



Judgment dated 05.04.2024
in C.S.(Comm.Div).No.5 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05.04.2024

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.S.(Comm.Div).No.5 of 2024
and
O.A.Nos.14 and 15 of 2024

1. Indowud NFC Private Limited,
2nd Floor, 205, City Centre,
232 Purasawalkam High Road,
Kellys, Chennai-600 010,
Rep. by its Director Mr.B.L.Bengani

2. B.L.Bengani

.. Plaintiffs

Vs.

1. M/s.Prabitha Polymers,
Nagaramgere Village,
Bangalore Road,
Challakere,
Chitradurga-577 522.
Karnataka State.
Rep. by its Partner and CEO,
Mr.Aditya.S

2. S.S.Tirupati Enterprises Pvt. Ltd.,
264, Sydenhams Road,
Chennia-600 112, rep. by its
Director M/s.Sanjay Kumar

.. Defendants

Plaint filed under Order IV Rule of the Original Side Rules of this Court,

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read with Order VII Rule 1 and Section 26 of the Code of Civil Procedure, read with Sections 27, 28, 29 and 134 of the Trade Marks Act, 1999, read with Section 7 of the Commercial Courts Act, 2015, praying to pass judgment and decree as follows:

(i) A permanent injunction restraining the defendants, their Proprietors/Partners/Directors/Successors, servants, agents, representatives, stockist, dealers and distributors, wholesalers and retailers and any one claim under or through the defendants from infringing the plaintiff's registered Trade Marks having "NFC" namely that adds Life, Zerowud NFC, Indowud NFC under Registration No.3896289, 4330546 and 5134276 all in Class 19 or any mark identical to or deceptively similar thereto;

(ii) A permanent injunction restraining the defendants, their Proprietors/Partners/Directors/Successors, servants, agents, representatives, stockist, dealers & distributors, wholesales & retailers and any one claim under or through the defendants from passing-off and/or enabling others to pass off their goods as and for the plaintiff's goods by use of Trade Mark NFC Sheet, NFC Door or any other confusingly similar mark.

(iii) the defendants be ordered to pay the plaintiff, a sum of Rs.3,00,000/- jointly and severally as damages;

(iv) the defendants be ordered to surrender to the plaintiff for destruction all the goods, advertisement materials, packing materials, labels, plates and dyes and films and other allied corporate goods and materials bearing the offending marks or any mark similar to the plaintiff's Trade Marks bearing NFC;

(v) A preliminary decree be passed in favour of the plaintiff, directing the defendants to severally render true and faithful account of profits earned by them by use of offending Trade Marks NFC Sheet, NFC Door or any other NFC extension and WUD for their goods and a final decree be passed in favour of the



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plaintiffs for payment of the amounts of profits found to have been made by the defendants based on rendition of accounts; and
(vi) for costs and expenses of the suit.

For plaintiffs : Mr.Selvan Babu T.D.

For defendants : M/s.Shamilee Rajkumar

JUDGMENT

In view of today (05.04.2024) allowing the application in A.No.1664 of 2024, seeking to reject the plaint, the present suit in C.S.(Comm.Div).No.5 of 2024 shall stand dismissed. However, since the dispute involved in the suit is a continuing cause of action, the plaintiffs are at liberty to file fresh suit, after complying with the mandatory provisions of Section 12-A(1) of the Commercial Courts Act. There shall be no order as to costs. Consequently, O.A.Nos.14 and 15 of 2024, filed for ad-interim temporary injunctions, are closed.

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