



C.S.(Comm.Div)No.575 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.S.(Comm.Div)No.575 of 2018

and

O.A.Nos.764 to 766 of 2018

and

A.No.6311 of 2018

Indo French Laboratories Ltd,
No.12, 66th Street,
11th Sector, K.K.Nagar,
Chennai – 600 078.
Rep by its Director Ms.Ianthy Fernandez

... Plaintiff

Vs

M/s.Pell Tech Health Care Pvt Ltd,
20B, Tansa Farm Estate,
Bhiwandi – Wada Road,
Thane – 421 312,
Maharashtra, India.
Rep by its Director,
Mr.Dharmesh Sunderji Shah

... Defendant

Prayer: This Civil Suit is filed under Order IV Rule 1 CPC read with Sections 27, 28, 29, 134 and 135 of the Trade Marks Act, 1999, Sections 51, 54, 55 and 62 of the Copyrights Act, 1957 and Section 7 of the Commercial Courts, Commercial Division and Commercial Appellate



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Division of High Courts Act, No 4 of 2016 – Suit for permanent injunction for the infringement of Trade Mark and Passing Off, prayed for a Judgment and Decree:-

a) A Permanent Injunction restraining the defendant by itself, its Directors, affiliates, manufacturers, distributors, stockists, marketers, servants, agents, wholesalers, retailers, legal representatives, successor in business or any other person claiming under it from in any manner manufacturing, selling, offering for sale, stocking, trading, advertising directly or indirectly dealing in medicinal and pharmaceutical preparations infringing plaintiff's registered trademark REJUCALCIUM by use of an identical mark REJUCALCIUM or any mark deceptively similar to plaintiff's registered trademark REJUCALCIUM or in any other manner whatsoever;

b) A permanent injunction restraining the defendant, their Directors, affiliates, manufacturers, distributors, stockists, marketers, servants, agents, wholesalers, retailers, legal representatives, successor in business or any other person claiming under it from in any manner manufacturing, selling, offering for sale, stocking, trading, advertising directly or indirectly dealing in medicinal and pharmaceutical preparations under the REJUCLACIUM label/package that is identical to the label/package of the plaintiff label/package thereby infringing the plaintiff's copyright in their distinctive REJUCALCIUM label/package or any other label identical and/or deceptively similar as that of the plaintiff's mark REJUCALCIUM label/package in any other manner whatsoever;



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c) A permanent injunction restraining the defendant by itself, its Directors, affiliates, manufacturers, distributors, stockists, marketers, servants, agents, wholesalers, retailers, legal representatives, successor in business or any other person claiming under it from in any manner manufacturing, selling, offering for sale, stocking, trading, advertising directly or indirectly dealing in medicinal and pharmaceutical preparations under the trademark REJUCALCIUM and label/packaging or any other trademark and/or label/packaging that is identical and/or deceptively similar as that of the plaintiff's trademark REJUCALCIUM and label/packaging so as to pass off the defendant's medicinal preparations as and for the medicinal preparations of the plaintiff and/or in any other manner whatsoever;

(d) The defendant be ordered to pay to the plaintiff a sum of Rs.10,00,000/- as damages for committing acts of infringement against plaintiff's registered trademark, infringement of copyright in label/packaging so as to pass off its products as and for the plaintiff's products;

(e) The defendant be ordered and decreed to deliver up for destruction to the plaintiff all the preparations, dies, blocks, labels, packaging either filled or empty, brochures, leaflets, pamphlets, hand bills, hoardings, wall posters, calendars, carry bags, stationery items and such other sales promotional materials bearing and/or containing the impugned trademark REJUCALCIUM and label/packaging;



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(f) A preliminary decree be passed in favour of the plaintiff directing the defendant to render accounts of profits made by it by use of the trademarks REJUCALCIUM and label/packaging which is identical and/or deceptively similar to the plaintiff's mark and label/packaging and a final decree be passed in favour of the plaintiff for the amount of profits found to have been made by the defendant after the latter has rendered accounts;

(g) For costs of the suit; and

(h) pass such further or other orders as this Court may deem fit and proper in the circumstances of the case.

For Plaintiff : M/s. S. Suba Shiny

For Defendant : M/s.Sahana Banu

JUDGMENT

Today when the matter is taken up for hearing, the learned Counsel for the plaintiff and the defendant have filed a Memorandum of Compromise recording the satisfaction of the suit claim and the settlement of *inter se* dispute between the plaintiff and the defendant. The learned counsel for the plaintiff and the defendant are present. They have filed a Memorandum of Compromise dated 10.10.2022.



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2.The Memorandum of Compromise dated 10.10.2022 is also signed by the plaintiff and the defendant and also by their respective counsels. Both the learned counsel for the plaintiff and the defendant affirm that the parties have signed the Memorandum of Compromise in their presence and they are aware of the terms of the Memorandum of Compromise.

3.Since the parties have agreed to settle the dispute in terms of the Memorandum of Compromise, same is recorded and accordingly this Civil Suit is decreed. No costs. The Memorandum of Compromise dated 10.10.2022 signed by the plaintiff and defendant shall form part and parcel of this judgment and decree. Consequently, connected applications are closed.

11.01.2023

Internet : Yes / No

Index : Yes / No

Speaking Order/Non-Speaking Order

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C.SARAVANAN, J.

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