



C.S.No.460 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 14.07.2023

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.S.No. 460 of 2013

WEG S.A.

A.V. Pref. Waldemar Grubba,

3300 Centro, 89256 – 900

Jaragua Do Sul – SC,

Brazil

... plaintiff

Vs.

ReGen Powertech Private Limited (RPPL)

New No. 28/11,

College Road, Chennai 600006

... defendant

Prayer: Complaint filed under Order VI Rule 1 of the Original Side Rules read with Order VII Rule 1 of the CPC

a) For an order for permanent injunction restraining the Defendant, its agents, servants or any other person so authorized by the Defendant, from using, advertising, directly or indirectly



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providing any goods or Services including machines and machine tools under the mark 'WEC', any other trade mark which may contain the word 'WEC' or any other deceptively similar trade mark, and from using the trade mark 'WEC', whether in full or in part or as part of its trade name with or without any prefix or suffix or any other activity amounting to infringement of the trade mark 'WEG' of the Plaintiff;

b) For an order for permanent injunction restraining the Defendant, its agents, servants or any other person so authorized by the Defendant, from using, advertising, directly or indirectly providing any goods or services including machines and machines tools under the mark WEC, any other trade mark which may contain the word 'WEC' or any other deceptively similar trade mark, and from using the trade mark 'WEC', whether in full or in part or as part of its trade name with or without any prefix or suffix or any other activity amounting to passing off the goods and services of the Defendant under the trade mark WEG as and for the goods of the Plaintiff;

c) For an order for rendition of accounts of profits illegally earned by the Defendant by Selling and providing goods under the



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trademark WEC (whether with or without any prefix or suffix) and the decree may be passed in favor of the Plaintiff for the amount so found due against the Defendant.

d) For an order of damages to the tune of Rs.20,00,000 /- (Rupees twenty Lakh) against the Defendant and in favor of the Plaintiff on account of illegal use of the impugned mark;

e) For an order for delivery up of all the products including Labels, signs, prints, publications, literatures, stationary, advertisements and any other infringing material bearing the WEC mark / name or any other trademark or trade name which is identical with or similar to the Plaintiffs trade mark or trade name, together with all the blocks etc. used for the said purpose, unto the Plaintiff or to the authorized representative of the Plaintiff for the purposes of destruction/erasure;

f) For an order for costs in the proceedings;

g) Any other or further orders as this Hon'ble Court may deem fit proper in the facts and circumstances of the present case be also passed in favor of the Plaintiff and against the Defendant.



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For Plaintiffs : No Appearance.

For Defendants : No Appearance.

ORDER

The records would show that the power agent of the plaintiff who resides in Brazil had given evidence as P.W.1 on 28.10.2014 and 11 documents have been marked on his side. Thereafter, P.W.1 has not submitted himself for cross examination. The matter had been adjourned on several occasions for the presence of P.W.1. However, the witness had not appeared before the Court.

2. It is also noticed that an application had been filed to eschew P.W.1's evidence. However, the said petition has not been numbered. Meanwhile, the learned counsel appearing for the defendant has filed a memo stating that they had returned the brief to the defendant on 24.01.2022 and request that their name be deleted



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from the cause list.

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3. When the matter had come up yesterday, the learned counsel for the plaintiff would also inform that they had given change of vakalat. However, a memo to that effect was not filed and today a memo has been filed, wherein it is stated that they are not appearing for the plaintiff. However, there is no documents to show that the learned counsel has given a change of vakalat. Therefore, this Court is of the view that the learned counsel for the plaintiff continues to be on record.

4. Taking into account the fact that the witness has not submitted himself for cross examination from January 2020 upto 28.06.2023, the evidence adduced by P.W.1 is eschewed and the suit is dismissed for default. No costs.

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Internet : Yes/No

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