



Appeal (CAD) Nos.10 and 13 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2024

CORAM :

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

Appeal (CAD) Nos.10 and 13 of 2024
and C.M.P.Nos.7723 of 2024

Appeal (CAD) No.10 of 2024:

- 1.M/s.Sri Modern Weigh Systems,
rep. by its Proprietor R.Rajkumar
- 2.R.Rajkumar,
Proprietor/Manager/Partner of
M/s.Modern Weigh Systems
- 3.Ranjithraja
M/s.Modern Weigh Systems
represented Appellants 1 to 3 have
office at No.2, Maruti Complex
on Omalur Main Road,
opposite the New Bus Stand,
Salem-641 025.

.. Appellants

Vs



Appeal (CAD) Nos.10 and 13 of 2024

1.M/s.Nipro MACHOI P. Ltd.,
rep. by its Director d.Narasimhan,
No.9, Lakshmi Nagar,
Edayarpalayam to Kuvandampalayam Main Road,
Edayarpalayam, Coimbatore-641 025.

2.D.Narasimhan,
Sole Proprietor, Nipro Weitek,
No.19, Edayarpalayam to Kuvandampalayam Main Road,
Edayarpalayam,
Coimbatore-641 025.

.. Respondents

Prayer : Appeal under Section 96 of the Civil Procedure Code read with Order XLI of the CPC and under Section 13(1) of the Commercial Courts Act, 2015 against the order and decretal order dated 24.7.2023 made in I.A.No.2 of 2023 in C.O.S.No.107 of 2023 on the file of the Commercial Court (District Judge Cadre), Coimbatore.

For Appellants : Mr.S.Sivashanmugam

For Respondents : Ms.Reshma Rajagopal
for M/s.M.S.Bharath

Appeal (CAD) No.13 of 2024:

1.M/s.Nipro MACHOI P. Ltd.,
rep. by its Director D.Narasimhan,
No.9, Lakshmi Nagar,
Edayarpalayam to Kuvandampalayam Main Road,
Edayarpalayam, Coimbatore-641 025.



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2.D.Narasimhan,

Sole Proprietor, Nipro Weitek,

No.19, Edayarpalayam to Kuvandampalayam Main Road,

Edayarpalayam,

Coimbatore-641 025.

.. Appellants

Vs.

1.M/s.Sri Modern Weigh Systems,

rep. by its Proprietor R.Rajkumar

having office at No.2, Maruti Complex,

On Omalur Main Road,

Opposite the New Bus Stand,

Salem-641 025.

2.R.Rajkumar,

Proprietor/Manager/Partner of

M/s.Modern Weigh Systems

No.2, Maruti Complex,

On Omalur Main Road,

Opposite the New Bus Stand,

Salem-641 025.

3.Ranjithraja

Proprietor/Manager/Partner of

M/s.Modern Weigh Systems

No.2, Maruti Complex,

On Omalur Main Road,

Opposite the New Bus Stand,

Salem-641 025.

.. Respondents



Appeal (CAD) Nos.10 and 13 of 2024

Prayer : Appeal under Section 96 of the Civil Procedure Code read with Order XLI of the CPC and under Section 13(1) of the Commercial Courts Act, 2015 against the decree and judgment of Commissioner District Court dated 22.2.2024 in C.O.S.No.107 of 2023.

For Appellants : Ms.Reshma Rajagopal
for M/s.M.S.Bharath

For Respondents : Mr.S.Sivashanmugam

COMMON JUDGMENT
(Delivered by Hon'ble The Chief Justice)

Appeal (CAD) No.10 of 2024:

One V.Rajkumar, who is appellant No.2 and partner of appellant No.1, is filing an undertaking dated 16th December, 2024 for himself and on behalf of appellant No.1 undertaking not to use the trademark name “MACHOI” in future.

2. Shri Shivashanmugam, on instructions, states that the undertaking would also extend not to use any name, which might even remotely be considered to be deceptively similar to the name “MACHOI”.



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Statement is accepted as an undertaking to this Court.

3. At this stage, Ms.Reshma Rajagopal states that her instructions are appellant Nos.1 and 2 registered a trademark name “MAKHOI” which is deceptively similar. Shri Shivashanmugam states the owner of the trademark shall immediately apply for cancellation of the said trademark. Ms.Reshma Rajagopal states that perhaps respondents will be inclined to seek an assignment of that trademark. Shri Shivashanmugam states, if an acceptable offer is made, he would advise appellants to assign the trademark in view of the undertaking as recorded above by this Court.

4. Ms.Reshma Rajagopal is pressing for costs.

5. Shri Shivashanmugam states his instructions are not to pay any costs, but to give a sum of Rs.1.00 lakh towards charity. Both counsels suggest different charities. Instead of splitting hairs on whose charity should be accepted, we decided to direct appellants to pay the sum of Rs.1.00 lakh (Rupees One Lakh only) to the following account of the



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Medical Research Foundation [Sankara Nethralaya], New No.41, Old
No.18, College Road, Chennai-600 006:

Bank Name : HDFC Bank Limited
Nungambakkam Branch
No.4, Nungambakkam High Road
Chennai-600 034

Account No. : 00821000087815

Bank IFSC/Code for NEFT : HDFC 0000082

Branch MICR Code : 600240006

The compliance affidavit shall be filed and copy served on respondents within two weeks from today.

6. The statement of appellants that appellant No.3 Ranjithraja is no more employed with them is accepted. Appeal by Ranjithraja is dismissed.

7. Appeal (CAD) No.10 of 2024 is, accordingly, disposed of. There shall be no order as to costs. Consequently, interim application also stands disposed of.



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8. In view of the above, Ms.Reshma Rajagopal, seeks leave to withdraw Appeal (CAD) No.13 of 2024.

9. Appeal (CAD) No.13 of 2024 is dismissed as withdrawn. There shall be no order as to costs.

(K.R.SHRIRAM, C.J.)

(SENTHILKUMAR RAMAMOORTHY,J.)

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Index : Yes/No

NC : Yes/No

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