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C.S. No.546 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.08.2024

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

C.S.No.546 of 2014

1.P.C.Duraisamy

2.Sakthi Masala (P) Ltd.,
No.6, Mamarathupalayam,
Erode – 638 004.
Rep. by its Director, D. Shanthi.

... Plaintiffs

Versus

M/s. Muthu Masala,
No.41, “Nathan Building”m
Mangalam Road, Karuvampalayam,
Tirupur – 641 604.

... Defendant

PRAYER: Civil Suit plaint filed under Order IV Rule 1 of the O.S. Rules r/w Order VII Rule 1 of Civil Procedure Code, and Section 134 & 135 of the Trademarks Act, 1999 r/w Section 62 of the Copyright Act, 1956, prays for a Judgment and Decree:

(a) Granting permanent injunction restraining the defendant by itself, its servant, agents or any one claiming through it from, in any manner,



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infringing the plaintiff's registered copyright label “SAKTHI” by using the offending label “MUTHU” or any other work or works which are in anyway deceptively similar to or a colourable imitation of the plaintiff's registered copyright lable “SAKTHI” either by manufacturing or selling or offering for sale or in any manner advertising the same;

(b) Granting permanent injunction restraining the defendant by itself, its servant, agents or any one claiming through it from, in any manner, infringing the plaintiff's registered Trade Mark lable “SAKTHI” by using the offending trade mark label “MUTHU” or any other mark or marks which ware in way deceptively similar to or a colourable imitation of the plaintiff's registered Trade Mark “SAKTHI” either by manufacturing or selling or offering for sale or in any manner advertising the same;

(c) Granting permanent injunction restraining the defendant by itself, its servant, agents or any one claiming through it from, in any manner, passing off of its products bearing the offending label “MUTHU” as and for that of the plaintiff's celebrated products bearing the registered trade mark and copyrighted artistic label “SAKTHI” either by manufacturing or selling or offering for sale or in any manner advertising the same;



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(d) Directing the defendants to surrender to the plaintiff the entire stock of unused offending labels bearing the offending label “MUTHU” along with the blocks and dyes for destruction;

(e) Directing the defendant to render a true and faithful account of the profits earned by them through the sale of its products, including the products bearing the offending label “MUTHU” and direct payment of such profits to the plaintiff for the passing off committed by the defendant;

(f) Directing the defendant to pay the plaintiff the cost of the suit.

For Plaintiff : Mr.S. Diwakar

For Defendants : Mr. R. Sathishkumar,
for M/s. P.C.N.Raghupathy

J U D G M E N T

The suit was filed seeking injunctive relief, surrender of the allegedly infringing labels, and rendition of accounts along with a decree for profits. A rectification petition was also filed in O.P.(TM).No.6 of 2023.



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2. The defendant filed affidavit dated 19.03.2024 of M. Viswanathan, Partner. By taking note of such affidavit, O.P.(TM).No.6 of 2023 was disposed of and the trade mark of respondents 1 and 2 therein was directed to be cancelled by the Registrar of Trademarks.

2. At the hearing today, learned counsel for the plaintiffs submits that the plaintiff is relinquishing the claims made in clauses (d) to (f) of the prayer in the plaint. In effect, he submits that suit may be disposed of by granting the reliefs claimed in clauses (a) to (c) of the prayer in the plaint.

3. Therefore, the suit is disposed of by directing that a decree be drawn in terms of prayer clauses (a) to (c) of the plaint by making the affidavit dated 19.03.2024 as a part and parcel thereof. In the circumstances, there will be no order as to costs.

20.08.2024

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