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C.S. (Comm.Div.) No.181 of 2022 and O.A. Nos.548 & 4264 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2024

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

**C.S. (Comm.Div.) No.181 of 2022 and
O.A. Nos.548 & 4264 of 2022**

Chetan Kothari

.. Plaintiff

Vs

Kaleesuvari Refinery Private Limited,
53, Rajasekaran Street,
Mylapore, Chennai - 600 004.

.. Defendant

Prayer: Civil Suit filed under Order IV Rule 1 of Original Side Rules and Order VII Rule 1 of the Civil Procedure Code 1908 as amended by the Commercial Courts Act, 2015 along with Section 142 of the Trademarks Act, 1999 prays for a judgment and decree for the following reliefs:

a)Declaring that the threats issued by the defendant through their Cease and Desist notice dated 08.08.2022 is unjustified and groundless;

b)Granting a permanent injunction restraining the defendant by itself, its servants, agents, distributors, stockists, successors in business, legal representatives, assigns or any and/or all of them from in any manner threatening the plaintiff herein, directly or indirectly by notices, letters, advertisements, circulars or by any other means regarding use of the word DEEPAM or its phonetic equivalents in the course of its business in relation



to its products, goods and/or services and thereby interfere, harm and/or injure the business of the plaintiff in any manner whatsoever;

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c) Directing the defendant to pay penal damages of a sum of Rs.1,00,000/- or such other amount as this Court may determine towards damages sustained by the plaintiff on account of the unjustified and groundless threats made by the defendant;

d) Directing the defendant to pay to the plaintiff the cost of the suit.

For Plaintiff : Mr. Rajesh Ramanathan

For Defendant : Mr. Vijayan Subramanian

JUDGMENT

This suit has been filed on the ground that the defendant has been making groundless threat against the plaintiff with regard to the usage of the trademark 'DEEPAM' by the plaintiff.

2. Subsequent to the filing of this suit, the defendant has filed C.S.(Comm.Div.) No.197 of 2023 seeking for infringement of trademark, passing off and infringement of design.

3. Since the said suit has been subsequently filed seeking for infringement of trademark, passing off and infringement of design, nothing survives for further adjudication in this suit as the suit has been filed only on



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the ground of groundless threat made by the defendant, who has subsequently filed a suit before this Court in C.S.(Comm.Div.) No.197 of 2023. Therefore, this suit is dismissed as infructuous. No costs. Consequently, connected applications are closed.

29.01.2024

vga



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ABDUL QUDDHOSE, J.

vga

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