



C.S.No.118 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2023

CORAM:

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

C.S(Comm. Div.)No.118 of 2023

and

O.A.No.451 of 2023

A.Nos.2724 & 2725 of 2023

M/s.Cotton House
Represented by its Partner,
Mr.R.Venugopal,
Old No.68, New No.145, L.B.Road,
Thiruvanmiyur, Chennai 600 041.

...Plaintiff

Vs.

M/s.Mylapore COTTON HOUSE
represented by its Sole Proprietor
Mr.Seyed Anvardeen
No.1, Luz Church Road, Luz Corner,
Mylapore, Chennai 600 004.

... Defendant

PRAYER: This Civil Suit is filed under Order VII Rule 1 of Civil Procedure Code, 1908 and Order IV Rule 1 of O.S. Rules, 1956 read with Sections 27, 28, 29, 134 & 135 of the Trademarks Act, 1999 and First Proviso to Section 7 of the Commercial Courts Act, 2015; praying to pass the judgment and decree:-



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a. For a permanent injunction, restraining the Defendant, his men, servants, agents, officers, employees, legal representative, successor in business, assigns or anyone claiming through or under him from in any manner infringing the Registered Trade/Service Mark of the plaintiff viz., 'COTTON HOUSE' or any other trademark deceptively similarly to registered service mark/trademark 'COTTON HOUSE', as trade/service mark or in any other manner whatsoever infringing the said registered trademark of the plaintiff;

b. For a permanent injunction, restraining the Defendant, his men, servants, agents or anyone claiming through there from marketing, distributing, offering, advertising, or using the mark 'MYLAPORE COTTON HOUSE' in any form or variation in English Language and or any other Vernacular Language or similar sounding names or any other mark deceptively similar to the Plaintiff's mark 'COTTON HOUSE' with identical colour scheme, get up and layout in course of their trade/service and passing off their goods or services or enabling others to pass off their goods or services as the goods and services of the plaintiff;

c. For a mandatory injunction directing the Defendant to deliver to the plaintiff all the business materials, goods, invoices, bills, receipts, books of accounts, cartons, advertisement materials, hoardings, letter-heads, visiting cards, office stationery and all or any other materials containing or bearing the mark 'MYLAPORE COTTON HOUSE' or any other deceptively similar



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mark or labels for destruction;

d. directing the Defendant to pay to the plaintiff a sum of Rs.10,00,000/- by way of damages for the acts of infringement and passing off;

e. For a preliminary decree directing the Defendant to render and account of profits made by him by using trademark 'MYLAPORE COTTON HOUSE' or any mark similar to of the plaintiff's trademark 'COTTON HOUSE' and for final decree to be passed in favour of the plaintiff for amount of profits found to have been made by the Defendant after rendering accounts;

f. For the cost of the suit

g. For such further or other orders as this Court may deem fit and proper in the circumstances of the case and thus render justice;

For Plaintiff : Mr.S.Rajasekar

JUDGMENT

The learned counsel for the plaintiff filed a memo dated 10.06.2023, stating that after service of notice in the interim application, the defendant had addressed a letter to the plaintiff undertaking not to use the plaintiff's trademark "COTTON HOUSE".



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2. It is also stated by the plaintiff that the trading name of the defendant was changed to “MYLAPORE COTTON JOLLY” instead of “MYLAPORE COTTON HOUSE”. In such circumstances, the plaintiff wants to withdraw the suit with a liberty to file fresh suit, in case of any violation or infringement by the defendant.

3. The memo filed by the learned counsel for the plaintiff dated 10.06.2023 is recorded. The suit is dismissed as withdrawn with a liberty to file fresh suit in case of any infringement of the plaintiff's trademark by the defendant. There shall be no order as to costs. Consequently, connected Applications are closed.

12.06.2023

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Index: Yes/No

Speaking Order: Yes/No



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