



WEB COPY



C.S.No.460 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2023

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

C.S.No.460 of 2017

Rajam Industries Private Ltd
2/146 , Mount Poonamallee Road,
Kattupakkam, Chennai - 600 056
and having its Administrative Office at
No.14, Azeez Nagar, 2nd Street,
Kodambakkam, Chennai - 600 024.

... Plaintiff

-VS-

Lakshmi Industries
No.512, Chennai Bye Pass Road,
Pappanpattu Village ,Near Tollgate,
Panayapuram post ,Vikravandi(Taluk) ,
Villupuram District-605 652 .

... Defendant

PRAYER: Complaint filed under Order IV Rule 1 O.S.Rules Read With
Order VII Rule 1 of CPC Along with Sections 27, 28 and 29, 134 and
135 of the Trademarks Act, 1999 and Sections 51, 55 and 62 of the
Copyright Act, 1957, pleaded to



C.S.No.460 of 2017

(a) Granting Permanent Injunction restraining the Defendant, their men, Servants , agents, Directors , Proprietors, managers, distributors, wholesalers, retailers, licensees, representatives or any one claiming through it from in any manner infringing the Plaintiff's registered Trade Mark "**OORVASI**" (device), wherein the mark **OORVASI** is prominent and distinctive element ,by using the identical and offending trade mark "**OORMIKA**" or any other mark or marks which are in anyway identical with and /or deceptively similar to and / or a colorable imitation of the plaintiff's registered Trademark, by manufacturing or selling or advertising or using the same in any other manner whatsoever;

(b) Granting permanent injunction restraining the Defendant, their men, servants, agents, directors, proprietors, managers, distributors, wholesalers, retailers, licensees, representatives or any one claiming through it from in any manner infringing the Plaintiff's copyright in the artistic work in **OORVASI** labels as found in **Annexure A** to the plaint by using the offending **OORMIKA** label as



C.S.No.460 of 2017

found in **Annexure B** to the plaint or any other artistic work, which is in anyway identical with and / or deceptively similar to and / or a colorable imitation of the Plaintiff's artistic work, by manufacturing or selling or offering for sale or advertising or using the same in any other manner whatsoever;

(c) Granting permanent injunction restraining the Defendant, their men, servants, agents, directors, proprietors, managers, distributors, wholesalers, retailers, licensees, representatives or any one claiming through it from in any manner passing off its products under the offending Trademark "OORMIKA" and a almost identical / deceptively similar packaging label as and for the Plaintiff's products under the prior adopted trademark "OORVASI" and prior adopted and continuously used OORVASI packaging label and / or in any other manner whatsoever;

(d) Directing the Defendant to render a true and faithful account of the profits earned by the Defendant through the sale of its products, including the products bearing the offending Trademark



C.S.No.460 of 2017

"OORMIKA" and its imitative packaging label and direct payment of such profits to the Plaintiff for the acts of infringement and passing off committed by the Defendant;

(e) Directing the Defendant to surrender to the Plaintiff for destruction, the entire stock of unused offending labels along with prints, dies, blocks, moulds, plates, screen prints, packing and advertising material bearing the offending Trademark "OORMIKA" and the imitative packaging label.

(f) Directing the Defendant to pay to the Plaintiff the cost of the suit.

For Plaintiff : Mr.Rajesh Ramanathan

For Defendant : Mr.K.K.Senthil, Senior Advocate
for M/s.Gnanadesekan Law Associates

JUDGMENT

The suit was filed seeking relief in respect of alleged infringement and passing off in relation to the plaintiff's registered



C.S.No.460 of 2017

Trademark "OORVASI" by use of the impugned mark "OORMIKA" or any mark deceptively similar thereto.

2. At the hearing on 11.07.2023, learned senior counsel for the defendant submitted that the defendant discontinued operations in the wake of the Covid - 19 pandemic and stopped using the mark "OORMIKA". It was further submitted that an affidavit containing requisite undertakings would be filed. Such affidavit was filed today.

3. In the affidavit, the defendant has stated and undertaken as under:

"3. It is respectively submitted that due to Covid - 19 pandemic and due to the financial condition, the defendant Industry, namely Lakshmi Industries No.512, Chennai Bye Pass Road, Pappanpattu Village, Near Tollgate, Panayapuram Post, Vikravandi Taluk, Villupuram District - 605 652, was not in



operation. Further the machinery and equipment's which are all used for manufacturing activities of OORMIKA brand, detergent cake & powder were already sold.

4. It is respectively submitted that the defendant namely Lakshmi Industries is already closed and we undertake that we will not manufacture OORMIKA brand, detergent cake & powder at any cost in future and we further undertake that we will not use their label in the name of OORMIKA or any other similar names, for the above purpose.

5. It is respectively submitted that on 10.07.2023 this defendant-initiated proceedings for cancellation of the Trade Mark registration for the Trade Mark name of OORMIKA bearing Registered No.3461998 dated 02.08.2016.

6. It is respectively submitted that this defendant once again undertake that the defendant will not use the OORMIKA brand or any other similar brand for the manufacturing of detergent cake & powder at any circumstances."



C.S.No.460 of 2017

4. In view of the said undertakings, no adjudication is necessary and the suit may be decreed in terms thereof. Accordingly, C.S.No.460 of 2017 is decreed in terms of undertakings set out above and contained in the affidavit dated 22.07.2023, which was affirmed by Mr.K.Babu, Partner of the defendant. The said affidavit shall form an integral part of the decree. In the circumstances, the parties shall bear their respective costs.

02.08.2023

rna

Index : Yes / No

Internet : Yes / No



WEB COPY



C.S.No.460 of 2017

SENTHILKUMAR RAMAMOORTHY,J

rna

C.S.No.460 of 2017

02.08.2023