



O.S.A.(CAD) Nos.116 to 118 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE  
AND  
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

O.S.A.(CAD) Nos.116 to 118 of 2021

M/s. Aarthi Scans Private Limited  
60, 100 Feet Road Vadapalani  
Chennai 600 026  
Rep. by its Managing Director Govindarajan. .. Appellant in  
all OSAs.

Vs.

1. RT Diagnostics  
3/23, Plot No.62, 1<sup>st</sup> Street  
Rajeshwari Nagar  
Karambakkam, Porur  
Chennai 600 116  
Rep. by its Managing Partner  
Dr.S.Thiruvenkitaswamy  
Also at 23, Friends Avenue  
Arumbakkam, Chennai 600 116  
(Appasamy Medical Center).

2. Dr.S.Thiruvenkitaswamy

3. T.Vijay Srinivas

.. Respondents in  
all OSAs.



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Prayer: Appeals filed under Section 13(1) of Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 read with Order XXXVI, Rules 1 & 9 of Original Side Rules and Clause 15 of Letters Patent, against the common order dated 01.10.2021 made in O.A.Nos.407 to 409 of 2021 in C.S.(Comm.Div.) No.16 of 2021 on the file of this Court.

For the Appellant : Mr.Sathish Parasaran  
Senior Counsel  
For Ms.S.Subashiny

For the Respondents : Mr.E.Omprakash  
Senior Counsel  
For Mr.K.Moorthy

### JUDGMENT

(Delivered by the Hon'ble Chief Justice)

We have heard Mr.Sathish Parasaran, learned Senior Counsel for Ms.S.Subashiny, learned counsel for the appellant and Mr.E.Omprakash, learned Senior Counsel for Mr.K.Moorthy, learned counsel for the respondents.

2. The appellant is the original plaintiff. The appellant has filed



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a suit for infringement of Trademark and passing off.

3. The appellant filed three applications for temporary injunction. The said applications for temporary injunction were rejected. Aggrieved thereby, the present appeals.

4. The factual matrix up to the date of dissolution/amendment of partnership between the directors of the appellant and the first respondent is not disputed.

5. The only dispute was with regard to the use of the word "RT Diagnostics" by the first respondent. The trademark "Aarthi Diagnostics" was agreed to be used by the appellant and the respondents were not to use the trademark "Aarthi Diagnostics". The same is not disputed. The first respondent is a partnership firm and the respondents 2 and 3, the father and son, are the partners. It started using the trade name "RT Diagnostics". The same was the cause for the appellant to file a suit.



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6. During the course of argument, learned Senior Counsel for the respondents, referring to "RT Diagnostics" (formerly "Aarthi Diagnostics"), accepted that the respondents have ceased using the words "Aarthi Diagnostics" and the words "Formerly Aarthi Diagnostics" and that the same would not be used by the respondents. It was further accepted that in Tamil version, "RT Diagnostics" only would be used and not "Aarthi Diagnostics". The necessary correction would also be carried out on the website of the respondents.

7. So far as the other aspect is concerned, the same would be decided only after trial and therefore, the parties can prove their case before the learned Single Judge.

8. As regards imposition of cost, the parties were at the stage of an interim application. While cost is imposed, some reasons have to be given. We do not find proper reason for imposing cost. Moreover, the same is at an interlocutory application stage. In the



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light of that, the order to the extent of imposing cost is set aside.

The observation made by the Court, while deciding the application for injunction, is *prima facie* in nature. The suit would be decided on the basis of the evidence adduced by the parties.

9. Accordingly, the appeals stand disposed of. There will be no order as to costs. Consequently, C.M.P.Nos.19164, 19171 and 19163 of 2021 are closed.

(S.V.G., CJ.)

(D.B.C., J.)  
10.10.2023

Index : Yes/No  
Neutral Citation : Yes/No

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To

The Sub Assistant Registrar  
Commercial Cases  
High Court, Madras.



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