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C.S.(Comm.Div.)No.148 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2023

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THE HONOURABLE MS.JUSTICE P.T. ASHA

C.S.(Comm.Div.)No.148 of 2023

and O.A.No.542 of 2023

and A.No.3104 of 2023

- 1.Mr.A.D.Padmasingh Isaac,
Proprietor, Aachi Spices and Foods,
Old No.4, New No.181/1,
6th Avenue, Thangam Colony,
Anna Nagar, Chennai – 600 040.
- 2.M/s.Aachi Masala Foods Private Limited,
No.1926, 34th Street, I Block,
Ishwarya Colony, Anna Nagar West,
Chennai – 600 040,
Represented by its Director,
Mr.Ashwin Pandian.
- 3.M/s.Flora Foods,
A Partnership Firm,
No.1926, 34th Street, I Block,
Ishwarya Colony, Anna Nagar West,
Chennai – 600 040,
Represented by its Partner,
Mrs.Thelma Isacc.

... Plaintiffs



Vs.

Karaikudi Chettinad Aachi,
Valli Chetty Oorani E Road,
Devakottai-630 302,
Tamil Nadu.

... Defendant

Prayer: Complaint has been filed under Order IV, Rule 1 of the Original Side Rules and Order VII, Rule 1 of the C.P.C read with Sections 27(2), 29 134 and 135 of the Trade Marks Act, 1999:

(a) granting a permanent injunction, restraining the Defendant, by himself, his servants, agents, distributors, or anyone claiming through him from manufacturing, selling, advertising and offering for sale or providing services using the name '**KARAIKUDI CHETTINAD AACHI**' or any other similar Trade Mark name or similar sounding expression in any media, websites, mobile applications, social media platforms and internet advertising and use the same in name board, invoices, letter heads and visiting cards or by using any other trade mark/name which is in any way visually or deceptively or phonetically similar to the 1st Plaintiff's trade mark/name **AACHI/AACHI CHETTINAD RESTAURANT/AACHI KITCHEN/AACHI NAMMA KITCHEN/AACHI BHAVAN** and use the same in pouches, packets or use the mark in invoices, letters heads and visiting cards, websites, mobile applications, social media platforms and



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internet advertising or part of their restaurant name any other trade literature or Menu card by using any other trade mark which is in any way visually, or phonetically similar to the Plaintiffs' registered Trade Mark Nos.838786, 1116254, 1479159, 1715718, 2965624, 5275581, 5274680 & 5446987 or in any manner infringing the 1st Plaintiff's registered Trade Marks referred herein.

(b) granting a permanent injunction restraining the Defendant by itself, its agents or servants or anyone claiming through or under him any business marketing, selling advertising using in trade literature, menu cards, invoices, name boards, website, mobile application, social media platform, internet advertisements, the mark/name '**KARAIKUDI CHETTINAD AACHI**' in relation to the Restaurant or with respect to or any other food preparation or on any other business the impugned trademark/name which is in any manner deceptively or phonetically confusingly similar to the Plaintiffs Trade Mark/name **AACHI/AACHI CHETTINAD RESTAURANT/AACHI KITCHEN/AACHI NAMMA KITCHEN/AACHI BHAVAN** or in any other manner pass off their hotel, business or goods as and for that of the Plaintiffs.



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(c) directing the Defendant to surrender to the Plaintiffs all the packing material, cartons, advertisement materials and hoardings, letter-heads, visiting cards, office stationery and all other materials containing/bearing the name '**KARAIKUDI CHETTINAD AACHI**' or other identical trade mark used in the pouches and packets bearing the word **AACHI/AACHI CHETINAD RESTAURANT/AACHI KITCHEN/AACHI NAMMA KITCHEN/AACHI BHAVAN.**

(d) directing the Defendant to render an account of profits made by them by the use of the impugned trademark '**KARAIKUDI CHETTINAD AACHI**' on the service referred and decree the suit for the profits found to have been made by the Defendant, after the Defendant has rendered accounts:

e) directing the Defendant to pay to the Plaintiffs the costs to the suit

For Plaintiff : M/s.Gladys Daniel



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J U D G E M E N T

The learned counsel for the plaintiff has made the following endorsement:-

" Since the Defendant has closed the Restaurant and the online presence has also been removed, the Suit may be closed recording the same."

2. In view of the above endorsement, the cause of action upon which the suit has been instituted no longer exists. Therefore, nothing survives for consideration in the above suit and the suit is accordingly dismissed as infructuous. Consequently, the connected Applications are closed. No costs.

24.08.2023

Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation:Yes/No

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