



C.S.(Comm.Div.) No.148 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 11.06.2025

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

C.S.(Comm.Div.) No.148 of 2024
and O.A.Nos.573 to 575 of 2024
and A.Nos.4180 & 5855 of 2024

Amadora Gourmet Ice Cream Private Limited,
Represented by its Director,
Mr.Deepak Suresh,
Having its registered office at:
23, Wallace Gardens,
3rd Street, Khader Nawaz Khan Road,
Nungambakkam, Chennai 600 006.

... Plaintiff

-VS-

1.Mr.Jagannath Palai
Kora Food Street, 340/1-341/16, 2nd Avenue Anna Nagar,
Chennai Corporation Ward – 99,
Chennai, Tamil Nadu – 600 040
P.O. Anna Nagar (Chennai)(Sub Office).

Also at:
Kora Food Street,
MRTS Station, Subramaniam Colony,
Bhuvaneshwari Nagar,
Velachery, Chennai, Tamil Nadu – 600 042
P.O. Velacheri (Sub Office), Velachery.
(Amended as per order dated 09.06.2025 in A.No.1236 of 2025)



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2.Mr.K.Rajasekar,
No.44, V.V.Koil Street,
Chinmaya Nagar, Stage 1,
Tamil Nadu, Chennai – 600 092,
P.O. Virugambakkam (Sub Office)

... Defendants

PRAYER: Civil Suit (Commercial Division) filed under Order VII Rule 1 Civil Procedure Code, 1908 And Order IV Rule 1 of O.S.Rules of the Madras High Court, Section 2(1)(c)(xii) Read With Section 7 of the Commercial Courts Act, 2015 and Sections 27, 29, 134, 135 of the Trade Marks Act, 1999 and Sections 14, 51, 55 and 62 of the Copyrights Act, 1957, praying to grant a judgment and decree on the following terms:-

(a) A permanent injunction restraining the Defendants, their partners, Directors, proprietors, subsidiaries, affiliates, franchisees, officers, servants, agents, distributor, stockists, representatives, licensees, and all others acting for and on their behalf directly or indirectly, as the case may be from manufacturing, selling, distributing, exporting, advertising, offering for sale, any products and in any manner, directly or indirectly, dealing with any products or services under the trade marks “GALADARA” which is phonetically similar to the plaintiff's trade mark “AMADORA” under trade



mark registrations **2339336, 2339338, 2339337 and 2339335** in class 30 and 43 respectively, amounting to **trade mark infringement** thereof.

(b) A permanent injunction restraining the Defendants, their partners, Directors, proprietors, subsidiaries, affiliates, franchisees, officers, servants, agents, distributor, stockists, representatives, licensees, and all others acting for and on their behalf directly or indirectly, as the case may be from manufacturing, selling, distributing, exporting, advertising, offering for sale, any products under the trade marks 'UNDERBAKED', 'TRIPLE C', 'HAIL MARY', 'A CUP', 'BROOKLYN BLACK OUT', 'ELLA ELLA', 'EAST & WEST', 'XOCOLAT', 'MUD PIE', 'FIVE BEAN VANNILA' etc and in any manner, directly or indirectly, dealing with any products or services under the plaintiff's trade marks amounting to **passing off**.

(c) A permanent injunction restraining the Defendants, their partners, Directors, proprietors, subsidiaries, affiliates, franchisees, officers, servants, agents, distributor, stockists, representatives, licensees, and all others acting for and on their behalf directly or indirectly, as the case may be from performing any actions, especially using artistic works identical to plaintiff's original artistic work in its photographs on the menu cards, pamphlets,



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brochures and in their outlets amounting to **infringement of copyright** therein.

(d) A preliminary decree be passed in favor of the plaintiff directing the Defendants to **render true and proper accounts of the profits** arising out of the amount of sales generated by the Defendants in respect of their alleged activities especially sale and advertisement of products for their business, after the latter have rendered accounts.

(e) To grant order of **delivery up** of any menu cards, brochures / printed material and / or any material that infringes plaintiff's trade mark and copyright in the photographs of the plaintiff's products.

(f) The defendants may be ordered to pay the plaintiff a sum of Rs.10,00,000/- as **damages** for having committed infringement of the plaintiff's trade mark and copyright in respect of the plaintiff's artwork, dilution and tarnishment of copyright in respect of the product images that solely belong and associated only with the plaintiff.

(g) Costs of such other reliefs.

For Plaintiff : Ms.Jayabharathi.T.S,



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Ms.Reshma Rajagopal
for M/s.M.S.Bharath

For Defendants : Mr.A.Prasanna Venkat
for M/s.APR Associates

JUDGMENT

The suit was filed seeking relief in respect of alleged infringement of trade mark and copyright and passing off. By order dated 05.02.2025, Mr.V.P.Raman, Advocate, was appointed as the Mediator. Pursuant to mediation, the parties have reached a settlement and executed joint memorandum of settlement dated 28.04.2025. The joint memorandum of settlement has been executed by an authorized signatory of the plaintiff and by the first and second defendants. The respective counsel have also signed the document.

2. In paragraph 4, the defendants have agreed and undertaken that they will not use the marks mentioned therein. The revised menu cards, pamphlets, brochures and other materials for use in the defendant's outlets



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and websites have been mentioned in Annexure-A. In view of the settlement, the plaintiff has agreed not to press for reliefs claimed in paragraph 85(a), (d), (e) and (f) of the plaint. I find no legal impediment to the issuance of a decree in terms of the joint memorandum of settlement.

3. Therefore, C.S.(Comm.Div.) No.148 of 2024 is decreed in terms of joint memorandum of settlement dated 28.04.2025, which shall form an integral part of the decree. In view of the settlement, there will be no order as to costs. Consequently, the connected applications are closed.

11.06.2025

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Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No



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