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C.S (Comm Div). No. 177 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.09.2023

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.S (Comm Div). No. 177 of 2023

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O.A.Nos.621 & 622 of 2023

&

A.No. 3742 of 2023

1.S.Sudhakar

2.S.Dhinakar

3.M/s.T.M.Karuppiyah Nadar Sons,
No.84, M.C.Road,
Old Washermenpet,
Chennai 600 021.
rep by its Partner,
S.Sudhakar.

... plaintiffs

Vs.

1.M/s.Jay Bharath Pulse Mills,
S.No.546/1, Himmathnagar Idar Road,
Near Mehtapura Railway crossing,
Savgadh, Himmatnagar – 383 001.
Sabarkantha District, Gujarat.



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2. Zakir Hussain Mohammed Shafi Mutvalli,
Partner/person in-charge,
Jay Bharat Pulse Mills,
S.No.546/1, Himmathnagar Idar Road,
Near Mehtapura Railway crossing,
Savgadh, Himmatnagar – 383 001.
Sabarkantha District, Gujarat.

3. Abdul Hamid Abdul Hakim Modasia,
Partner/person in-charge,
Jay Bharat Pulse Mills,
S.No.546/1, Himmathnagar Idar Road,
Near Mehtapura Railway crossing,
Savgadh, Himmatnagar – 383 001.
Sabarkantha District, Gujarat.

... defendants

Prayer: Plaintiff filed under Order VII Rule 1 of CPC read with Order IV Rule 1 of the Original Side Rules and Section 51, 55 and 62 of the Copyright Act, 1957 and Section 27, 134 and 135 of the Trade Marks Act, 1999, for

A. A permanent injunction restraining the defendants, their men, servants, agents, assigns, subsidiaries or anyone claiming through or under them or acting under their directions, from in any manner whatsoever infringing the plaintiffs' copyright contained in



their TOWER label, filed herewith as Plaintiff Document No.2, by manufacturing, selling, offering for sale, stocking, advertising, exporting, importing either directly and/or indirectly any goods and in particular any food or allied products including Dhall varieties under the TOVER label, filed herewith as Plaintiff Document No.5, or any other label which is identical with and/or deceptively similar and/or a substantial reproduction of the plaintiffs' TOWER label filed as Plaintiff document No.2;

B. Granting a permanent injunction restraining the defendants, their distributors, stockiest, servants, agents, retailers, representatives or any other person claiming under/through them from in any manner manufacturing, selling, offering for sale, stocking, advertising, exporting, importing either directly and/or indirectly any goods and in particular any food or allied products including Dhall varieties under the trademark TOVER, either per se or in combination and/or any other mark either in English or any other language which is identical with or deceptively similar to the plaintiffs' mark 'TOWER' so as to



pass off the defendants products as and for the products of the plaintiffs or in any other manner whatsoever connected with the plaintiffs;

C. The defendants be ordered to surrender to plaintiffs for destruction all packed goods, labels, dyes, blocks, moulds, screen prints, packing materials and other materials bearing the trademark 'TOVER' or the offending label filed as Plaint document No.5 either per se or in combination and/or any other mark either in English or any other language which is identical with or deceptively similar to the plaintiffs' mark 'TOWER' or label filed as Plaint Document No.2;

D. A preliminary decree be passed in favour of the plaintiffs directing the defendant to render account to profits made by use of mark/label 'TOVER' filed s Plaint Document No.5, either per-se or or in combination and/or any other mark either in English or any other language and a final decree be passed in favour of the plaintiffs for the amount of profits thus found to have been made by the defendants, after the latter have rendered accounts;



E. The defendants be ordered and decreed to pay to the plaintiffs a sum of Rs.25,00,000/- as special damages for acts of passing off and infringement of copyright committed by them;

F. For costs of the suit.

For Plaintiffs : Mr.Rahul Balaji

For Defendants : Mr.Abhinav Parthasarathy

JUDGEMENT

The parties have entered into a joint memorandum of compromise. The terms of the compromise are more fully set out in clause 3 to 11.

2. A cheque for a sum of Rs.5,000/- has also been produced by the learned counsel for the defendants as per clause 5 of the memorandum of compromise, which shall be deposited by them to the Registrar General, Madras High Court.



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WEB COPY 3. The compromise memo is taken on file and the suit is decreed in terms of clause 3 to 11 of the said memo. Consequently, the connected applications are closed. No costs.

04.09.2023

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

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