



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.12.2022

CORAM:

THE HONOURABLE MR. JUSTICE C.SARAVANAN

C.S.(Comm Div).No.169 of 2022

and

O.A.No.516 and 517 of 2022

M/s.Vasanta Bhavan Hotels India Private Limited,
Represented by its Director,
Mr.Anand Krishnan.

... Plaintiff

/versus/

Sri Vasantha Bhavan,
OMR, VadakkuMadaVeethi,
Thiruporur,
Tamil Nadu – 603 110.

... Defendant

This Civil Suit is filed under Order VII Rule 1 of the Original Side Rules, read with Order IV Rule 1 of High Court O.S. Rules and Section 134 and Section 135 of the Trade Marks Act, 1999, prayed for a Judgment and Decree against the defendant:-

- A) Granting a permanent injunction restraining the Defendant, their men, servants, agents or anyone claiming through or under them from in any manner **Infringing** the Plaintiff Trade Mark and Trading style “**VASANTA BHAVAN**” by using the offending Trade Mark and Trading style “**SRI VASANTHA BHAVAN**” or any other mark or marks which are similar or in any way deceptively similar to or a colourable imitation of the Plaintiffs Trade Mark “**VASANTA BHAVAN**”.



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- B) Granting a permanent injunction restraining the Defendant, their men, servants, agents or anyone claiming through or under them from in any manner **Passing-off** the Plaintiff Trade Mark and Trading Style “**VASANTA BHAVAN**” by using the offending Trade Mark and Trading Style “**SRI VASANTHA BHAVAN**” or any other mark or marks which are similar or in any way deceptively similar to or a colourable imitation of the Plaintiffs Trade Mark “**VASANTHA BHAVAN**”.
- C) Directing the Defendant to render a true and faithful account of the profits earned by them through the sale of food products bearing the offending trade mark “**SRI VASANTHA BHAVAN**” and directing payment of such profits to the Plaintiff by way of damages for Infringement committed by the Defendant.
- D) Directing the defendant to surrender to Plaintiff the entire stock of unused offending goods with Trade Mark “**SRI VASANTHA BHAVAN**” with name boards, labels, wrappers, boxes, covers, bags, packets, cartons, bills, advertisements, materials, reports, envelopes, brochures, printing blocks, etc., bearing the offending Trademark for destruction.
- E) Directing to the Defendant to pay the Plaintiff the costs of the suit.

For Plaintiff

: Mr.Vijayan Subramanian

JUDGMENT

The learned counsel for the plaintiff states that an order of interim injunction was passed by this Court in favour of the plaintiff on 26.08.2022, and notice was also served on the defendant. It is submitted that pursuant to above, the defendant has closed down the business. It is submitted that the defendant has also not chosen to appear



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before this Court. However, the defendant has not removed the offending Board till date.

2. The learned counsel for the plaintiff therefore submits that the plaintiff may be permitted to withdraw the suit with a leave to initiate a fresh proceedings, in case, the defendant continues to use the trade name at a later point of time. The learned counsel for the plaintiff has also made an endorsement to that effect in the court bundle.

3. Recording the above submissions of the learned counsel for the plaintiff, the suit is dismissed with the above liberty. No costs. Consequently, connected miscellaneous applications are closed.

12.12.2022

rgm

Internet : Yes / No

Index : Yes / No



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C.SARAVANAN, J.

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