



WEB COPY



C.S.(COMM. DIV.) No.173 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2024

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

**C.S. (COMM. DIV.) No.173 of 2024
and
O.A. Nos.657 and 658 of 2024**

Junior Kuppanna Kitchens Private Ltd.,
Rep. by its Director,
Mr.R. Balachandar

....

Plaintiff

VS

M/s.Kumaran Foods,
Mr.N.M. Prabhu,
No.4/4, Sathy Main Road,
Saravampatti,
Coimbatore – 641 035.

....

Defendant

Prayer : Complaint filed under Order VII Rule 1 of CPC read with Order IV Rule 1 of O.S. Rules and Sections 134 & 135 of the Trademarks Act, 1999 seeking to grant a judgement and decree in its favour on the following terms :

a) Granting a permanent injunction restraining the defendant, their men, servants, agents or anyone claiming through or under them from in any manner infringing the plaintiff's Trade Mark and Trading style "HOTEL JUNIOR KUPPANNA" or any other mark or marks which are similar or in any way deceptively similar to or a colorable imitation of the



C.S.(COMM. DIV.) No.173 of 2024

plaintiff's Trade Mark “HOTEL JUNIOR KUPPANNA” in any mode.

WEB COPY

b) Granting a permanent injunction restraining the defendant, their men, servants, agents or anyone claiming through or under them from in any manner using the plaintiff's trade Mark and Trading style “HOTEL JUNIOR KUPPANNA” or any other mark or marks which are similar or in any way deceptively similar to or a colorable imitation of the plaintiff's TradeMark “HOTEL JUNIOR KUPPANNA” in any mode at No.4/4 Sathy Main Road, Saravampatti, Coimbatore – 641 035.

c) Directing the 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 “HOTEL JUNIOR KUPPANNA” and directing payment of such profits to the plaintiff by way of damages for infringement committed by the defendant.

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

For Plaintiff	: Mr.Vijayan Subramanian
For Defendant	: Mr.Sam Jayaraj Houston
	for
	M/s.Saravabhuman Associates

JUDGMENT

The suit has been filed for infringement and passing off in respect



C.S.(COMM. DIV.) No.173 of 2024

of the mark “HOTEL JUNIOR KUPPANNA”.

WEB COPY

2. The grievance of the plaintiff is that the defendant is using a deceptively similar mark as that of the plaintiff by using the name “HOTEL JUNIOR KUPPANNA”

3. The respondent / defendant received the notice / summons and has entered appearance through a learned counsel. On 27.11.2024, the learned counsel for the defendant filed a Memo stating that the defendant has changed the name of his hotel as “KANNAPPAR UNAVAGAM”. The photographs of the defendant's hotel was also enclosed along with the Memo, dated 27.11.2024.

4. Today, an Affidavit of Undertaking, dated 28.11.2024 has also been filed by the defendant stating that he has changed the name of his restaurant to “KANNAPPAR UNAVAGAM” on 18.11.2024. He has also stated that the uniform of the staff and employees has also been changed. He has also stated that the display board and logo have also been changed and they no way resemble the plaintiff's trademark / logo. The Affidavit of Undertaking dated 28.11.2024 in support of the Memo filed by the defendant, dated 27.11.2024 is recorded. The learned counsel for the plaintiff would submit that after recording the Memo, dated 27.11.2024 filed by the defendant as well as the Affidavit of Undertaking,



C.S.(COMM. DIV.) No.173 of 2024

dated 28.11.2024 filed by the defendant, the suit can be disposed of.

WEB COPY

5. Accordingly, this Court after recording the Memo, dated 27.11.2024 filed by the defendant as well as the Affidavit of Undertaking, dated 28.11.2024, this suit is disposed of. The Memo, dated 27.11.2024 filed by the learned counsel for the defendant as well as the Affidavit of Undertaking, dated 28.11.2024 filed by the defendant shall form part of this judgment. No costs. Consequently, connected applications are closed.

02.12.2024

Index: Yes/ No

Speaking order / Non speaking order

Neutral citation : Yes / No

vsi2

ABDUL QUDDHOSE, J.

vsi2



WEB COPY



C.S.(COMM. DIV.) No.173 of 2024

**C.S. (COMM. DIV.) No.173 of 2024
and
O.A. Nos.657 and 658 of 2024**

02.12.2024