



C.S.(Comm.Div.) No.37 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 06.08.2025

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

C.S.(Comm.Div.) No.37 of 2025
and O.A.No.88 of 2025

Fourrts (India) Laboratories Private Limited
New No.172, Kamaraj Avenue II Street,
Justice Ramasamy Road,
Adyar, Chennai 600 020.
Represented by its Chief Executive - Finance &
Business Development, Mr.K.S.Vasu.

... Plaintiff

-VS-

Sakhiya Skin Clinic Limited
3rd Floor, 301, Ayush Doctor House,
Station Lal Darwaja Road,
Surat 395 003, Gujarat.

... Defendant

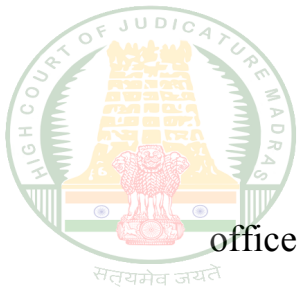
PRAYER: Civil Suit (Commercial Division) filed under Order VII Rule 1
Civil Procedure Code, 1908 And Order IV Rule 1 of O.S.Rules, 1956 Read
With Sections 27, 134 and 135 of the Trade Marks Act, 1999, praying to
grant a judgment and decree on the following terms:-



WEB.COM

(a) Granting a permanent injunction, restraining the defendant, by himself, his servants, agents, distributors, or anyone claiming through him from manufacturing, selling, advertising and offering for sale using the name '**HAIRGRO SERUM**' or any other similar Trade Mark websites, mobile applications and internet advertising and use the same in name board, invoices, letter heads and visiting cards, e-commerce websites, mobile applications and internet advertising or by using any other trade mark / name which is in any way visually or deceptively or phonetically similar to the Plaintiff's trade mark / name **HAIRGRO / HAIRGRO SERUM** and use the same in pouches, packets or cartons of any 'Hair Serum' or any cosmetic, medicinal or pharmaceutical preparations or on any other business which is in any manner visually, deceptively or phonetically or confusingly similar to the Plaintiff's Trade Marks **HAIRGRO / HAIRGRO SERUM** or its other formative marks in any other manner to pass off their business or goods as and for that of the Plaintiff.

(b) Directing the Defendant to surrender to the Plaintiff all the cosmetic, pharmaceutical and medicinal preparations, packing material, cartons, advertisement materials and hoardings, letterheads, visiting cards,



C.S.(Comm.Div.) No.37 of 2025

office stationery and all other materials containing / bearing the trade mark **HAIRGRO SERUM** or other deceptively similar Trade Mark in respect of cosmetic, pharmaceutical and medicinal preparations.

(c) Directing the defendant to render an account of profits made by them by the use of the Trade Mark **HAIRGRO SERUM** on the goods referred and decree the suit for the profits found to have been made by Defendant, after defendant have rendered accounts.

(d) Directing the Defendant to pay to the plaintiff the costs to the suit.

For Plaintiff : Ms.Gladys Daniel
for M/s.C.Daniel

For Defendant : Set *Ex parte* on 16.07.2025

JUDGMENT

The suit was filed seeking remedies in respect of alleged passing off by the defendant by use of the impugned mark HAIRGRO SERUM or any other mark deceptively similar to the plaintiff's trade marks HAIRGRO and HAIRGRO SERUM.



2. Notice was ordered in the interlocutory application on 03.02.2025.

After recording that notices in such application had been served on the respondent on 07.02.2025, an interim injunction was granted on 12.03.2025 and the plaintiff was permitted to communicate the said order to the defendant. In spite of doing so, the defendant failed to enter appearance. At the subsequent hearing on 09.04.2025, it was recorded that suit summons had been served on the defendant on 13.02.2025. Later, at the hearing on 16.07.2025, the defendant was set *ex parte*. Therefore, the plaintiff adduced *ex parte* evidence on 30.07.2025. Such evidence was adduced by examining Mr.Ramesh Krishnamoorthy, Personal Secretary to the Managing Director as P.W.1. During his examination in chief, 13 documents were exhibited as Exs.P1 to P13.

3. Learned counsel for the plaintiff invited my attention to Ex.P4, which is the packaging of the plaintiff's hair revitalizing serum bearing the trade mark HAIRGRO SERUM. She also referred to Ex.P5, which is the plaintiff's packaging for products bearing the trade mark HAIRGRO and variants thereof. By referring to Ex.P9, learned counsel submitted that the



WEB COPY

defendant has slavishly copied the plaintiff's trade mark by dishonestly adopting the mark HAIRGRO SERUM. By referring to Ex.P6, which is the certificate issued by M/s.Vijayaraghavan and Associates, Chartered Accountant, she submits that the plaintiff has effected substantial sales of goods bearing the trade marks HAIRGRO GEL, HAIRGRO SHAMPOO, HAIRGRO TABLETS and HAIRGRO SERUM. She also refers to Exs.P7 and P8, which are sample invoices. After submitting that the suit was preceded by a cease-and-desist notice dated 05.02.2024 (Ex.P11), she submits that the plaintiff is entitled to a decree on the basis of the evidence adduced by the plaintiff.

4. The plaintiff's trade marks HAIRGRO and its variants do not appear to be inherently distinctive. However, as discussed above, the plaintiff has adduced evidence of use in the form of invoices and the Chartered Accountant's certificate. The earliest invoice on record is dated 31.12.2008. These invoices evidence sale between 2008 and 2024, as regards the allopathy products bearing the mark HAIRGRO. Even as regards the homeopathy products, Ex.P8 evidences sale from 2017 to 2020



for products bearing the plaintiff's trade mark. The Chartered Accountant's certificate discloses turnover details from 2005-2006 to 2024-2025.

Therefore, the plaintiff has adduced evidence of acquired distinctiveness through use over a considerable period of time. Such evidence further indicates that the plaintiff has acquired substantial reputation and goodwill by use of its trade marks.

5. On comparison of the plaintiff's trade mark and the defendant's trade mark, it is evident that the defendant's trade mark is nearly identical to that of the plaintiff. The products to which the respective marks are applied are similar and nearly identical. The use of the impugned mark, therefore, constitutes a misrepresentation that causes injury to the plaintiff's reputation and goodwill. In the light of the evidence adduced by the plaintiff and in the absence of contra evidence, the plaintiff is entitled to a decree. As the successful party, the plaintiff is also entitled to costs. The defendant is liable to pay an aggregate sum of Rs.3,00,000/- (Rupees Three Lakhs only) as costs to the plaintiff towards court fees, lawyers' fees and other expenses.



C.S.(Comm.Div.) No.37 of 2025

6. For reasons aforesaid, C.S.(Comm.Div.) No.37 of 2025 is decreed

in terms of reliefs claimed at clauses (a) to (c) of paragraph 22 of the plaint.

In addition, the defendant is directed to pay the plaintiff a sum of Rs.3,00,000/- (Rupees Three Lakhs only) as costs towards court fees, lawyers fees and other expenses. Consequently, O.A.No.88 of 2025 is closed.

06.08.2025

rna

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

Plaintiff's Side Witness:

P.W.1 - Mr.Ramesh Krishnamoorthy

Plaintiff's Side Documents:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Original Board Resolution dated 23.07.2025.
Ex.P2	Photocopy of the Certificate of Incorporation under No.7782 of 1979 dated 31.03.1979.
Ex.P3	Photocopy of the Fresh Certificate of Incorporation dated 12.06.1996.
Ex.P4	Original Plaintiff's Carton / Product. (4 Nos.)
Ex.P5	Original Plaintiff's Brochure / Pamphlets. (5 Nos.)



C.S.(Comm.Div.) No.37 of 2025

<i>Exhibits</i>	<i>Documents</i>
Ex.P6	Original Certificate of Turnover details for the year 2005 to 2024 dated 28.05.2024.
Ex.P7	Original Sample sales invoices (Pages 1 to 221) with respect to Allopathy Products Hairgro for the year 2008 to 2024.
Ex.P8	Original Sample sales invoices (Pages 1 to 141) with respect to Homeopathy Products Hairgro in original for the year 2017 to 2024.
Ex.P9	Original Defendant's Carton / Product (1st one is original other two are photocopy. (3 Nos.)
Ex.P10	Photocopy of Defendant's product sales invoice under No.2152 dated 24.04.2024.
Ex.P11	Office copy of Cease and Desist notices sent to the defendant dated 05.02.2024 with Original Postal receipt dated 07.02.2022 and Original Acknowledgement card dated 07.02.2022.
Ex.P12	Original Reply Notice dated 14.02.2024 received from the defendant.
Ex.P13	Photocopy of Manufacturing Licenses (Pages 1 - 17) issued in respect of HAIRGRO Group.

Defendant's Side Witness and Documents:

-Nil-

06.08.2025

SENTHILKUMAR RAMAMOORTHY,J



WEB COPY



C.S.(Comm.Div.) No.37 of 2025

rna

C.S.(Comm.Div.) No.37 of 2025
and O.A.No.88 of 2025

06.08.2025