



WEB COPY



A.No.825 of 2023

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in

C.S.No.58 of 2015

C.SARAVANAN, J.

The applicants have filed this application to allow this application under Order XIII-A of C.P.C as amended for the purpose of the Commercial Courts Act, 2015 for passing a Summary Judgment by allowing the present suit.

2. The sole defendant has been served with suit summons on 13.03.2015. Despite the same, the sole defendant has not filed a Written Statement, though entered appearance through a Counsel.

3. The allegations in the plaint is that the respondent/defendant has resorted to manufacture and sell spurious goods using the same Trade Mark of the applicants/plaintiffs viz., "KSB" as that of the applicants/plaintiffs by trading the same long with fake certificates of Manufacture and Test issued under Boiler Mountings and Fittings (Duplicate Quality Control Certificates) (Regulation 269) under the Indian Boilers Act, 1923 in Form III-C.



4. The relevant averments in the application reads as under:-

"9. The Applicants/Plaintiffs filed the present suit aggrieved by the acts of infringement of the Applicants'/Plaintiffs' registered trademark by the respondent herein and by the acts of passing off the goods of the respondent as the goods of the Applicants/Plaintiffs.

10. The sole respondent has not entered appearance to defend the suit and the Hon'ble Judge was pleased to pass an order of ex-parte interim injunction dated 29.09.2022 against the respondent pending the disposal of the suit. The Applicants/Plaintiffs is the registered proprietor of the mark KSB, KSB & Logo under several registrations as provided in the plaint.

11. It is pertinent to note that the plaint with the list of documents filed establishes the case of the Applicants/Plaintiffs and the plaint documents do not indicate any disputed questions of facts. It is further submitted that the statutory period of 120 days to file the written statement has lapsed and the respondent has not entered appearance to defend the suit.

12. The respondent knowing that they are offenders performing illegal activities has chosen not to defend their case as it cannot be denied that they have resorted to infringement and passing off. The Applicants/Plaintiffs has already expended huge sums of money on prosecuting the present case since the year 2015, and considering that the



WEB COPY



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respondent/defendant has chosen to remain silent, the present application ought to be allowed to protect the interest of the Applicants/Plaintiffs.

It is therefore most respectfully prayed that this Hon'ble Court may be pleased to allow the present application by passing a summary judgment allowing the present suit and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thereby render justice."

5. I have perused the plaint and the documents filed in support of the plaint. The respondent/defendant earlier appeared through a Counsel, but failed to file a Written Statement and has thus forfeited its rights to file a Written Statement in terms of Order V Rule 1 and Order VIII Rule 1 of C.P.C. There is no discernible material available. A reading of the plaint and the documents filed in support of the plaint indicate that the applicants/plaintiffs have made out a case for Summary Judgment. The documents of the respondent/defendant reveal that the respondent/defendant has violated the rights of the applicants/plaintiffs.

C.SARAVANAN, J.



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6. The Court is thus inclined to allow this application filed under Order XIII-A of C.P.C as amended for the purpose of the Commercial Courts Act, 2015.

7. Accordingly, this application stands allowed and the Civil Suit is decreed as prayed for the reliefs (a), (b) and (d) alone.

13.02.2023
(1/2)

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