



C.S. No.413 of 1997

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.02.2024

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.S. No.413 of 1997

Dinamalar

.. Plaintiff

/versus/

Kathiravan

.. Defendant

Prayer: Civil Suit has been filed under Sections 105 and 106 of the Trade and Merchandise Marks Act and Section 55 and 62 of the Copyrights Act and under Order IV Rule 1 of the Original Side Rules and Order VII, Rule 1 of the Code of Civil Procedure prays for a judgment and decree in their favour and against the defendant:

a)granting a permanent injunction restraining the Defendant, by themselves or their men, agents, servants, printers, publishers or distributors by order of this Court from committing or continuing to commit any infringement of the plaintiff's name and mark 'Siruvarmalar' or any imitation thereof or the name, colour combination, etc. of the expression 'Siruvarmalar' as per the artistic creation filed herewith by distributing, printing or causing the same to be printed, published or sold;

b)granting a permanent injunction restraining the defendant, their servants, agents, printers, publishers, distributors, etc. from passing off



C.S. No.413 of 1997

their children's magazine which is filed as M.O.1 as the magazine of the plaintiff i.e. M.O.2 by using the colour scheme get up or imitating any portion of the colour scheme get up or by using the name 'Siruvarmalar' as found in the plaintiff's document M.O.2;

c)directing the defendant to render true and faithful account of all the profits earned by them through the printing, publishing and sale of the offending mark and the artistic creation, marked as annexure herein and directing such profits to be paid to the plaintiff for the infringement and passing off of the plaintiff's mark 'Siruvarmalar' committed by the defendant;

d)directing the defendant to surrender to the plaintiff all their impugned children's magazine containing the same name, cartons, labels, packets, any other matters containing or consisting of the offending marks together with the blocks used for the purpose of printing the same for the purpose of destruction;

e)directing the defendant to pay to the plaintiff the costs of the suit.

For Plaintiff : No appearance

For Defendant : Mr.A.Veerassamy

J U D G M E N T

On the last hearing date, the learned counsel for the plaintiff sought time to get instructions as to whether anything survives for adjudication in this suit.



C.S. No.413 of 1997

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2. Today, there is no representation on the side of the plaintiff. The suit is of the year 1997. No further adjournment can be granted by this Court in view of the fact that the suit is of the year 1997. It can now be inferred that the plaintiff is not interested in prosecuting the case. Accordingly, this suit is dismissed for non prosecution. No costs.

28.02.2024

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C.S. No.413 of 1997

ABDUL QUDDHOSE, J.

vga

C.S. No.413 of 1997

28.02.2024