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Cont.P.No.167 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

Cont.P.No.167 of 2019

1.Aqua Pump Industries,
rep. By its Managing Partner,
Mr.Ramaswamy Kumaravelu,
Thudiyalur Post, Coimbatore – 641 034,
Having their Branch Office at
New No.10, Old No.26,
Errabalu Chetty Street, Parrys Corner,
Chennai – 600 001.
2.Aqua Sub Engineering,
Rep by its Managing Partner,
Mr.Ramaswamy Kumaravelu,
Thudiyalur Post,
Coimbatore 641 034,
Having their branch office at
New.No.10. Old No.26,
Errabalu Chetty Street, Parrys Corner,
Chennai – 600 001.

.. Petitioners

Vs.

1.Mukesh Kushwaha
2.Savitri Kushwaha
Directors,
Taxmo Aqua Engineering India Private Limited,
Near Tube Bell, Bhairoganj,
Bhagat Singh Ward, Seoni – 480 661,
Madhya Pradesh.

.. Respondents



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Prayer: Contempt Petition is filed under Sections 10, 11 and 12 of Contempt of Court Act, praying to punish the Respondents herein for willfully disobedience of the judgment and decree dated 24.07.2017 made in C.S.No.137 of 2017.

For Petitioner : M/s.Gladys Daniel

For Respondents : Mr.Inthu Karunakaran for R1 and R2
Mr.Mukesh Kushwala for R1
Party -in-person
M/s.Savithri Kushwaha for R2
Party-in-person

ORDER

The plaintiff in the main suit in C.S.No.137 of 2017 has filed this contempt petition alleging willful disobedience of the judgment and decree dated 24.07.2017 passed in C.S.No.137 of 2017.

2. The respondent entered appearance and filed his counter affidavit.

3. The main suit was filed by the petitioner seeking injunction restraining the respondent/defendant from infringing registered



trademarks "TEXMO". The suit was compromised between the petitioner and respondent and based on that, a joint compromise memo was filed by both the parties. The judgment and decree was passed on 24.07.2017. The compromise decree passed by this Court is as follows:

“That the plaintiffs and defendant herein shall mean and include their heirs, executors, administrators, successors and assignees of each party.

2. That the Taxmo Aqua Engineering India Private Limited, the defendant herein, by itself, their servants, agents, distributors, or anyone claiming through them be and are hereby restrained by an order of permanent injunction from (a) manufacturing, selling, advertising and offering for sale using the plaintiff's registered Trade Mark TEXMO along with inverted triangle as such or prefix or suffix in any pumps and motors or in any related goods manufactured and sold by the defendant or its trading style or in any media and use the same in invoices, letter heads and visiting cards or by using any other trade mark which is in any way visually, or phonetically similar to the plaintiffs' registered Trade Mark TEXMO/TEXMO along with inverted triangle or in any manner infringing the plaintiffs registered trade mark Nos.315049 (SP-I), (SP-II) & 315050 (SP-I), (SP-II) renumbered as 2702778,



2702779, 2702780 7 2702781 respectively; and (b) manufacturing, selling, advertising and offering for sale using the Trade Mark TEXMO/TAXMO along with triangle as such or with prefix or suffix in any pumps and motors or in any related goods manufactured and sold by the defendant and its trading style or in any media and use the same in invoices, letter heads and visiting cards or by using any other trade mark which is in any way visually, or phonetically similar to the plaintiffs Trade Mark TEXMO/TEXMO along with inverted triangle or in any manner pass off the plaintiffs' goods.

3. That the defendant herein shall not use or file any trademark application for registration of the Trade Marks TAXMO/TEXMO/AQUA ENGINEERING/INVERTED TRIANGLE and also undertake hereby not to assert any right in respect of the expression TAXMO/TEXMO/AQUA ENGINEERING/INVERTED TRIANGLE by filing trademark applications or using the same or similar sounding expression for any goods or services in future and the defendant herein also undertakes to withdraw Trademark Application No.3146486 in Class 35 and any application in respect of TAXMO/TEXMO/AQUA ENGINEERING/INVERTED TRIANGLE or any other similar sounding marks that is not within the knowledge of the plaintiffs.



4. That the plaintiffs herein have given up the reliefs contained in prayers c, d & 3 in para 19 of the plaint including cost of the suit.

5. That there shall be no costs.

6. That the O.A. Nos.200 & 201 of 2017 be and is hereby dismissed.”

4. The applicant herein alleging infringement of petitioner's registered trademarks even after passing of compromise judgment and decree dated 24.07.2017 has come up by way of this contempt petition.

5. The respondent herein filed a counter affidavit, wherein he has stated that his entire business in the name and style of TAXMO Aqua Private Limited was closed after memorandum of compromise entered with applicant dated 24.07.2017. The relevant averments made by the respondent is as follows:

I further state that I have completely shut down the entire business of the “Taxmo Aqua Engineering India Private Limited”, after the execution of the said memorandum of compromise dated 04.07.2017 and the same is evident from the ROC records which shows the status of the company as “Strike off”.



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S.SOUNTHAT, J.

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6. The learned counsel for the petitioner submits that the statement made by the learned counsel for the respondent that he has closed the business in the name and style of “TAXMO Aqua Engineering India Private Limited”, may be recorded and the contempt petition may be closed.

7. Accordingly, the above said averments made by the respondent are recorded and the contempt petition stands closed.

24.03.2023

Index : Yes / No

Neutral Citation : Yes / No

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