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C.S.(Comm.Div).No.10 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.S.(Comm.Div).No.10 of 2023

and

OA.Nos.36 & 37 of 2023

M/s.Aachi Educational and Research Foundation
No.1926, 34th Street, I Block
Ishwarya Colony, Anna Nagar West
Chennai 600 040
Represented by its Trustee
Mr.A.D.Padmasingh Isaac

2.Mr.A.D.Padmasingh Isaac
Proprietor
Aachi Spices and Foods
No.4, New No.181/1, 6th Avenue
Thangam Colony, Anna Nagar
Chennai 600 040.

3.M/s.Aachi Masala Foods Private Limited
No.1926, 34th Street, I Block
Ishwarya Colony, Anna Nagar West
Chennai 600 040
Represented by its Director
Mr.Ashwin Pandian

... Plaintiffs

Vs.



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1.Mr.M.Achi Kandar (Deceased)

Proprietor

Aachi Hospitals

No.199/196, Kandar Nagar

High School Road

Paramathi Velur

Namakkal 638 182.

2.Padampayee

3.Muthukrishnan

...Defendants

(defendants 2 & 3 are brought on record as legal heirs of the deceased sole defendant as per order dated 28.02.2023 in Appl.No.1137 of 2023)

Prayer: This Civil Suit is filed under Order IV Rule 1 of O.S.Rules and Order VII, Rule 1 of the Code of Civil Procedure r/w Sections 27 (2), 29, 134 and 135 of the Trade Marks Act, 1999, praying to pass the judgment and decree:-

a) granting a permanent injunction, restraining the defendant, by himself, his servants, agents, distributors, or anyone claiming through him from manufacturing, selling, advertising and offering for sale using the name 'AACHI HOSPITAL' or any other similar Trade Mark name or similar sounding expression in any media and use same in name board, invoices, letter heads and visiting cards or by using any other trade mark/name which is any way visually or deceptively or phonetically similar to the 1st and 2nd plaintiffs trade mark/name AACHI and use the same in pouches, packets or use the mark in invoices, letters heads and visiting cards or part of their chit



fund name any other trade, literature or broacher by using any other trade mark which is in any way visually, or phonetically similar to the plaintiffs' registered Trade Mark Nos.838786, 3370973, 4509813 & 5183113 or in any manner infringing the 1st and 2nd plaintiff's registered Trade Mark referred herein;

b) granting a permanent injunction restraining the defendant by itself, its agents or servants or anyone claiming through or under him any business marketing, selling advertising using in trade literature, menu cards, invoices, name boards, website, internet advertisements the mark/name 'AACHI HOSPITAL' in relation to the Hospital or with respect to or any other service or on any other business the impugned trademark/name which is in any manner deceptively or phonetically confusingly similar to the plaintiffs Trade Mark/name AACHI or in any other manner pass off their business or goods as and for that of the plaintiffs.

c) directing the defendant to surrender to the plaintiffs all the packing material, cartons, advertisement materials and hoardings, letter-heads, visiting cards, office stationery and all other materials containing/bearing the name AACHI HOSPITAL' or other identical trade mark used in the pouches and packets bearing the word AACHI.



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d) directing the defendant to render an account of profits made by them by the use of the impugned trademark 'AACHI HOSPITAL' on the service referred and decree the suit for the profits found to have been made by the defendant, after defendant has rendered accounts;

e) directing the defendant to pay to the plaintiffs the costs to the suit, and

For Plaintiffs : M/s.Gladys Daniel

For Defendants : Mr.Ramesh Ganapathy
for M/s. Mission Legal

ORDER

The learned counsel for the plaintiff and the defendants submitted that the dispute in the suit has been settled in Mediation. The Mediation Agreement dated 28.03.2023 is filed before this Court and the same is recorded.



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2. The suit is disposed of in terms of the Mediation Agreement signed by the plaintiff and the defendants dated 28.03.2023. The Mediation Agreement shall form part of the decree. No costs. Consequently, connected Miscellaneous Petitions are closed.

20.04.2023

Index : Yes / No
Internet : Yes / No
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S.SOUNTHAR, J.

dna

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