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C.S. No.856 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.03.2024

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.S. No.856 of 2010

1.K.Radhakrishnan (deceased)

2.Shobha Radhakrishnan

3.Adarsh Radhakrishnan

4.Aishwarya Radhakrishnan

.. Plaintiffs

(plaintiffs 2 to 4 impleaded as per the order
dated 22.11.2021 in Appl. No.4151 of 2021)

/versus/

A.Kumar

.. Defendant

Prayer: Civil Suit has been filed under Order IV, Rule 1 of the Original Side Rules read with Sections 28, 29, 134 and 135 of the Trade Marks Act, 1999 and Sections 51, 55 and 62 of the Copyright Act, 1957 to pass a judgment and decree for:

a)A perpetual injunction restraining the Defendant, his distributors, stockists, servants, agents, retailers, representatives or any other person claiming under/through them from in any manner infringing the Plaintiff's registered Trade Mark 'GERMAN INKJET RE-FILLING



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DEVICE' by using in connection with their cartridge refilling or any other business, the Defendant's Impugned GERMAN INKJET RE-FILLING DEVICE filed herewith as Plaintiff Document No.8 and/or any other mark, which is identical with and/or deceptively similar to plaintiff's registered Trade Mark 'GERMAN INKJET RE-FILLING DEVICE' or in any other manner whatsoever;

b)A perpetual injunction restraining the Defendant, his distributors, stockist's, servants, agents, retailers, representatives or any other person claiming under/through them from in any manner associating themselves with the plaintiff by using/advertising the trade mark 'German' and any of the Impugned Trade Marks/Artistic Works filed herewith Plaintiff Documents No.7 and Plaintiff Document No.8 and/or any other mark which is identical with or deceptively similar to the plaintiff's Trade Mark 'GERMAN', 'GERMAN INKJET RE-FILLING DEVICE' filed as Plaintiff Document No.1 & 'GERMAN CIRCLE DEVICE' filed as Plaintiff Document No.4 so as to pass off the Defendant's business as that of the Plaintiff or as associated/connected mark its Plaintiff as a Dealer of the plaintiff and wrongfully associate themselves with the Plaintiff's business or in any other manner whatsoever;

c)A perpetual injunction restraining the Defendant, his distributors, stockists, servants, agents, retailers, representatives or any other person claiming under/through him from in any manner infringing the plaintiff's Copyright in the 'GERMAN INKJET RE-FILLING DEVICE' filed as



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Plaint Document No.1 & 'GERMAN CIRCLE DEVICE' filed as Plaintiff Document No.4 by using the Impugned Trade Marks/Artistic Works filed as Plaintiff Document No.8 or the Impugned German Circle Device filed as Plaintiff Document No.7 or any substantial reproduction of the same or in any other manner whatsoever;

d)The defendant be ordered to surrender to plaintiff for destruction all the Defendant's goods, labels, dyes, blocks, moulds, screen prints, packing materials, bills, vouchers and other materials bearing the Defendant's infringed trade mark and artistic work;

e)A preliminary decree be passed in favour of the Plaintiff directing the Defendant to render account of profits made by use of Defendant's infringed Trade Marks/Artistic Works and a final decree be passed in favour of the Plaintiff for the amount of profits thus found to have been made by the Defendant after the latter has rendered accounts;

f)The Defendant be ordered and decreed to pay to the Plaintiff a sum of Rs. 25,01,000/- as damages for acts of Passing off and infringement of Trade Mark & Copyright committed by the defendant;

g)for costs of the suit.

For Plaintiffs : Mr.Madhan Babu

For defendant : No appearance



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ABDUL QUDDHOSE, J.

vga

J U D G M E N T

Learned counsel for the plaintiffs is reporting no instructions in this matter. She has filed a Memo stating that she has not received any instructions from her clients with regard to the instant suit. She had also sent a communication to the plaintiffs seeking for instructions by registered post with acknowledgment due. The plaintiffs have refused to receive the said notice.

2.A Memo enclosing the returned covers has also been filed by the learned counsel for the plaintiffs. Through the Memo, the learned counsel for the plaintiffs has reported no instructions. The suit is of the year 2010. It can now be inferred that the plaintiffs are not interested in prosecuting the suit. Accordingly, this suit is dismissed for non prosecution. No costs.

20.03.2024

vga

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