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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2023

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

(T)OP(CR)/1/2023
(ORA/1/2021/CR/SZ)
and C.S.No.294 of 2018
and A.Nos.534, 535 of 2021

(T)OP(CR)/1/2023:

N.Ranga Rao & Sons Private Ltd.,
PB No.52, Vani Vilas Road,
Mysore 570 004.

... Petitioner

-VS-

1.Mahendra T.Thakkar,
trading as Prakash Trading Co.,
Pillaiyar Kulam, Inamkarisalkulam P.O.,
Srivilliputhur 626 125,
Tamil Nadu.

2.The Registrar of Copyrights,
Copyright Office,
New Delhi.

... Respondents

C.S.No.294 of 2018:

N.Ranga Rao & Sons Private Ltd.,
PB No.52, Vani Vilas Road,
Mysore 570 004



and whose branch office is at

T.S.109, Block No.3, Poomagal, 5th Street, Ekkaduthangal,

Chennai - 600 097.

... Plaintiff

-vs-

1.Mahendra T.Thakkar,

trading as Prakash Trading Co.,

Pillaiyar Kulam, Inamkarisalkulam P.O.,

Srivilliputhur 626 125

and also at

Jalaram Parkchali, No.1, Jaska Road,

Harij - 384 240, Gujarat.

2.Tribhuvandas V.Thakkar,

trading as Prakash Kumar Tribhuvandas,

Jalaram Parkchali, No.1, Jaska Road,

Harij - 384 240, Gujarat.

... Defendants

PRAYER in (T)OP(CR)/1/2023: Transfer Original Petition

(Copyrights) filed under Section 50 of the Copyright Act, 1957,

praying to cancel / rectify / expunge the registration granted to the

respondent under no.A-120755/2017 dated 29.09.2017 for the alleged

artistic work titled as "Cycle" in order to maintain purity in the

register, with costs and thus render justice.



WEB CO **PRAYER in C.S.No.294 of 2018:** Civil Suit filed under Order IV Rule

1 of O.S.Rules Read With Order VII Rule 1 of CPC along with Sections 27, 28, 29, 134 and 135 of the Trade Marks Act, 1999 and Sections 51 and 62 of the Copyright Act, 1957, prays for a judgment and decree:

(a) Granting permanent injunction restraining the Defendants by themselves, their servant, agents or any one claiming through them from in any manner infringing the Plaintiff's registered Trade Mark **CYCLE** by using the identical and offending Trade Mark **CYCLE and / or the device of the cycle** or any other mark or marks which are in anyway identical, deceptively similar to or a colorable imitation of the Plaintiff's registered Trade Mark **CYCLE WITH THE DEVICE OF CYCLE**, either by manufacturing or selling or offering for sale or in any manner advertising the same;

(b) Granting a permanent injunction restraining the Defendants by themselves, their servant, agents or any one claiming through



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them from in any manner infringing the Plaintiff's Copyright in the artistic work **CYCLE BRAND logo**, along with the unique and distinctive colour scheme, more fully specified contained in **SCHEDULE A** to the plaint, by use of identical logo that has an overall similarity to and is a colourable imitation of the plaintiff's **CYCLE BRAND** logo, either by manufacturing or selling or offering for sale or in any manner advertising the same;

(c) Granting a permanent injunction restraining the Defendants by themselves, their servant, agents or any one claiming through them from in any manner passing off its products, under the offending Trade Mark **CYCLE and / or the device of the cycle** as and for the Plaintiff's products manufactured and marketed under the Mark **CYCLE** with the device of cycle in any manner whatsoever;

(d) Directing the Defendants to render a true and faithful account of the profits earned by the Defendants through the sale of its products, including the products bearing the offending Trade Mark **CYCLE and / or the device of the cycle** and direct payment of



such profits to the Plaintiff for the acts of infringement and passing off committed by the Defendants;

(e) Directing the Defendants to surrender to the Plaintiff the entire stock of unused offending labels bearing the offending Trade Mark **CYCLE and / or the device of the cycle** along with the blocks and dyes for destruction.

(f) Directing the Defendants to pay to the Plaintiff the cost of the suit.

For Petitioner : Ms.Antara Balaji
in (T)OP(CR)/1/2023 for M/s.Factum Law

For Respondent 1 : Mr.M.R.Gokul Krishnan
in (T)OP(CR)/1/2023

For Respondent 2 : Mr.K.Subbu Ranga Bharathi, CGSC
in (T)OP(CR)/1/2023

For Plaintiff : Ms.Antara Balaji
in C.S.No.294 of 2018 for Mr.Rajesh Ramanathan

For Defendants : Mr.M.R.Gokul Krishnan
in C.S.No.294 of 2018



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COMMON ORDER

The contesting parties to the suit and rectification petition executed a Memorandum of Compromise dated 04.09.2023. The said document has been executed by the authorized signatory of the plaintiff and the proprietor of the respective defendants. Learned counsel for the respective parties have also signed the document.

2. In paragraph 3 of the Memorandum of Compromise, the parties agreed that the defendants shall forthwith cease to use, market or promote the mark "CYCLE" or the device of "CYCLE" either directly or indirectly. It was further agreed that the defendants shall within seven days from the date of execution of the Memorandum of Compromise, withdraw Trade Mark Application No.1386815 in Class 34 and copyright registration No.A-120755/2017. In compliance with these obligations, learned counsel for the defendants submits that applications were filed before the



Trade Marks Registry and Copyright office, respectively. The defendants also agreed to bind themselves by a decree of permanent injunction in terms of prayers contained in paragraphs 30(a), 30(b) and 30(c) of the plaint in C.S.No.294 of 2018. Subject to fulfillment of the above obligations, the plaintiff agreed to relinquish the relief claimed in paragraphs 30(d), 30(e) and 30(f) of the plaint in C.S.No.294 of 2018. I see no legal impediment to the issuance of a decree in terms of the compromise.

3. Learned counsel for the plaintiff also points out that goods bearing the impugned mark were seized by an Advocate Commissioner and handed over to the plaintiff. He seeks permission to destroy the goods in view of the perishable nature thereof. By taking into account the fact that the defendants agreed not to use the mark "CYCLE" on their products, the request of the plaintiff is acceded to and the plaintiff is permitted to destroy the goods bearing the mark, which are in its custody.



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4. Therefore, C.S.No294 of 2018 is decreed in terms of the Memorandum of Compromise dated 04.09.2023, which shall form an integral part of such decree. In the circumstances, there will be no order as to costs. Consequently, A.Nos.534, 535 of 2021 are closed. In view of the compromise recorded in the suit, (T)OP(CR)/1/2023 stands dismissed without any order as to costs.

29.11.2023

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Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No



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SENTHILKUMAR RAMAMOORTHY,J

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