



C.S.(Comm. Div.) No.71 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.08.2023

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

C.S.(Comm. Div.) No.71 of 2023

AND

O.A.Nos.253 & 254 of 2023

AND

A.No.1821 of 2023

Amrutanjan Health Care Ltd.
No.103 (Old No.42-45), Luz Church Road
Mylapore
Chennai 600 004
Rep. by its Company Secretary
M.Srinivasan

.. Plaintiff

Vs.

Mehta Unani Pharmacy & Co. Pvt. Ltd.
Amritmanthan House
Jansatta Press Road
Sadar, Rajkot 360 001
Gujarat

.. Defendant

Plaint filed under Order IV Rule 1 of O.S. Rules and Order VII Rule 1 of CPC read with Sections 27, 134 and 135 of the Trademarks Act, 1999 & Proviso 1 to Section 7 of the Commercial Courts, Commercial Division and



Commercial Appellate Division of High Courts Act, 2015, praying to pass a judgment and decree on the following terms :

- (a) permanent injunction restraining the defendant, themselves, their partners, successors-in-business, servants, agents, distributors, dealers, stockists, wholesalers, retailers, shop keepers, representatives, assigns and all other persons claiming through them from manufacturing, selling and distributing, advertising pain relief commodities using the AMRITMANTHAN trademark, other than the AMRITMANTHAN trademark mentioned in the consent terms of 1986, which is deceptively similar to the plaintiff's AMRUTANJAN trademark amounting to infringement of the plaintiff's registered trademark AMRUTANJAN in any manner whatsoever;
- (b) permanent injunction restraining the defendant by themselves, their directors, legal representatives, successors-in-business, assigns, servants, agents, transporters, distributors, printers, stockists, wholesalers, dealers, retailers, advertisers or any one claiming through or under them from committing acts of passing off and enabling others to pass off by manufacturing, distributing, marketing, selling, offering for sale, advertising or in any other manner dealing in pain relief commodities or any other product bearing the deceptively similar mark



AMRITMANTHAN, other than the AMRITMANTHAN trademark mentioned in the consent terms of 1986, which is confusingly similar to plaintiff's mark AMRUTANJAN or in any other manner whatsoever which would be considered to be similar to the plaintiff's mark AMRUTANJAN;

(c) the defendant be ordered to surrender to the plaintiff for destruction all goods advertisement materials, packing materials, cartons, wrappers, labels in respect of pain relief products and other allied/cognate goods containing the offending mark AMRITMANTHAN or any other mark/label similar to plaintiff's trademark AMRUTANJAN;

(d) preliminary decree be passed in favour of the plaintiff directing the defendant to render true and faithful account of profits earned by them by use of offending label for pain relief products or other allied and cognate goods and a final decree be passed in favour of the plaintiff for the amount of profits thus found to have been made by the defendant after the latter have rendered accounts; and

(e) for entire costs of the suit.

For Plaintiff : Mr.Arun C.Mohan

For Defendant : Mr.R.Sathish Kumar



J U D G M E N T

The director of the defendant company Mr.Gautam Mehta has filed an affidavit, in which, he has submitted as follows :

“3. I state that the present suit is against the use of the AMRITMANTHAN PAIN BALM label which is filed as document No.11 of the plaint and is found at pages 226 and 227 of the documents filed by the plaintiff which is the IMPUGNED LABEL.

4. I state that defendant submits that they are willing to GIVE UP THE USE of the IMPUGNED LABEL as above at any point of time in the future. I state that the same may be recorded as an undertaking to this Hon'ble Court.”

In the light of the undertaking by the defendant, the suit is decreed in terms of prayers (a) and (b). The plaintiff is not pressing the relief in prayers (c) and (d).

2. Therefore, the suit is decreed, in respect of prayers (a) and (b), in terms of the affidavit dated 07.08.2023. As regards the prayer (c), though the plaintiff has given up the relief, the defendant would state that they are ready to remove the labels containing the name 'AMRITMANTHAN' from the market, within a month's time.



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In fine, the suit is partly decreed without costs. Connected

applications are closed.

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