

C.S. (COMM. DIV.) No.118 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 18.03.2024

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.S. (COMM. DIV.) No.118 of 2021

Pradesh Bharat Sevak Samaj
Rep. by its President
Mr.Boopathi Desiappan

... Plaintiff

-Vs-

1. Bharat Sevak Samaj – Tambaram,
Rep. by its Director,
BSS Programme Office,
BSS Tower,
Bharathi Nagar First Main Road,
Tambaram East,
Chennai – 600 063.

2. Bharat Sevak Samaj – Kerala Pradesh,
Cyber Bhavan,
EVRA – 423,
Vazhuthacaud,
Thiruvananthapuram,
Kerala – 695 014.

...Defendants

PRAYER : PLAINT FILED UNDER VII RULE 1 & 2 OF CPC READ WITH ORDER IV RULE 1 O.S.RULES & PROVISION 1 TO SECTION 7 OF COMMERCIAL COURTS, COMMERCIAL DIVISION AND COMMERCIAL APPELLATE DIVISION OF HIGH COURTS ACT, 2015 to grant a judgment and decree on the following terms :



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a) Permanent Injunction restraining the 1st defendant, their agents and or anyone from in any manner by infringing the registered trade mark logo of plaintiff in the 1st defendant course completion certificate and also remove the same.

b) Permanent Injunction restraining the 1st defendant, their agents and or anyone from in any manner running and conducting the vocational courses in Tamil Nadu, Andhra Pradesh, Karnataka and Maharashtra

c) Permanent Injunction restraining the 1st defendant, their agents and or anyone from in any manner of misrepresenting in News Magazine, Publication, that the plaintiff course completion certificates are fake and posting the content that plaintiff issuing fake certificate in the 1st defendant website

d) To pay the cost of the suit.

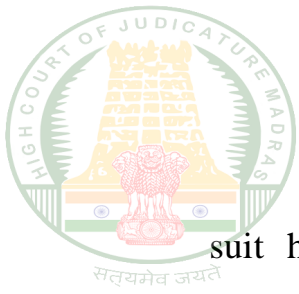
For Plaintiff : Mr.J. Umacharan

For Defendants : Set exparte

JUDGMENT

The learned counsel for the plaintiff at the outset on instructions would submit that the plaintiff is giving up the 2nd defendant and that the plaintiff restricts the suit claim only against the 1st defendant. The said statement is recorded and accordingly the suit as against the 2nd defendant is dismissed as not pressed.

2. The suit has been filed for infringement and passing off. The



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suit has also been filed against the 1st defendant for a permanent injunction restraining them from misrepresenting to the public that the plaintiff's course completion certificates are fake. The plaintiff is a society registered under the Tamil Nadu Societies Registration Act, 1975. According to the plaintiff, the object of the Society was to establish run, manage and help in establishing and managing educational and professional institutions and to act as an agency to promote higher and technical education and training on the management and capacity building to all organizations and all sections of the society. The plaintiff conducts various vocational certificate courses in Information Technology, Technical Work, Integrated Training Model, Literature, science etc., apart from doing charity, social reforms in the society including Arts and Crafts, Cottage Industry, social service, cultural activities etc. for the aspiring students.

3. According to the plaintiff, they are operating and conducting activities in Tamil Nadu, Karnataka, Andhra Pradesh and Maharashtra and conducting certificate courses in those States for the past several years ever since the date of registration of the Society.

4. According to the plaintiff, the 1st defendant is running a similar



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institute by using the plaintiff's trademark **Pradesh Bharat Sevak Samaj**

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without the authority and permission of the plaintiff. The plaintiff has obtained the trademark registration for its trademark **Pradesh Bharat Sevak Samaj** under Class 41 bearing trademark Registration No.3274550. The logo of the plaintiff has also been registered under the Trademarks Act, 1999. The trademark registration was obtained on 22.03.2017. The plaintiff claims that they were using the trademark even prior to the date of the registration. By its long and continuous usage of the trademark **Pradesh Bharat Sevak Samaj**, the plaintiff claims that they have a distinctive identity of their own and they have earned a reputation and goodwill with the public. According to the plaintiff, the 1st defendant, without their authority and permission is using an identical mark *Bharat Sevak Samaj-Tambaram* and is also carrying on a similar activity as that of the plaintiff. The plaintiff also contends that the logo of the plaintiff has also been blatantly copied by the 1st defendant and they are issuing course completion certificates adopting a very similar trademark to that of the plaintiff and adopting a similar logo as well. According to the plaintiff, the 1st defendant, in order to mislead the students that the courses offered by them is that of the plaintiff, who is



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having a reputation of its own has been issuing completion certificates

blatantly copying the plaintiff's trademark as well as the logo. The

plaintiff claims that on account of the same, they have suffered huge

monetary losses. However, despite the fact that the plaintiff is having a

registered trademark and is in continuous usage of the trademark

Pradesh Bharat Sevak Samaj, the 1st defendant has illegally published

in the news magazines and other media as if the plaintiff is cheating the

general public by issuing fake certificate. According to the plaintiff the

certificates issued by them have benefited various students in getting job

opportunities in various companies both in India as well as in abroad.

The plaintiff has also pleaded in the plaint that the 1st defendant has

copied the plaintiff's trademark and its logo with an intent to illegally

deceive the innocent students, who are made to pay heavy fees.

According to the plaintiff, the act of the 1st defendant would amount to

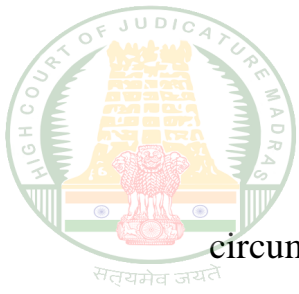
infringement of the plaintiff's trademark and also would amount to

defaming the reputation of the plaintiff amongst the aspiring students. It

is also contended by the plaintiff that the 1st defendant has evaded

payment of taxes to all the government authorities and their employees

and staff have also not been properly paid. Under the aforementioned



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circumstances, the suit has been filed by the plaintiff seeking for the following reliefs :-

a) permanent injunction to restrain the 1st defendant from infringing the plaintiff's trademark and logo.

b) permanent injunction to restrain the 1st defendant from in any manner running and conducting vocational courses in Tamil Nadu, Andhra Pradesh, Karnataka and Maharashtra under the mark *Bharat Sevak Samaj-Tambaram*.

c) permanent injunction to restrain the 1st defendant from in any manner misrepresenting in news magazine, publication that the plaintiff's course completion certificates are fake and posting the content that the plaintiff is issuing fake certificates in the 1st defendant website.

d) to direct the 1st defendant to pay costs of the suit to the plaintiff.

5. Initially, the defendants had entered appearance through a learned counsel. However, the defendants did not file the written statement in the suit. By order dated 13.07.2023, this Court forfeited the

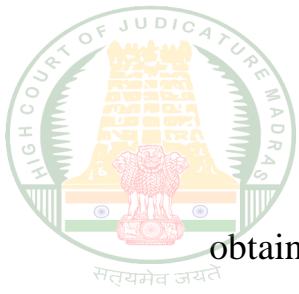


right of the defendants to file the written statement on account of the expiry of the statutory period. Thereafter since there was no representation on the side of the defendants on the subsequent hearing dates, they were set exparte by this Court on 01.11.2023. Exparte evidence has also been recorded by the plaintiff before the learned Additional Master I.

6. The plaintiff's authorised representative viz., Mr.Boopathi Desiappan, the President of the plaintiff's society was examined as a witness on the side of the plaintiff (PW1). He had also filed a proof affidavit reiterating the contents of the plaint. Through PW1, the following documents were marked as Exhibits :

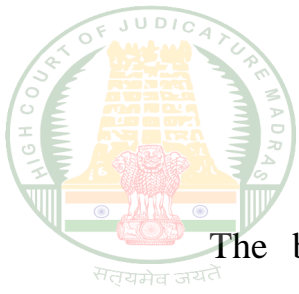
Ex.P1 is the Certificate of Registration of Societies dated 03.06.2010
Ex.P2 is the Trade Mark Certificate dated 22.03.2017.
Ex.P3 is the Blank Statement of Mark Sheet.
Ex.P4 is the Audit Report dated 26.06.2019.
Ex.P5 is the Paper Publication by Plaintiff in Dinamalar dated 04.09.2019.
Ex.P6 is the Paper Publication by Plaintiff in Dinamalar dated 07.09.2019.
Ex.P7 is the Blank Course Completion Certificate of the plaintiff
Ex.P8 is the Blank Course Completion Certificate of the defendant.

7. As seen from the Exhibits, particularly Ex.P2, the plaintiff has



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obtained trademark registration for **Pradesh Bharat Sevak Samaj** on 22.03.2017 under class 41. The plaintiff's society has also been registered under the Tamil Nadu Societies Registration Act, 1975 on 03.06.2010, which is confirmed by the certificate of registration of societies, dated 03.06.2010, marked as Ex.P1. The plaintiff's format of the marksheet and its registered trademark **Pradesh Bharat Sevak Samaj** is also filed by way of blank statement of mark sheet, which has been marked as Ex.P3. The audit report pertaining to the plaintiff dated 26.06.2019 has also been marked as Ex.P4. The plaintiff has also effected a public notice in Dinamalar issue dated 04.09.2019, which has been marked as Ex.P5 and in Dinamalar issue dated 07.09.2019, which has been marked as Ex.P6. As seen from Exs.P5 and P6, public caution notices have been given to the general public through Exs.P5 and P6 stating that the plaintiff's trademark **Pradesh Bharat Sevak Samaj** is being misused by other organisations like that of the 1st defendant and they have put the public on notice about the same. According to the plaintiff, despite effecting public notices, the 1st defendant continues to infringe the plaintiff's registered trademark and is also deceiving students by issuing certificates in the name of the plaintiff's registered trademark.



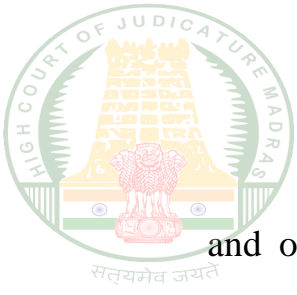
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The blank course completion certificate of the plaintiff which has been marked as Ex.P7 and the blank course completion certificate of the defendants which has been marked as Ex.P8 also reveals that the defendant has copied the plaintiff's registered trademark and its logo.

8. This Court after giving due consideration to the averments contained in the plaint, proof affidavit filed by the Plaintiff's witness (PW1) and the documents marked as Exhibits on the side of the plaintiff is of the considered view that the suit claim has been proved by the plaintiff. The plaintiff has proved that the 1st defendant has committed an act of infringement and passing off the plaintiff's registered trademark **Pradesh Bharat Sevak Samaj**. It is also proved that the defendant with the dishonest intention of getting unlawful gains has used the plaintiff's reputation and goodwill by using the plaintiff's registered trademark and its logo.

9. For the foregoing reasons, the suit is decreed as prayed for in the plaint and this Court passes a judgment and decree in favour of the plaintiff against the 1st defendant by granting the following reliefs :-

a) Permanent Injunction restraining the 1st defendant, their agents



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and or anyone from in any manner by infringing the registered trade mark logo of plaintiff in the 1st defendant course completion certificate.

b) Permanent Injunction restraining the 1st defendant, their agents and or anyone from in any manner running and conducting the vocational courses in Tamil Nadu, Andhra Pradesh, Karnataka and Maharashtra

c) Permanent Injunction restraining the 1st defendant, their agents and or anyone from in any manner of misrepresenting in News Magazine, Publication, that the plaintiff course completion certificates are fake and posting the content that plaintiff issuing fake certificate in the 1st defendant website.

d) The 1st defendant is directed to pay costs of the suit to the plaintiff.

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Index: Yes/ No
Speaking order / Non speaking order
Neutral citation : Yes / No
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APPENDIX



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List of Witness Examined on the side of the Plaintiff:

WEB COPY P.W.1 – Mr.Boopathi Desiappan

S. No.	Exhibits	Description of documents
1.	P1	Ex.P1 is the Certificate of Registration of Societies dated 03.06.2010
2.	P2	Ex.P2 is the Trade Mark Certificate, dated 22.03.2017.
3.	P3	Ex.P3 is the Blank Statement of Mark Sheet.
4.	P4	Ex.P4 is the Audit Report dated 26.06.2019.
5.	P5	Ex.P5 is the Paper Publication by Plaintiff in Dinamalar dated 04.09.2019.
6.	P6	Ex.P6 is the Paper Publication by Plaintiff in Dinamalar dated 07.09.2019.
7.	P7	Ex.P7 is the Blank Course Completion Certificate of the plaintiff
8.	P8	Ex.P8 is the Blank Course Completion Certificate of the defendant.



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ABDUL QUDDHOSE, J.

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