R. Prithiviraj,
Partner P & P Associates
No. 133, Near HDFC Bank,
Amma mandapam Main Road,
Srirangam, Trichy - 626006.

For P & P ASSOCIATES
S. Pradeepraj
Partner

For Cavinkare Private Limited
N. Gc
Authorized Signatory

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**MEMORANDUM OF COMPROMISE ENTERED BETWEEN THE
PLAINTIFF AND DEFENDANT**

The Plaintiff and the Defendant jointly submit as follows:

1. The Plaintiff filed the above suit against the Defendant praying for judgment or decree on the following terms:

A. A permanent injunction restraining the Defendants, by themselves, its partners, men, servants, agents, distributors, stockiest, representatives or any one claiming through or under them from in any manner infringing the plaintiff's registered trademark GREEN TRENDS under No. 2966630; 3681377; 4167924 and 4167925 in Class 44 by using the identical trademark GREEN TRENDS or any other trademark deceptively similar to the plaintiff's registered trademarks or in any other manner whatsoever;

B. a permanent injunction restraining the Defendant, by itself, its partners, men, servants, agents, distributors, stockiest, representatives or any one claiming through or under them from in any manner committing acts of copyright infringement by using, in the course of trade, artistic works which are a substantial reproduction of Plaintiff's copyright in colour scheme, get up and layout for their products under the artistic work GREEN TRENDS or in any other manner whatsoever.

C. a permanent injunction restraining the Defendants, by itself, its partners, men, servants, agents, distributors, stockiest, representatives or any one claiming through or under them from in any manner passing off and / or

N. D.
Authorized Signatory

For P & P ASSOCIATE
S. S. S.
Partner



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enabling others to pass off the Defendant's services under the trademark GREEN TRENDS as and for the plaintiff's services by using, offering for services, selling, or carrying on business, displaying, putting, advertising their services with a trademark GREEN TRENDS or any other trademark which is identical or similar to the plaintiff's trademark GREEN TRENDS or in any other manner whatsoever;

D. the Defendant be ordered to surrender to Plaintiff's for destruction of all products, labels, cartons, dyes, blimps, moulds, screen prints, packing materials and other materials bearing the trademark GREEN TRENDS or any mark deceptively similar to plaintiff's registered trademark GREEN TRENDS.

E. a preliminary decree be passed in favour of the Plaintiffs directing the Defendant to render account of profits made by use of trademark GREEN TRENDS and a final decree be passed in favour of the Plaintiffs for the amount of profits thus found to have been made by the Defendant after the latter have rendered accounts;

F. the costs of the suit; and

G. pass such further or other reliefs as this Hon'ble Court may deem fit and necessary in the circumstances of the case and thereby render justice.

7. The Defendant approached the Plaintiff for amicable settlement of the dispute and the plaintiff then agreed to settle the dispute on the following terms and conditions reduced here under.

GREEN TRENDS ASSOCIATES

PLAINTIFF

[Signature]

DEFENDANT

PLAINTIFF

[Signature]

[Signature]



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3. That the Defendant undertakes that it will not use or otherwise deal with any services or products bearing the plaintiff's trademark and artistic work or any other trademark identical or deceptively similar or any artistic work which is substantially similar thereto the plaintiff's trademarks and copyright at point of any point in future whatsoever and has agreed to change their name to GT SRIRANGAM which is depicted as hereunder in all their name boards, furnitures, interiors and any material, advertisements, promotion, equipments, apparels etc used by the defendant.

4. The Plaintiff and Defendant pray that the above suit may be decreed in terms of Prayers (a), (b), (c), and (d) of Paragraph 26 of the Plaint and the plaintiff is willing to give up the reliefs under prayers 26 (e) and 26 (f) of the suit in view of this Memorandum of compromise.

5. The Plaintiff and the defendant also jointly submit that the defendant is still continuing to carry on business, with their new name GT SRIRANGAM as in paragraph 3 above, at the same premises as they did under the franchisee agreement dated 7th June 2015 and that there are disputes raised by the landlord of the said premises against both the plaintiff and the defendants regarding the payment of rent and other incidental issues.

6. The Defendants undertake that they shall resolve the said issues with the landlord in terms of rents payable and any other claim made by the said landlord post the termination of the aforesaid franchisee agreement i.e., from 7th June 2020 by efflux of time and that they also undertake unconditionally that the plaintiff shall not be liable in any manner whatsoever either financially or for any other liability consequent to the said holding over as a tenant.



Authorized Signatory

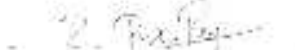
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Plaintiff & Associate:











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in the said premises. The defendants also withdraw all or any allegations against the plaintiff herein made in their reply notice dated 04.06.2022 to the landlord. The said notice of the defendants stating that they have paid all dues to the landlord up to April 2022 is attached herewith as Annexure A to this Memorandum of Compromise.

7. That the defendant states that in the event of breach of any clause of this Memo of compromise and undertaking to this Hon'ble Court, they are liable for punitive damages to the plaintiff in addition to any other legal right available to the plaintiff.

In the above circumstances, it is prayed that this Hon'ble Court may be pleased to pass a judgment and decree in terms of the memo of compromise and pass such further or other order which may deem fit and proper to the facts and circumstances of the case and thus render justice.

Dated at Chennai on this the 12th day of November 2022. For P & P ASSOCIATES
S. S. S. S.
For DavinKare Private Limited
S. S. S. S.
Authorized Signatory
PLAINTIFF DEFENDANTS
COUNSEL FOR THE PLAINTIFF COUNSEL FOR THE DEFENDANTS



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P. VIJAYA AKILAN
Advocate & Notary Public

Flat No. 401
Jeeva Hills Classy Apartments
Jeeva Gandhi Street
K.K. Nagar
Tiruchirappalli-620 021,
Tamil Nadu
Mobile : 98445 91711
70102 95932

101
Mr. L. Rengarajan,
Advocate
Having office at Old No. 42 A, New No. 4,
Rengarathapuram, Puthur,
Tiruchirappalli - 17.

Your legal notice dated 4/5/2022 and 1/6/2022 issued on behalf of (1) Ramasamy, S/o. Chockalingam and 7 others and issued to my client M/s. P & P Associates, Represented by its Managing Partner - Pradeeparaj, S/o. Sankaran, having office at Door No. 18, 1st Floor, Amaramandapam Main Road, Srirangam Taluk, Tiruchirappalli District has been placed in my hands with instructions to reply as follows:-

At the outset my client denies all the allegations mentioned in your legal notice as false and frivolous.

My client denies all the overments in your legal notice from Para 1 to Para 13 of your legal notice dated 4/5/2022 totally and your client is put to strict proof to prove the same.

My client wishes to set out the true facts of the case.

My client Pradeeparaj, was looking for a business opportunity and learned through a friend that No.1 stated in your legal notice namely M/s. Trends In Vogue Pvt. Ltd., having its office at No.12, Cenotaph Road, Chennai - 18 was looking for a franchisee for its branch at Srirangam and my client opted to join as the Franchisee and my client paid a sum of Rs. 44,00,000/- (Rupees Forty-four Lakhs only) including the Rs. 3,00,000/- advance amount for the building situated at No. 18, 1st Floor, Amaramandapam Main Road, Srirangam Taluk, Tiruchy District in the year 2015 to the said M/s. Trends in Vogue Pvt. Ltd.,



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four clients namely Ramasamy S/o. Chockalingam and others also met my client Mrudupaty and the terms and conditions were explained to my client and my client was asked to pay a sum of Rs. 55,000/- per month and my client used to pay the rent monthly to your clients account. Initially it was agreed by your clients that they would provide a Toilet facility and a Pantry facility at your clients premises but they failed to provide the facilities to my client.

The said M/s. Trends In Vogue Pvt. Ltd., initially made an agreement with your client stating that they are going to start business on their own but due to some reasons known to the said M/s. Trends In Vogue Pvt. Ltd., they gave franchisee to my client. After getting the franchisee my client asked your clients to change the agreement to my client's name for a period of 9 years and your clients told my client that they would give it in the course but they never made any agreement with my client.

During the course of the tenancy my client had been repeatedly asking your clients to provide toilet facility and pantry facility to my client as agreed upon by your clients but they kept on bidding for time and they did not full fill their promises. Hence there was a displeasure on the part of my client towards your clients. Meanwhile my client had been paying the rents regularly to your clients account as instructed by your clients and during the Covid 19 pandemic my client had been paying the rents through cash to your client Ramasamy who insisted for cash payment due to the pandemic period and my client had been paying the rents regularly till the 1st of May 2022.

Meanwhile the said M/s. Trends In Vogue Pvt. Ltd., Chennai in the year 2020 has issued a legal notice to my client stating that the franchisee has been terminated without any valid reason and a litigation is pending on the file of the Honorable High Court of Madras Principal Seat in Commercial Suit No. 77/2021 and the case is posted on 8/6/2021 for reporting Compromise.

To the shock and surprise of my client, my client has received your legal notice on behalf of your clients on 4/5/2022 and 1/6/2022 stating that my client M. A. Associates are the current tenant and there is no existing agreement between your clients and my client and the said M/s. Trends In Vogue Pvt. Ltd., pay a sum of Rs. 20,00,000/- to your client for the period November 2020 to April 2022 and they have to provide the vacant possession of the building within a period of one month.



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My client has been paying the rents regularly till the 1st of May 2022 and after receiving the rent for the month of April 2022 in cash by your client and also my S/o. Chockalingam, your clients with some ulterior motive has issued legal notices to my client too suppressing the facts that they have received the rents till April 2022 for the reasons best known to your clients.

My client does not owe any amounts to your clients as alleged in your legal notices dated 4/5/2022 and 1/6/2022. My client had lastly paid a sum of Rs. 63,000/- for the month April 2022 on the 1st of May 2022 by way of cash and suppressing all the facts your clients have stated that my client and the said M/s. Trends in Vogue Pvt. Ltd. owe a sum of Rs. 10,08,000/- to your clients falsely.

My client states that your clients and the M/s. Trends in Vogue Pvt. Ltd., Chennai have colluded together and they are trying to oust my client from your clients premises on the pretext of default of years of rent, when the truth prevails that my client has been paying the rents regularly even till April 2022. The said M/s. Trends in Vogue Pvt. Ltd. is trying to take the franchisee from my client and trying to put up someone else in your clients premises without settling the amounts to my client.

Hence this is to inform your client that my client is ready to abide by the terms and conditions already accepted by your clients that they will make a rental agreement with my client for a period of 5 years in the year 2015 and he would pay up the rents regularly as he is doing right now till April 2022.

My client cannot be cowed down by your threat of legal action against him. Despite of this reply legal notice, if your clients choose to do so, then your clients can rest assure that my client would resist such legal action by your clients effectively by all legal means and claim with damages from your clients.


E. VIJAYA ARILAN, B.A., LL.B.
ADVOCATE & NOTARY PUBLIC
Office No. 1, Chokkikulam Street, Erode-6
Office No. 2, Chokkikulam Street, Erode-6
FELUCHI RADHAKRISHNAN, LL.B., B.A., LL.B.
Advocate & Notary Public
Office No. 1, Chokkikulam Street, Erode-6
Office No. 2, Chokkikulam Street, Erode-6



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5. In paragraph 3 of said MOC, there is a reference to depiction of the mark that is to be used by the defendants i.e., changed mark. Though paragraph 3 says it is set out 'hereunder', it is not there in said MOC either as part of said MOC or as a Annexure. Both learned counsel submit on instructions that the depiction of the mark as agreed i.e., changed mark to be used by the defendants is as follows:



6. Aforementioned submissions made on instructions is recorded.

7. Be that as it may, both learned counsel request for dispensing with the presence of the parties for recording the said MOC *inter alia* on the following grounds:

(a) The individual, who verified pleadings/signed the plaint on behalf of plaintiff, has signed said MOC and likewise, 2nd



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defendant who has signed vakalatnama for himself as well as
defendants 1 and 3, has signed the said MOC;

(b) Both parties have signed said MOC in the presence of each
other;

(c) There is personal inconvenience for the individuals
concerned to be present before this Commercial Division today.

8. Considering the nature of the matter, the trajectory the case has
taken and the nature of said MOC in the case on hand, request for dispensing
with the presence of the parties is acceded to.

9. Captioned main suit is disposed of in terms of said MOC vide a
decree in terms of said MOC which shall form part of the judgment/decree.
Consequently, captioned 3 applications are disposed of as closed. There
shall be no order as to costs.

21.11.2022

Index : Yes/No

Speaking/Non-speaking order

kmi



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M.SUNDAR, J.

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