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C.S. (COMM.DIV.) No.51 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.10.2023

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.S. (COMM.DIV.) No.51 of 2021

1.Whirlpool Properties INC,
represented herein by its
Power of Attorney Holder
Neeraj Mehta

2.Whirlpool of India Limited,
represented herein by its
Authorised Signatory
Neeraj Mehta

.. Plaintiffs

/versus/

1.A.S.Associates,
represented by its Partners
Senthannarai Kannan and A.Purushothanan

2.V.V.Refrigeration,
represented by its Partners
Senthannarai Kannan and A.Purushothanan

.. Defendants

Prayer: Civil Suit has been filed under Order IV, Rule 1 of the Original Side Rules and Order VII Rule 1 of the Code of Civil Procedure 1908, Sections 27(2), 28, 134 & 135 of the Trade Marks Act, 1999 and Sections 51, 52 & 62 of the Copyright Act, 1957 and Section 7 of the Commercial Courts Act No.4 of 2015 to pass a judgment and decree against the defendants for the grant of



C.S. (COMM.DIV.) No.51 of 2021

a) permanent/perpetual injunction against infringement of the plaintiffs' 'WHIRLPOOL' and other WHIRLPOOL formative marks, by restraining the defendants, their promoters, assigns, relatives, successors-in-interest, licensees, franchisees, partners, representatives, servants, distributors, employees, agents etc. or anyone associated with them from using 'WHIRLPOOL' and other WHIRLPOOL formative marks or any other mark identical with or deceptively similar to the plaintiffs' registered and well-known marks 'WHIRLPOOL' and other WHIRLPOOL formative marks as a logo design, trade mark, service mark, house mark, trade name, trading style, corporate name, website, domain name, e-mail address, business card or otherwise in any manner whatsoever, including importing/exporting, so as to infringe the plaintiffs' said trade marks;

b) permanent/perpetual injunction against infringement of the plaintiffs' copyright, by restraining the defendants, their promoters, assigns, relatives, successors-in-interest, licensees, franchisees, partners, representatives, servants, distributors, employees, agents etc. or anyone associated with them from using copyrighted material of plaintiffs;

c) permanent/perpetual injunction restraining the defendants, their promoters, assigns, relatives, successors-in-interest, licensees, franchisees, partners, representatives, servants, distributors, employees, agents etc. or anyone associated with them from using 'WHIRLPOOL' and other WHIRLPOOL formative marks and/or any mark identical with or similar to the plaintiffs' 'WHIRLPOOL' and other WHIRLPOOL formative marks in any manner whatsoever so as to pass off or enable others to pass off their business as that of the plaintiffs or in some



C.S. (COMM.DIV.) No.51 of 2021

WEB COPY

manner convey a connection with the plaintiffs;

d)direct the defendants their promoters, assigns, relatives, successors-in-interest, licensees, franchisees, partners, representatives, servants, distributors, employees, agents etc. or anyone associated with them not to pursue any trade mark application(s) that they may have filed before any other competent body or government authority for obtaining rights (statutory or otherwise) in plaintiffs' 'WHIRLPOOL' and other WHIRLPOOL formative marks in any manner whatsoever including as a trade/service mark, house mark, trade name, trading style, corporate name, website, domain name, e-mail address or otherwise in any manner whatsoever in relation to their business/products/services and further restrain them from applying for or obtaining registration thereof;

e)direct the defendants their promoters, assigns, relatives, successors-in-interest, licensees, franchisees, partners, representatives, servants, distributors, employees, agents etc. or anyone associated with them to deliver up to the plaintiffs for destruction their entire stationery, letterheads, signage, reprographic material, brochures, literature or any other material for advertising, selling or marketing any goods and/or services bearing plaintiffs' 'WHIRLPOOL' and other WHIRLPOOL formative marks and/or any mark similar to the plaintiffs' 'WHIRLPOOL', and other WHIRLPOOL formative marks;

f)direct the defendants to render a true and faithful account of the profits made by using the 'WHIRLPOOL' and other WHIRLPOOL formative marks post relinquishment of authorised service partner agreement and the defendants be further ordered and directed to pay to



C.S. (COMM.DIV.) No.51 of 2021

the plaintiffs' such amount as may be found due on such account being taken;

g) the defendants be ordered and decreed to pay to the plaintiffs a sum of Rs.30,00,000/- (Rupees Thirty Lakhs) as damages on account of infringement of trade mark, infringement of copyright and passing off;

h) direct the defendants to pay to the plaintiffs' costs of the suit.

For Plaintiffs : Mr.P.Raj Kumar Jhabakh

For Defendants : Mr.R.Gopinath

J U D G M E N T

Both the counsels have filed a Joint Memorandum of Compromise dated 31.08.2023. The parties to the dispute have agreed to settle the dispute in accordance with the Memorandum of Compromise dated 31.08.2023.

2. In terms of the Memorandum of Compromise dated 31.08.2023, this suit is disposed of. The Memorandum of Compromise dated 31.08.2023 shall form part of this judgment. No costs.

30.10.2023

vga

ABDUL QUDDHOSE, J.



WEB COPY



C.S. (COMM.DIV.) No.51 of 2021

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C.S. (COMM.DIV.) No.51 of 2021

30.10.2023