



C.S. No. 285 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 04.09.2023

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.S. No. 285 of 2020

M/s.V.N.C.Electrodes,
No.3, Industrial Estate,
S.Vellalapatti,
Karur 639 004, Tamil Nadu.
Administrative office at 11/4,
MRC Nagar, Raja Annamalai puram,
Chennai, Tamil Nadu 600 028.
A registered partnership
Firm rep by its Managing Partner
C.Basker

... plaintiff

Vs.

M/s.Royal Welding Wires Private Limited,
No.2, Uthiramerur Road,
Malaiyapalayam P.O. 603 303.
Mathuranthagam Taluk,
Kanchipuram District.

... defendant

Prayer: Complaint filed under Order VII Rule 1 of CPC read with Sections 27(2), 29(1), 134 and 135 of the Trade Marks Act, 1999,



read with Section 62 of the Copyright Act, 1957 read with Section 2(1)(c)(xvii) and Section 7 of the Commercial Courts Act, 2015 read with Order IV Rule 1 of the Original Side Rules for

A.grant of a permanent injunction restraining the defendant, its men, relatives, servants, agents or anyone claiming through or under them from, in any manner, infringing the Plaintiff's Trademark "BEST WELD", written in a stylized manner, using such offending trademark or any other mark or marks which are identical/similar or in any way deceptively similar to or a colourable imitation of the plaintiff's trademark or any other brand name/mark or otherwise; until such period that the plaintiff's trademark is valid and subsisting;

B.grant of a permanent injunction restraining the defendant, its men, relatives, servants, agents or anyone claiming through or under them from, in any manner, infringing the plaintiff's other mark "BEST ARC" using such offending trademark or any other mark or marks which are identical/similar or in any way deceptively similar to or a colourable imitation of plaintiff's trademark or any other brand name/mark or otherwise; until such period that the plaintiff's trademark is valid and subsisting;

C.granting permanent injunction restraining the defendant, its men, relatives, servants, agents or anyone claiming through or under them from, in any manner, infringing the plaintiff's registered trademark "VNC" using such offending trademark or any other mark



or marks which are similar or in any way deceptively similar to or a colourable imitation of the plaintiff's trademark or any other brand name/mark or otherwise; until such period that the plaintiff's trademark is valid and subsisting;

D.grant of a permanent injunction restraining the defendant, its men, relatives, servants, agents or anyone claiming through or under them from, in any manner from infringing the copyright pertaining to the artistic work comprised in the carton filed as Material object No.1, from using the offending carton filed as Material Object No.2 or any other colour combination/essential features which are similar to or in any way deceptively similar or the colourable imitation of the plaintiff's carton;

E.grant of a permanent injunction restraining the defendant, its men, relatives, servants, agents or anyone claiming through or under them from, in any manner, passing off of the defendant's composite label along with the red and rose colour combination as and for of the plaintiff's trade mark label, containing the word ' BEST WELD' OR 'BEST ARC' in a specialized manner, with an image in between the word ' BEST' and 'WELD' or 'BEST' and 'ARC' as the case may be, device of a men with his arms spread out, and an arc drawn from one hand to the other, in colour scheme, get up, font and layout, using the offending trade mark or any other mark which is identical to or deceptively similar to or in any way a colourable imitation of the



plaintiff's trademarks, either by manufacturing, selling or offering for sale of advertising or in any other manner;

F. grant of a permanent injunction restraining defendant, its men, relatives, servants, agents or anyone claiming through or under them from, in any manner, passing off of the defendant's trademark as and for the plaintiffs trademark label, containing the work 'BEST WELD' written in a stylized manner, with an image in between the words ' BEST' and 'WELD' being the device of a man with his arms spread out, and an arc drawn from one hand to the other, in colour scheme, get up, font and layout, using the offending trade mark or any other mark which is identical to or deceptively similar to or in any way a colourable imitation of the plaintiff's trademarks, either by manufacturing, selling or offering for sale of advertising or in any other manner;

G. grant of a permanent injunction restraining defendant, its men, relatives, servants, agents or anyone claiming through or under them from, in any manner, passing off of the defendant's trademark as and for the plaintiffs trademark label, containing the work 'BEST ARC' written in a stylized manner, with an image in between the words ' BEST' and 'ARC' being the device of a man with his arms spread out, and an arc drawn from one hand to the other, in colour scheme, get up, font and layout, using the offending trade mark or any other mark which is identical to or deceptively similar to or in any



way a colourable imitation of the plaintiff's trademarks, either by manufacturing, selling or offering for sale of advertising or in any other manner;

H. grant of a permanent injunction restraining defendant, its men, relatives, servants, agents or anyone claiming through or under them from, in any manner, passing off of the defendant's mark as and for of the plaintiff's trademark 'VNC', consisting of the term 'VNC' in combination with three slanted lines depicted in a specialized manner, using the offending trade mark or any other mark which is identical to or deceptively similar to or in any way a colourable imitation of the plaintiff's trademarks, either by manufacturing, selling or offering for sale of advertising or in any other manner;

I. Grant of a permanent injunction restraining the Defendant from either by manufacturing or selling or offering for sale or in any manner advertising the Plaintiff's trade marks on _ welding electrodes, Arc welding electrodes, Automatic and Semi-Automatic welding equipment being the goods covered by the Plaintiff's registration and also being the goods manufactured and sold by the Defendant;

J. For a decree that the entire stock of the impugned goods in the custody of the Defendant be seized and kept in the custody of the Hon'ble Court or the custody thereof be handed over to the Plaintiff



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and/or its representatives/agents;

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K.Directing the Defendant to render the true, correct and faithful account of the sale of the goods under the Trademarks 'BEST WELD' of the Plaintiff to ascertain the exact amount of damages accrued to the Plaintiff;

L.Directing the Defendant to surrender to the Plaintiff the entire stock of unused labels of the Defendant with the Trademark 'BEST WELD' together with the cartons, label, brochures, printing blocks, films, Floppies, CD's and other materials containing the offending trademark deceptively similar to that of the Plaintiff;

M.for the costs of the suit from the Defendant, jointly and severally; and

N.pass such other further orders as this Honourable Court may deem fit and proper under the said circumstances of the case and thus render Justice.

For Plaintiffs : Mr. T.K.Ramkumar

For Defendants : Mr. M.S.Bharath.



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JUDGEMENT

The parties have entered into a memorandum of compromise before the Mediator, Tamil Nadu Mediation and Conciliation Centre, High Court, Madras and the terms of the compromise have been reduced into writing. Accordingly, the suit is decreed in terms of the memorandum of compromise. The terms of the compromise along with the annexures shall form part of the decree. No costs.

04.09.2023

Internet : Yes/No
Index :Yes/No
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P.T. ASHA. J,

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