



C.S.(Comm.Div.)No.253 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2023

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.S.(Comm.Div.)No.253 of 2022

and

A.No.5898 of 2022

M/s.Thalappakatti Naidu Anandha Vilas Biriyani Hotel,
Rep by its Authorized Signatory,
V.Kamesh (M – 42 years),
Having its Branch Office at Flat No.B3,
New No.17, Old No.18A,
11th Street, Nandanam Extension,
Chennai – 600 035.

... Plaintiff

Vs

Thalapakattu Biriyani,
No.105, Trichy Main Road,
Opp Villupuram New Bus Stand,
Highways Nagar, Villupuram,
Tamil Nadu – 605 602.

... Defendants

Prayer: This Civil Suit is filed under Order VII Rule 1 of Civil Procedure Code, 1908 read with Order IV Rule 1 of High Court O.S. Rules and Section 134 and Section 135 of the Trade Marks Act, 1999 prayed for a Judgment and Decree:-



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a) Granting a permanent injunction restraining the defendant, their men, servants, agents or anyone claiming through or under them from in any manner infringing the Plaintiff Trade Mark and Trading style “Thalappakatti Briyani Hotel” by using the offending Trade Mark and Trading style “Thalapakattu Biryani” or any other mark or marks which are similar or in any way deceptively similar to or a colourable imitation of the Plaintiffs Trade Mark “Thalappakatti Briyani Hotel”;

(b) Granting a permanent injunction restraining the defendant, their men, servants, agents or anyone claiming through or under them from in any manner Passing-off the Plaintiff Trade Mark and Trading style “Thalappakatti Briyani Hotel” by using the offending Trade Mark and Trading style “Thalapakattu Biryani” or any other mark or marks which are similar or in any way deceptively similar to or a colourable imitation of the Plaintiff's Trade Mark “Thalappakatti Briyani Hotel”;

(c) Directing the defendant to render a true and faithful account of the profits earned by them through the sale of food products bearing the offending trade mark “Thalapakattu Biryani” and directing payment of such profits to the Plaintiff by way of damages for infringement committed by the defendant;

(d) Directing the defendant to surrender to Plaintiff the entire stock of unused offending goods with Trade Mark “Thalapakattu Biryani” with name boards, labels, wrappers, boxes, covers, bags,



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packets, cartons, bills, advertisements, materials, reports, envelope, brochures, printing blocks etc., bearing the offending Trademark for destruction;

(e) Directing to the defendant to pay the plaintiff the costs of the suit.

For Plaintiff : M/s.Preetha Natarajan

For Defendant : Unserved

JUDGMENT

The learned Counsel for the plaintiff submits that the defendant has altered their trade name to “Rawther Biriyani” and therefore submits that the plaintiff has no cause of action serving against the defendant. Therefore, she seeks permission of this Court to withdraw this suit and she has also made the following endorsement to that effect:

“It is submitted that the defendant have changed the name to “Rawther Biriyani” the plaintiff confirming the same. This Hon'ble Court may take this on record and close the suit”.



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2. In view of the endorsement made by the learned Counsel for the plaintiff, this Civil Suit is dismissed as withdrawn. No costs. Consequently, connected Original Application is closed.

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Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order

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C.SARAVANAN, J.
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