



C.S.No.1121 of 2008

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2023

CORAM:

THE HONOURABLE MS. JUSTICE **P.T.ASHA**

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M/s.Aloha India (A Division of K K Academy (P) Ltd)
a Company incorporated under the Companies Act 1956,
represented herein by Authorized Signatory Ms.Girija,
'Deccan Heritage',
No.521, First Floor,
Anna Salai, Nandanam,
Chennai.

... Plaintiff

Vs

- 1.J.V.Vasanth Laxmi
W/o, Mr.R.Jagadeesan,
Bharat Castle, Ground Floor,
Bharat Nagar, Ist Main Road,
Madippakkam, Chennai-600 091.
- 2.Muthukumar
No.203,SMR Empire,
Street #9, Road #5, West Marredpally,
Secunderabad.
- 3.Padmavathi,W/o Muthukumar,
No.203,SMR Empire,
Street #9, Road #5, West Marredpally,
Secunderabad.



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4.M/s.Alama International
Regional Office at,
#10-2-8, Road No.16,
West Marredpally,
Secunderabad.

Representative Office at,
New No.11, Bharathi Street,
Dhandeswaram Nagar, Velachery,
Chennai-600 042.

... Defendants

Prayer:- This Civil Suit is filed under Order IV Rule 1 of O.S.Rules r/w Order VII Rule 1 of the Code of Civil Procedure Code,1908, r/w Section 134 of the Trade Marks Act, 1999 and Section 62(2) of the Copyright Act, 1957 praying to pass a judgement and decree:

(A)Granting a permanent injunction restraining the defendants, their men, servants, agents or anyone claiming through or under them from in any manner infringing the plaintiffs Trade mark “ALOHA” by using the offending Trade Mark “ALAMA” or any other mark or marks which are identical or similar or in any way deceptively similar to or a colourable imitation of the plaintiffs Trade Mark “ALOHA” by offering mental arithmetic and abacus system of education, books, study material compact disks or in any manner advertising the same;

(B)Granting a permanent injunction restraining the defendants, their men, servants, agents or anyone claiming through or under them from



in any manner infringing the plaintiffs Copyright over the artistic work of the Trade Mark “ALOHA”, its course materials, books, study materials, etc by using the offending Trade Mark “ALAMA” or any other mark or marks which are identical or similar or in any way deceptively similar to or a colourable imitation of the plaintiffs Trade Mark “ALOHA” by offering mental arithmetic and abacus system of education, books, study material compact disks or in any manner advertising the same;

(C) Granting a permanent injunction restraining the defendants, their men, servants, agents or anyone claiming through or under them from in any manner passing off their services or course programs or books and materials as that of the plaintiff's by using the offending Trade Mark “ALAMA” as and for the celebrated course program of the plaintiff's Trade Mark “ALOHA” or by using any other Trade Mark which is similar or deceptively similar to that of the plaintiff's said Trademark.

(D) Directing the defendants to render a true and faithful account of the profits earned by them through the business under the offending trade mark “ALAMA” and directing payment of such profits to the plaintiff by way of damages for passing off committed by the defendants.

(E) Directing the defendants to surrender to the plaintiff the entire stock of books, register of accounts, abacus, blocks, Course materials etc with Trade Mark “ALAMA” together with cartons, printed matters,



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brochures, sign boards, name boards etc., bearing the offending Trademark for destruction;

(F) Directing the defendants to pay the plaintiff the costs of the suit;

For Petitioner : No appearance.

For Defendant-1 : M/s.P.V.Rajeswari

For Defendants 2 to 4 : No appearance.

JUDGMENT

The plaintiff who had entrusted the brief to the earlier counsel had not been responding to the letters of the counsel. On the earlier occasion, i.e. on 08.09.2016, applications in the suit were dismissed for non-prosecution.

2. On 02.08.2023, the learned counsel for the plaintiff had appeared and stated that she had received no response from the plaintiff for her letters and that she had reported "no instructions". This Court had directed the Registry to issue notice to the plaintiff at the last known address, the same has also been issued. The notice was returned unserved.



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3. Since the notice had been returned unserved and the learned counsel for the plaintiff had reported "no instructions", this Court on 04.09.2023 had directed the Registry to print the name of the plaintiff in the cause list. Though the name of the plaintiff has been printed in the cause list today, the plaintiff has not appeared before this Court either in person or through counsel. The earlier conduct of the party and their not having followed up the case with their counsel clearly gives out that they are not interested in prosecuting the case. Hence, this suit is dismissed for default. No costs.

08.09.2023

Internet: Yes

Index: Yes/No

Speaking/Non speaking order

ssa/srn



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P.T.ASHA, J.

srn

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