



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON
21.10.2024

PRONOUNCED ON
19.12.2024

CORAM :

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

C.S.(Com.Div)No.119 of 2024

M/s.Sangeetha Caterers and Consultants LLP

Rep., by its Designated Partners:

1.Mr.P.Rajagopal

2.Mr.P.Suresh

Having their registered office at:

No.7 Gandhi Nagar, 1st Main Road,

4th Floor, Adyar, Chennai – 600 020.

... Plaintiff

vs.

M/s.Sangeetha's Chai

Rep., by its Proprietor: Mr.Babu

Old No.38/2, New No.44/2, Venkatanarayana Road,

T.Nagar, Chennai – 600 017.

... Defendant

Prayer : Civil Suit filed under Order IV Rule 1 CPC of of Original Side Rules of CPC read with Section 27, 134 and 135 of the Trademarks Act 1999 & Proviso 1 of Section 7 of the Commercial Courts Act, 2015, praying for granting a judgment and decree on the following terms :

- a) a permanent injunction restraining the defendant, their legal representatives, their successors in business, assigns, franchisees, servants or agents from operating the restaurant business by infringing the plaintiffs' registered trademarks Sangeetha with Veena Mark, SVR Sangeetha, Sangeetha Veg. Restaurant SVR, Sangeetha Veg. Restaurant (with a VEENA MARK), “SVR Sangeetha Express”



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and “Sangeetha Veg Express” or by use of confusingly similar or any other mark deceptively and identically similar to the Plaintiff's registered trademark or in any other manner whatsoever.

b) a permanent injunction restraining the defendant, their legal representatives, their successors in business, assigns, franchisees, servants or agents from operating restaurant business by the name “SANGEETHA's CHAI” or any other similar marks to that of the plaintiff's registered trademark from committing the act of passing off and enabling others in passing off the restaurant business in the deceptively similar mark which is identical to the plaintiff's registered trademark in any manner whatsoever ;

c) the defendant be ordered to surrender to the plaintiff for destruction of all their packing containers, card board boxes, packing materials, covers and carry bags, screen prints, bills, sign boards, billing software, menu cards, and any other material in their possession bearing the mark “SANGEETHA's CHAI” or any other similar marks to that of the plaintiff's registered trademark which is identical to the plaintiff's registered trademark;

d) directing the defendant to render the rendition of their accounts from the date of commencement of their restaurant till the date of filing of the plaint;



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e) the defendant be ordered to pay to the plaintiff a sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs Only) as damages for their wrongful and illegal act by use of the registered trademark;

d) for cost of the suit; and

g) for such further and other reliefs as this Court.

For Plaintiff : Mr.L.Rajasekar

For defendant : Sole respondent set exparte on 31.07.2024

J U D G M E N T

This instant Civil Suit had been filed seeking for the following reliefs:-

a) a permanent injunction restraining the defendant, their legal representatives, their successors in business, assigns, franchisees, servants or agents from operating the restaurant business by infringing the plaintiffs' registered trademarks Sangeetha with Veena Mark, SVR Sangeetha, Sangeetha Veg. Restaurant SVR, Sangeetha Veg. Restaurant (with a VEENA MARK), “SVR Sangeetha Express” and “Sangeetha Veg Express” or by use of confusingly similar or any other mark deceptively and identically similar to the Plaintiff's registered trademark or in any other manner whatsoever.

b) a permanent injunction restraining the defendant, their legal representatives, their successors in business, assigns, franchisees,

<https://www.mhc.tn.gov.in/judis> servants or agents from operating restaurant business by the name



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“SANGEETHA's CHAI” or any other similar marks to that of the plaintiff's registered trademark from committing the act of passing off and enabling others in passing off the restaurant business in the deceptively similar mark which is identical to the plaintiff's registered trademark in any manner whatsoever ;

c) the defendant be ordered to surrender to the plaintiff for destruction of all their packing containers, card board boxes, packing materials, covers and carry bags, screen prints, bills, sign boards, billing software, menu cards, and any other material in their possession bearing the mark “SANGEETHA's CHAI” or any other similar marks to that of the plaintiff's registered trademark which is identical to the plaintiff's registered trademark;

d) directing the defendant to render the rendition of their accounts from the date of commencement of their restaurant till the date of filing of the plaint;

e) the defendant be ordered to pay to the plaintiff a sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs Only) as damages for their wrongful and illegal act by use of the registered trademark;

d) for cost of the suit;

2. Notice to the defendant had been returned with an endorsement



“refused” and by order dated 31.07.2024, the sole defendant was set *ex-parte*.

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3. The case of the plaintiff is that the plaintiff is a chain of restaurants and had also registered its trademarks. The plaintiff had come to know through one of its customers that the defendant is also running a restaurant in the name and style similar to that of the plaintiff and immediately the plaintiff had deputed one of its representative to visit the defendant's restaurant at T.Nagar and on the report submitted by the said representative, it was found that the defendant is running a restaurant under the name and style of “Sangeetha Chai” using a deceptively similar trademark of the plaintiff. Hence, the plaintiff has caused a legal notice on 31.03.2024, which had also been acknowledged by the defendant on 04.04.2024. In spite of notice to the defendant, the defendant had neither ceased or desisted from using the Trademark and is continuing to infringe upon the trademarks of the plaintiff nor had replied to the plaintiff's notice. Hence, the plaintiff was constrained to file the present Suit.

4. The Suit was directed to be listed before the learned Master for recording of evidence and the plaintiff had examined one of the partners as PW-1 and have marked Exs.P1 to P32 to substantiate their suit claim.

5. Heard the learned counsel appearing for the plaintiff and perused the materials available on record.



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6. The learned counsel appearing for the plaintiff submits that the plaintiff is the Limited Liability Partnership (LLP), which came into being in the year 2015 and registered with the Registrar of Companies. The plaintiff had established the first restaurant in the year 1985 under the name and style of “Sangeetha Veg Restaurant” and has also applied for Registration of Trademarks which was granted in the year 1986 and renewed further in the year 2006 & 2016 and the registration is valid upto 2026. Thereafter, the business of the plaintiff had grown leaps and bounds and as of today, they have both direct outlets and outlets managed by franchisee even outside India. The plaintiff had conceived and adopted several trademarks such as **“SVR Sangeetha”, “Sangeetha Veg., Restaurant SVR”, “Sangeetha” with Veena Mark”, “Sangeetha Veg Restaurant (with a VEENA Mark)”, “SVR Sangeetha Express” and “Sangeetha Veg Express”**. While so, it came to the knowledge of the plaintiff that the defendant by deceptively using a similar Trademark and in infringing the trademarks of the plaintiff, the defendant had been running a restaurant in the name and style of “Sangeetha Chai” and have also claimed that they are a part of the group of restaurants of the plaintiff. Hence a legal notice was also issued to the defendant under Ex.P.31 which has also been duly acknowledged by the defendant under Ex.P.32. However, the defendant continued to infringe upon the trademark of the plaintiff and had been passing off its products as if the defendant is a group of company of the



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plaintiff. He would also submit that the plaintiff has produced Legal Use Certificate for Trademarks under Exs.P8 to P13 and the photographs of the plaintiff's restaurant under Exs.P.20 to P28 and Ex.P29, the photographs of the defendant restaurant's sign board and contended that the defendant had been using the Trademark which is deceptively similar to the plaintiff trademark. He relied on Exs.P.15 to P19 statement of accounts relating to the turn over of the franchise outlets and the outlets managed by the plaintiff to substantiate the goodwill of the plaintiff trademark. He would submit that this goodwill is also misused by the defendant and therefore, he would pray this Court decree this Suit as prayed for.

7. I have gone through the pleadings in the plaint, the deposition of PW-1 and various documents that had been marked as Exhibits.

8. Under Exs.P2 & P3, it could be seen that the plaintiff had been benefitted with a Copy Right Certificate and under Exhibits P8 to P13, the trademark registration also stands in the name of the plaintiff for various trademarks. The plaintiff has also produced Exs.P.20 to P28 to show that they have been effectively using the trademarks granted in their favour. Further Ex.P.20 is a photograph relating to the signboard of the defendant which would conclusively proof that the same had been made infringing the Trademarks as well as the Copyrights of the plaintiff's under Exs.P.2, 3 & 8 to 13. Ex.P.20 to



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under the Trademarks registered in their favour. A legal notice under Ex.P.31 had been issued calling upon the defendant to cease and desist from using an identical and similar Trademarks and copyrights of the plaintiff and passing off the defendant's services, which has also been acknowledged by the defendant. Under Ex.P.32, the same had also been replied to by the defendant. The Court summons was also returned with an endorsement “refused”, this Court conclusively proved that the defendant has been infringing the Trademark and copyright of the plaintiff and passing off his products as that of the plaintiff's. Hence, I am of the view that the plaintiff has substantiated his claim for damages also.

9. In view of the aforesaid findings and reasoning, I am of the considered view that the plaintiff had proved his claim and is entitled for the following reliefs:-

a) the defendant their legal representatives, their successors in business, assigns, franchisees, servants or agents are hereby enjoined from operating the restaurant business by infringing the plaintiffs' registered trademarks Sangeetha with Veena Mark, SVR Sangeetha, Sangeetha Veg. Restaurant SVR, Sangeetha Veg. Restaurant (with a VEENA MARK), “SVR Sangeetha Express” and “Sangeetha Veg Express” or by use of confusingly similar or any other mark deceptively and identically similar to the Plaintiff's registered trademark or in any other manner whatsoever.



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b) the defendant, their legal representatives, their successors in business, assigns, franchisees, servants or agents are permanently enjoined from operating restaurant business by the name “SANGEETHA's CHAI” or any other similar marks to that of the plaintiff's registered trademark from committing the act of passing off and enabling others in passing off the restaurant business in the deceptively similar mark which is identical to the plaintiff's registered trademark in any manner whatsoever ;

c) the defendant is directed to surrender to the plaintiff for destruction of all their packing containers, card board boxes, packing materials, covers and carry bags, screen prints, bills, sign boards, billing software, menu cards, and any other material in their possession bearing the mark “SANGEETHA's CHAI” or any other similar marks to that of the plaintiff's registered trademark which is identical to the plaintiff's registered trademark;

d) the defendant shall render the rendition of their accounts from the date of commencement of their restaurant till the date of filing of the plaint;

e) the defendant is directed to pay to the plaintiff a sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs Only) as damages for their wrongful and illegal act by use of the registered trademark.

10. In fine, the Suit is decreed. However, there shall be no order as to

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costs.



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K.KUMARESH BABU.J.,

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Pre-Delivery Judgment in
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