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C.S.No.804 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2023

CORAM

THE HONOURABLE **MR.JUSTICE ABDUL QUDDHOSE**

C.S.No.804 of 2015
(Comm. Suits)

M/s.Mohamed Aboobacker Chank Lungi Limited,
No.190, Thambu Chetty Street,
Chennai – 600 001.

Rep. By its Managing Director
Mr.K.M.Umar Farook.

.. Plaintiff

-VS-

1.M/s.Indianpasand Inc.
No.19/26A, Ground Floor,
2nd A Cross, SNT Street,
Kathriguppe Main Road,
Srinivasan Nagar, Near Sathyanarayana Temple,
Bangalore - 560085

2.Flipkart Internet Pvt. Ltd.
carrying on its online retail business through www.flipkar.com,
Vaishnavi Summit,
Ground Floor, 7th Main,
80 Feet Road, 3rd Block,
Koramangala Industrial Layout,
Bangalore - 560034.



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3.Jasper Infotech Pvt. Ltd.,

carrying on its online retail business through www.snapdeal.com,

Building No.246, 1st Floor,

Okhla Industrial Estate, Phase III,

New Delhi – 110020.

4.Clues Network Pvt Ltd.,

Carrying on its online retail business through www.shopclues.com,

Building No.112, Sector-44,

Gurgaon - 122001, Haryana.

.. Defendants

PRAYER: Civil Suit is filed under order IV Rule 1 O.S. Rules, read with Order VII Rule 1 of CPC read with Section 27, 28, 29, 134 and 135 of the Trademarks Act, 1999 and Sections 51, 55 and 62 of the Copyright Act, 1957, praying for:-

(a) For Permanent Injunction restraining the defendants by themselves, their agents, servants, assigns, representatives or any one claiming through them from in any manner (infringing the Plaintiff's Registered trademarks SANGU, the device of Conch and the SANGU label as described in the Schedule A hereunder by using the identical mark SANGU and/or the offending deceptively similar trademark SHIPPY label, or any other mark, label or device which is identical or deceptively similar to or a colourable imitation of the plaintiff's trademarks SANGU, the device of Conch and the SANGU label;

(b). For Permanent Injunction restraining the defendants by themselves, their agents, servants, assigns, representatives or any one



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claiming through them from in any manner (infringing the copyright in the artistic features associated with the colour scheme, get-up, lay-out and arrangement of features contained in the plaintiff's artistic work SANGU label as fully described in the Schedule B hereunder by using the offending SHIPPY label or any other mark, label or device, which is a colourable imitation of the Plaintiff's copyright in artistic work SANGU label either by manufacturing or selling or offering for sale or in any way advertising the same or in any other manner whatsoever;

(c). For Permanent Injunction restraining the defendants by themselves, their agents, servants, assigns, representatives or any one claiming through them from in any manner passing off or enabling others to pass off the defendants' products as and for that of the Plaintiff's products by using the identical trademark SANGU or through the offending SHIPPY label or any other trademark which is identical or deceptively similar to the Plaintiff's trademark SANGU, the device of Conch and the SANGU label, either by manufacturing or selling or offering for sale or in any way advertising the same or in any other manner whatsoever;

(d). Ordering the defendants to pay to the Plaintiff a sum of Rs.50,00,000/- as liquidated damages for committing acts of infringement against Plaintiff's registered trademark and copyright and also for acts of their passing off;

(e). Directing the Defendants to surrender to the Plaintiff entire goods with the labels, packaging materials, stock of unused labels together with the blocks and dyes, name boards, sign- boards, stationery materials etc.,



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containing the impugned mark SANGU and SHIPPY label, for destruction;

(f). Directing the Defendants to render true and faithful accounts of the profits earned by them using the offending trademark SANGU and SHIPPY label and pay such profits to the Plaintiff as damages;

(g). Directing the Defendants to pay to the Plaintiff the cost of the suit; and

(h). Grant such further or other orders as this Hon'ble Court may deem fit and proper under the circumstances of the case.

For Plaintiff : Mr.Prasanna Venkat
for M/s.APR Associates

JUDGMENT

Since the products of the first defendant, which is the subject matter of the dispute, is not being sold today, the learned counsel for the plaintiff seeks permission of this court to withdraw the suit as against the first defendant with liberty to file a suit on the same cause of action, in case the first defendant infringes the plaintiff's trademark and copyright in the near future. To that effect, he has also made an endorsement in the Court bundle.



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2. This Court is of the view that no prejudice would be caused if the said liberty is granted. After recording the endorsement made by the learned counsel for the plaintiff, this Court dismisses the suit against the first defendant as withdrawn. However, liberty is granted to the plaintiff as prayed for.

05.10.2023

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ABDUL QUDDHOSE, J.

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