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Civil Suit (COMM DIV)No.190 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.07.2024

CORAM

THE HONOURABLE Mr. JUSTICE P.VELMURUGAN

Civil Suit (COMM DIV)No.190 of 2022

M/s.Vasanta Bhavan Hotels India Private Limited,
Represented by its Director,
Mr.Anand Krishnan (M-35 years),
Having its office at No.34,
Developed Plots (South Phase),
Industrial Estate, Guidy,
Chennai - 600 032.

... Plaintiff

Vs.

Vasantha Bhavan,
No.115, 144, Gandhi Bazaar,
Opp Bus Stand, Gingee,
Tamil Nadu - 604 202.

... Defendant

Prayer:-

Civil Suit has been filed under Order VII Rule 1 of Civil Procedure Code, 1908 read with Order IV Rule 1 of High Court O.S.Rules, 1956 and Sections 134 and Section 135 of the Trade Marks Act, 1999, prays for a judgment and decree against the defendant on the following terms :

(a) to grant a permanent injunction restraining the defendant, their men, servants, agents or anyone claiming through or under them from in any manner Infringing the Plaintiff Trade Mark and Trading style "VASANTA BHAVAN" by using the offending Trade Mark and Trading style "VASANTHA BHAVAN" or any other mark or marks which are similar or in any way



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deceptively similar to or a colorable imitation of the Plaintiffs Trade Mark "VASANTA BHAVAN".

(b) to grant a permanent injunction restraining the Defendant, their men, servants, agents or anyone claiming through or under them from in any manner Passing-off the Plaintiff Trade Mark and Trading style "VASANTA BHAVAN" by using the offending Trade Mark and Trading style "VASANTHA BHAVAN" or any other mark or marks which are similar or in any way deceptively similar to or a colorable imitation of the Plaintiffs Trade Mark "VASANTA BHAVAN".

(c) to direct defendant to render a true and faithful account of the profits earned by them through the sale of food products bearing the offending trade mark "VASANTHA BHAVAN" and directing payment of such profits to the Plaintiff by way of damages for Infringement committed by the Defendant.

(d) to direct defendant to surrender to Plaintiff the entire stock of unused offending goods with Trade Mark "VASANTHA BHAVAN" with name boards, labels, wrappers, boxes, covers, bags, packets, cartons, bills, advertisements, materials, reports, envelops, brochures, printing blocks, etc., bearing the offending Trademark for destruction.

(e) to direct the defendant to pay the plaintiff the costs of the suit

For Plaintiff	:	Mr.Vijayan Subramanian
For Defendant	:	Mr.Perumbulavil Radhakrishnan



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J U D G M E N T

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It is seen from the records that this Court, vide order dated 13.06.2024, fixed the Case Management Schedule for hearing and referred the matter to the learned Additional Master for recording evidence. However, the plaintiff did not appear before the learned Additional Master as scheduled on 27.06.2024. Instead, the plaintiff was represented by another person as a witness, who also stated that a Board Resolution had been passed in this regard. However, the defendant's counsel strongly objected to this representation. Subsequently, the counsel for the plaintiff requested the learned Additional Master to list the matter on 01.07.2024 for the person who filed the proof affidavit to appear. Since the plaintiff did not adhere to the time conditions stipulated as per the Case Management Schedule, the matter was posted before this Court.

2. Despite being given sufficient time to comply with the Case Management Schedule and conduct the trial, the plaintiff failed to appear before the learned Additional Master on the scheduled date of 27.06.2024. The counsel for the plaintiff requested to post the matter on 01.07.2024, which is against the direction of this court. Therefore, the Master referred the case to the Court. This Court finds that the plaintiff's failure to appear as required demonstrates a lack of diligence in prosecuting the case. Hence,



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this Civil Suit is dismissed for default. There shall be no order as to costs.

Consequently, connected pending applications, if any, are closed.

29.07.2024

Index: Yes/No.

Speaking Order : Yes/No.

Neutral Citation Case : Yes/No.

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Copy to: The Sub Assistant Registrar, (Original Side),
Madras High Court, Chennai.



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P.VELMURUGAN, J

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