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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 23.06.2026

PRONOUNCED ON : 21.09.2026

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

CS No. 687 of 2017

and

(T)OP(TM) No. 340 of 2023

C.S.No.687 of 2017

Ashique Exports Pvt.Ltd.
Rep.by its Manager Mr.Biju Sukumaran,
Touchstone Apartments,
Old No.10, New No.25, Vasu Street,
Kilpauk, Chennai-600 010.

..Plaintiff

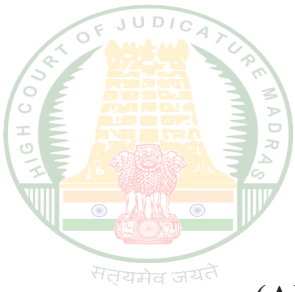
Vs

1. Koyenco Soaps and Detergents
Pvt.Ltd.,
Rep.by its Managing Director,
Calicut-673 005, Kerala.
2. Koyenco Consumer products
Pvt.Ltd .,
Rep.by Managing Director,
Westhill P.O,
Calicut-673 005,
Kerala.

..Defendants

Prayer

Plaint filed under Order IV Rule 1 of the Original Side Rules read with Order VII Rule 1 CPC and Sections 28, 134 & 135 of the Trade Marks Act, 1999, prays that this Hon'ble Court may be pleased to pass a Judgement and Decree:



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(A) Granting PERMANENT INJUNCTION restraining the Defendants by themselves, their servants, agents representatives or men, or anyone claiming through them from in any manner infringing the Plaintiff's Trade Mark "Dr. WASH" and label bearing registration No. 1130214 in respect of Washing Soap by using any identical, similar or deceptively similar or any resembling mark and label on their product, packaging wrapper together with any write up or any other representation or words which are in any manner identical to and deceptively similar with the registered mark of the Plaintiff including colour scheme, packaging, get up, trade dress, write up and wrapper on any of the Defendants product including those under the mark "Dr.BRIGHT" for Washing Soap in any manner whatsoever;

(B) Granting PERMANENT INJUNCTION restraining the Defendants by themselves, their servants, agents representatives or men, or anyone claiming through them from in any manner passing off the Defendant's washing soap-bearing the offending trade mark 'Dr. Bright' with identical and / or deceptively similar colour scheme, get up, trade dress, packaging, wrapper together with any write up or any other representation or words which are in any manner identical to and deceptively similar with the Trade Mark of the Plaintiffs on the Defendants products, as and for the celebrated washing soap of the Plaintiff bearing the trade mark "Dr. WASH" Soap, with peculiar get-up, label and write-up, either by manufacturing or selling or offering for sale or in any manner advertising the Defendant's offending product 'Dr.Bright' with its variants and deceptively similar labels and marks to the public;

(C) Granting PERMANENT INJUNCTION restraining the Defendants by themselves, their servants, agents representatives or men, or anyone claiming



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through them from in any manner misrepresenting the Defendant's washing soap bearing the offending trade mark 'Dr. Bright' with identical and / or deceptively similar colour scheme, get up, trade dress, packaging, wrapper together with any write up or any other representation or words which are in any manner identical to and deceptively similar with the Trade Mark of the Plaintiff on any of the Defendants products, as and for the celebrated washing soap of the Plaintiff bearing the trade mark "Dr. WASH" Soap, with peculiar get-up, label and write-up, either by manufacturing or selling or offering for sale or in any manner advertising the Defendant's offending product 'Dr.Bright' with its variants and deceptively similar labels and marks to the public as though manufactured and marketed by the Plaintiff in a new/variant form;

(D) Directing the Defendants to surrender to the Plaintiff the entire stock of unused offending 'Dr. Bright' soap bars and unused wrappers, packaging material, advertisement and promotional material together with blocks and dyes for destruction;

(E) A direction appointing an Advocate Commissioner to seize wherever found the offending labels and products and their labels and dyes with the mark 'Dr.Bright' and all deceptively similar and offending labels and destroy them under report to this Honourable Court;

(F) A direction to the Defendants to render a true and faithful account of the profits earned by it through the sale of the offending bath soap bearing the offending trade mark 'Dr.Bright' wrapper/carton and directing payment of such profits to the plaintiffs for infringement and passing off committed by the Defendants;

(G) Directing the Defendants to pay to the Plaintiff the cost of the suit.



(H) and pass such further or other orders as may be deemed fit and proper in the circumstances of the case.

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For Plaintiff : Mr.Perumbulavil Radhakrishnan

For Defendants : Mr. Arun C Mohan
(For R1 & R2)

(T)OP(TM).No.340 of 2023

1. Koyenco Soaps and Detergents Pvt. Ltd
39/53C, Koyenco House, West Hill P.O.,
Calicut – 673 005.
2. Koyenco Consumer Products Pvt Ltd
39/53C, Koyenco House, West Hill P.O.,
Calicut 673 005.

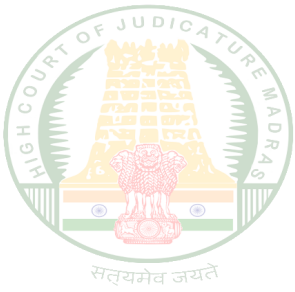
..Petitioners

Vs

1. Ashique Exports Private Limited
13/750, Annie Hall Cross Road,
Calicut 673 002.
2. The Registrar of Trademarks,
Office of the Trade Marks Registry,
Boudhik Sampada Bhawan, G.S.T. Road,
Guindy, Chennai 600 032.

..Respondents

Petition filed under Section 57 of the Trade Marks Act, 1999, praying to remove/expunge/rectify/cancel the entry relating to trademark under registration No.1130214 in class 3.



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For Petitioners : Mr. Arun C Mohan

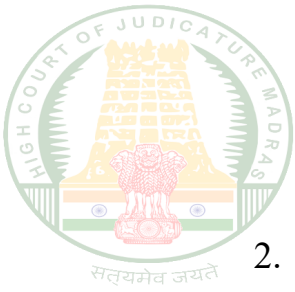
For Respondents : Mr.Perumbulavil Radhakrishnan
(For R1)

Mr.M.Sathyan
Additional Central Government
Standing Counsel
(For R2)

COMMON JUDGMENT

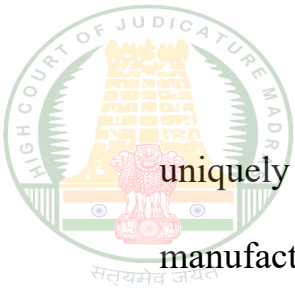
The present suit in C.S.No.687 of 2017 has been filed, seeking inter alia permanent injunction, restraining the defendants therein, by themselves, their servants, agents representatives or men, or anyone claiming through them from;

(i) in any manner infringing, the plaintiff's Trade mark "**Dr. WASH**" and label bearing registration No.1130214, (ii) in any manner passing off and misrepresenting the defendant's washing soap bearing the offending trade mark "**Dr.Bright**" with identical and/or deceptively similar colour scheme, get up, trade dress, packaging, wrapper together with any write up or any other representation or words which are in any manner identical to and deceptively similar with the Trade Mark of the Plaintiffs on the Defendants products, as and for the celebrated washing soap of the Plaintiff bearing the trade mark "**Dr.WASH**" Soap, with peculiar get-up, label and write-up, either by manufacturing or selling or offering for sale or in any manner advertising the Defendant's offending product "**Dr.Bright**" with its variants and deceptively similar labels and marks to the public.



2. The present transfer Original Petition was filed by the petitioner, the defendants in the suit seeking to remove/expunge/rectify/cancel the entry relating to trademark “**Dr. WASH**” under registration No.1130214 in Class 3.

3. The Plaintiff is a company incorporated on 26.10.1993, engaged in the manufacture and marketing of soaps and detergents. Similarly the first defendant is also a manufacturer of similar products, namely soaps and detergents and second defendant is a marketing the said products and both the defendants belong to a same group of companies. In the course of its business, the Plaintiff conceived, adopted and commenced use of the Trade Mark “**Dr.WASH**” in respect of their product, namely, washing soap, along with its distinctive and unique design as early as September 2002 and had filed for the trademark application on 02.09.2002. The Plaintiff has since been continuously and extensively using the said Trade Mark through itself and/or through its licensees for over 15 years. The Plaintiff is the registered proprietor of the Trade Mark “**Dr.WASH**”, bearing Registration No.1130214, which is valid and subsisting. The Plaintiff owing to the popularity and market demand in the middle east, had also obtained registration of the said Trade Mark in the United Arab Emirates with the Ministry of Economy (Commerce), under Application No.221503. The said Trade Mark is presented in a distinctive manner with a peculiar colour scheme, get-up, trade dress, write-up and artistic work, which



uniquely identifies the Plaintiff's products. The Plaintiff has continuously manufactured and marketed its products under the said Trade Mark, along with its distinctive get-up and trade dress for more than 15 years, thereby acquiring substantial goodwill and reputation therein.

4. In and around June 2016 the defendants had also launched their soap "**Dr.Bright**" as a competitor to the plaintiff's "**Dr.WASH**" soap and had deliberately adopted a trademark deceptively similar to that of the plaintiff's trademark, with a similar get up and trade dress and even using the same prefix of "Dr" which can be found in the plaintiff's mark. It is stated that the defendant filed an application for registration of its trade mark "**Dr.Bright**" label under Application No.3220774 under class 3 on 29.03.2016, thereby evident that the defendant's mark has come into existence about after 15 years of the Plaintiff's Trademark. It is averred that the defendant had deliberately adopted its impugned trade mark "**Dr.Bright**" along with similar getup and trade dress as that of the plaintiff to pass off their product as that of the plaintiff's product, creating confusion in the minds of the public and the consumers and to en-cash upon the plaintiff's good will among them. The plaintiff further case is that the defendants further poached the employees of the plaintiff and made them market their product "**Dr.Bright**" as the improved version of plaintiff's "**Dr.WASH**" products and to pass off their inferior products. Therefore the plaintiff in order to protect its right over its trademark "**Dr.WASH**" had filed



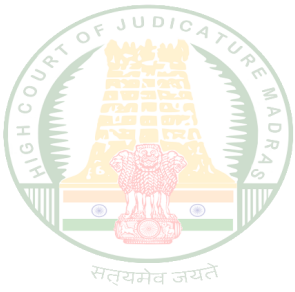
the present suit seeking *inter alia* permanent injunction against the defendants from using its impugned trade mark “**Dr.Bright**”.

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5. The defendants filed their written statement, wherein they specifically denied the allegations leveled against them by the plaintiff. The defendants submits that the plaintiff's impugned trademark “**Dr.WASH**” bearing No.1130214 does not confer upon the plaintiff any exclusive rights on the use of “Plus” device or the words “Dr.Wash”, as the impugned mark of plaintiff itself imposes the condition that the registration of the said mark does not confer upon the plaintiff with any exclusive rights. However, the plaintiffs had deliberately concealed the said condition/disclaimer while filing suit. It further averred that aforesaid conditions has to be read with the fact the “Plus” device and the words “Doctor/Dr” and “Wash” are all common to the trade in relation to which the impugned mark of the plaintiff is registered. Thereby, consequently making the registration of the impugned trademark of the plaintiff liable to canceled under the sections 9 and 11 of the Trademarks Act, 1999 (hereinafter referred to as ‘Act’). Hence the defendants claimed that the reliefs claimed by the plaintiff is not maintainable and the suit is liable to be dismissed in *limine*.

6. Based on the above pleadings this court has framed following issues to be determined;

1. Whether the plaintiff is the prior adopter and user of



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the trade dress packaging wrapper together with write up under the mark 'Dr. Wash' vis-a-vis the defendants?

2. Whether the defendants washing soap with the trade dress packing wrapper together with write up under the mark 'Dr. Bright' comprises and usurps the essential and distinct features of the Plaintiff's soap trade dress packing wrapper together with writ up sold under the mark 'Dr. Wash'?

3. Whether the defendants have indulged in unfair trade practice including acts of poaching the plaintiff's employees, misrepresenting to traders and public, to sell their soap thereby causing the trade and public to deal with familiar people and pass off their soap as that of the plaintiff's manufacture and as though their products come from the same source as that of the plaintiff?

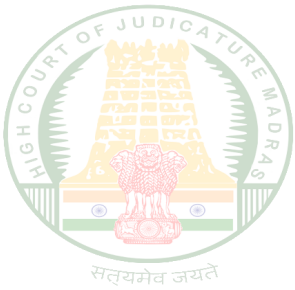
4. Whether the plaintiff's trademark registration under number.1130214 is valid?

5. Whether the plaintiff has approached the Court with unclean hands by concealing the material fact regarding the disclaimer provider in the trade mark journal to gain an unfair advantage?

6. Whether the plaintiff's trademark is generic to trade?

7. Whether the defendants are to Surrender to the plaintiff the entire stock of unused offending 'Dr. Bright' soap bars and unused wrappers, packing material, advertisement and promotional material together with blocks and dyes for destruction;

8. Whether the defendants are to render a true and faithful account of the profits earned by it through the



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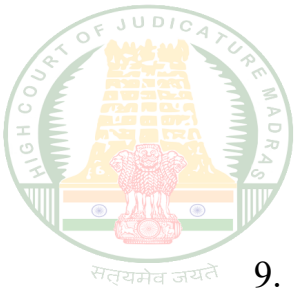


sale of the offending bath soap bearing the offending trade mark 'Dr. Bright' wrapper/carton and directing payment of such profits to the plaintiffs for infringement and passing off committed by the defendants?

9. Whether the defendants are liable to pay to the plaintiff the cost of the suit?

7. On the Plaintiff's side four witnesses were examined as PW1 to PW4 and has marked 73 documents as Ex.P1 to Ex.P73 as the evidence and the defendant's side had examined the authorized Representative and Manager & HR of both the defendants as Ex.DW1 and has marked the documents Ex.D1 to Ex.D16 .

8. Pending the present suit in C.S.No.687 of 2017, the defendants therein had filed an Application against the Plaintiff in ORA/14/2020/TM/CHN, before the Intellectual Property Appellate Board, Chennai, seeking for the removal/ expunging/ rectification/ cancellation of the entry relating to the Plaintiff's trademark "**Dr.WASH**", registered under Registration No.1130214 in Class 3, from the Trade Marks Register. The aforesaid Application now stands transferred to this Court and is pending as the present Rectification Petition in (T)O.P.(TM) No.340 of 2023, wherein Defendants Nos. 1 and 2 are the Petitioners 1 and 2 respectively, and the Plaintiff along with the Registrar of Trade Marks were impleaded as Respondents 1 and 2 respectively.



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9. Heard the learned counsels appearing on behalf of the respective parties in both the Suit and the Original petition.

10. The learned counsel appearing on behalf of the plaintiff / first respondent, submits that the Plaintiff/ first respondent is engaged, *inter alia* in the manufacture and marketing of soaps and detergents. In the course of the business the Plaintiff/ first respondent has conceived and adopted the Trademark “**Dr.WASH**” with a distinctive, simple and unique design as early as September 2002. It is submitted that the trademark “**Dr.WASH**” bearing No.1130214 stands registered in favour of the plaintiff and is validly renewed till 02.09.2023, both of which stands substantiated by the Trade Mark Registration Certificate (Ex.P3) and Renewal Certificate (Ex.P4). Further, owing to the popularity and reputation of the Plaintiff’s products in the Middle Eastern countries, the Plaintiff has also obtained registration of its trademark “**Dr.WASH**”, bearing Registration No.221503, from the Ministry of Economy (Commerce), United Arab Emirates, and the said registration has been marked as Ex.P5. It is further submitted that the plaintiff has retained the said mark “**Dr.WASH**” and has from time to time renewed the getup and style of the wrapper, to suit the market requirements in such a way that the consumer is able to identify the product. The learned counsel further submits that the artistic work on the plaintiff’s label is the copyright which is vested upon the plaintiff



alone and that the Plaintiff is entitled to the statutory rights and protection available under the Copyright law in respect of the said artistic work.

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11. The learned counsel further submitted that the defendants' group who was never in the business of the Detergent soaps or consumer goods, launched their soap under the trademark "**Dr.Bright**" as the competitor to the Plaintiff's "**Dr.WASH**" Soap around the month of June 2016, which marked the defendants first foray into the market for consumer goods. The learned counsel contends that the defendants deliberately adopted the impugned trademark "**Dr.Bright**" deceptively similar to that of the Plaintiff's "**Dr.WASH**" trademark. It is further submitted that the defendant had further usurped other features which are found in the plaintiff's trademark label and its packaging wrapper, namely, 'Dr.', '100% veg', etc., along with the similar colour scheme. The defendant witness DW1 in his cross examination had also accepted that all the essential feature found in the plaintiff's mark and its packaging wrapper are also found in the defendant's mark and packing.

12. It is submitted that the defendants had poached the plaintiff's employees and through them the defendants marketed their product bearing the impugned mark "**Dr.Bright**", in such a way representing it to be a new version of the plaintiff's "**Dr.WASH**" products in the market. Despite notice to the defendants to produce the Muster Roll of the its employees and DW1's initial



willingness during cross-examination to produce the same, the defendants failed to produce either the Muster Roll or any other documentary evidence to establish that they had not poached the plaintiff's employees. The learned counsel contends that the defendants deliberately misled the retailers particularly as the retailers were unable to distinguish the plaintiff's erstwhile employees, who had subsequently joined the defendants apart from that of the plaintiff's representatives. PW2 to PW4 have also deposed that the retailers represented that the defendants' product was a premium brand of the plaintiff's company. Thus, it is contended that the defendants deliberately sought to exploit the goodwill and reputation attached to the plaintiff's products and thereby pass off their inferior products as those of the plaintiff.

13. Further, it is submitted that, in addition to adopting packaging, colour schemes and descriptive write-ups on the wrappers of their products that are deceptively similar to those of the Plaintiff. According to the learned counsel the Defendants have also incorporated a tagline which tarnishes the reputation and goodwill associated with the Plaintiff's product "**Dr.WASH**". The said tagline, namely, "*FORMULATED BY AIIMS DOCTORS*", printed in a red band, along with the words in Malayalam "*Washinginde shariyaya doctor*", translating to "*the true doctor for washing*", conveys an impression to the public and consumers that the Defendant's product "**Dr.Bright**" was genuine or of superior quality when compared with the Plaintiff's product "**Dr.WASH**". It is



further submitted that, during his cross-examination, DW1, when questioned regarding the formulation of the Defendants' product and the basis for making such a representation pursuant to the tagline "*Formulated by AIIMS Doctor*", admitted that there was no such letter or communication from AIIMS Doctors to substantiate the said claim. Therefore, the Defendants have failed to place any material on record to substantiate the representation conveyed through the impugned tagline.

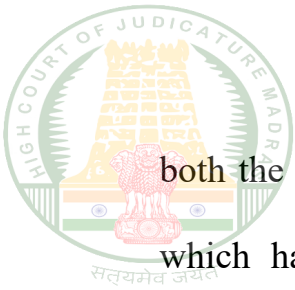
14. The learned counsel vehemently contends that the Plaintiff/ first respondent has not claimed exclusivity beyond the scope of the registration granted in respect of its mark bearing Registration No.1130214. It is further submitted that the Plaintiff has neither suppressed the condition imposed nor the disclaimer attached to the registration of the Plaintiff's mark "**Dr.WASH**". The condition imposed therein stipulates that the Plaintiff shall have no exclusive right over the device "Plus" and the word "Dr.WASH", except as substantially shown in the representation of the label as agreed thereto. The Plaintiff has neither claimed any exclusive rights over the device 'Plus' and aforesaid words, namely 'Dr.' and 'Wash' nor has sought any relief in respect thereof. The relief sought by the Plaintiff is confined only to the trademark label of "**Dr.WASH**" as a whole.



15. It is further submitted that the trademark of the Plaintiff/first Respondent, “**Dr.WASH**”, has continued to remain a registered trademark for nearly 15 years and has been used extensively in India and the UAE with substantial volumes of sales. Such extensive and continuous use over a considerable period clearly demonstrates that the mark has indeed acquired distinctiveness and has come to be exclusively associated by the public and consumers with the Plaintiff/first Respondent, which thereby negates the Defendant’s contention that the Plaintiff’s/first Respondent’s trademark is not distinctive and is incapable of registration.

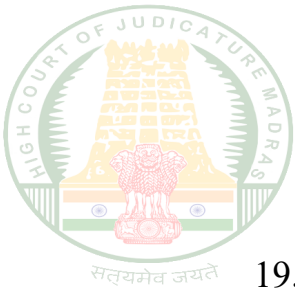
16. The learned counsel contends that the Defendants have adopted the impugned trademark, which is deceptively similar to the Plaintiff’s trademark, in respect of similar products and through the same trade channels, thereby satisfying the Triple Identity Test, namely, similarity of the marks, similarity of the products, and similarity of the trade channels. It is therefore submitted that the adoption and use of the impugned trademark “**Dr.Bright**” by the Defendants is likely to cause confusion and deception among the purchasing public. In view of the aforesaid submissions, the learned counsel seeks that the suit be allowed and the present original petition be dismissed.

17. *Per contra*, countering the aforesaid submissions, the learned counsel appearing on behalf of the Defendants 1 and 2 / Petitioners 1 and 2, submits that



both the Defendants/Petitioners belong to the same group of Koyenco Group , which has an established business across various fields and enjoys a rich reputation spanning over 50 years. It is submitted that the Defendants/Petitioners launched soaps under the trademark “**Dr. Bright**” and other marks in June, 2016 thereby marking the Group’s foray into the consumer goods market. It is further submitted that the 1st Defendant/Petitioner is the manufacturer of the said products, while the 2nd Defendant/Petitioner is responsible for their marketing and distribution.

18. The learned counsel further submits that the Plaintiff/ first Respondent has deliberately concealed the details of its trademark “**Dr.WASH**” bearing Registration No. 1130214, is subject to a condition which stipulates that the registration does not confer upon the plaintiff/ first Respondent any exclusive right to use the “plus” device or the words “Dr.Wash”. It is contended that the existence of condition supra has also been admitted by the plaintiff witness PW1 during cross-examination. The learned counsel contends that the deliberate suppression of the aforesaid material fact amounts to perjury and constitutes a valid ground for seeking cancellation/removal of the registration of the trademark. In support of the said contention, reliance has been placed upon the judgment reported in *ILR (2000) II Delhi 124* in the case of *Om prakash Gupta Vs Praveen Kumar*.



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19. The learned counsel further contends that the words such as “Dr./Doctor” and “Wash”, as well as the “Plus” device, are common to the trade. It is submitted that it is a well-settled principle of trade mark law that registration of a mark containing matter that is common to the trade does not confer any exclusive right over such matter when it forms only a part of the composite mark as a whole. It is further submitted that, while comparing rival marks, the marks must be considered in their entirety and as a whole, rather than by dissecting the composite trademark into its individual or isolated components. In support of the said contention, reliance has been placed upon the judgment of the Hon’ble Apex Court in the case of ***Pernod Ricard India Private Limited and Anr. Vs Karanveer Singh Chhabra*** reported in ***2025 SCC Online SC 17011***. The learned counsel further submits that the Plaintiff/ first Respondent’s trademark has been registered as a word mark, namely, “**Dr.WASH**” whereas the trademark applied for by the Plaintiff/first Respondent, as published in the Trade Marks Journal (Ex.D6) is a label mark. Hence, it is contended that there is a patent inconsistency in the registration of the impugned trademark and consequently, the impugned registration has been wrongly and erroneously continued on the Trade Marks Register.



20. It is submitted that the Plaintiff/ first Respondent cannot claim or acquire exclusive rights in a trademark merely on the basis of a colour scheme and in support of the said contention, reliance is placed upon the judgment in the case of *Campbell Soup Co. edt al. Vs Armour CO*. The learned counsel vehemently contends that the Defendants/Petitioners' adoption and use of the trademark "**Dr.Bright**" is honest and *bona fide*. It is submitted that the products bearing the said trademark have acquired substantial reputation and goodwill among the trade and purchasing public and are exclusively associated with the Defendants'/Petitioners' and their group companies.

21. The learned counsel further contends that the Plaintiff/ first Respondent has not produced any evidence to substantiate its claim that the use of the impugned trademark "**Dr.Bright**" and its packaging by the Defendants/Petitioners has caused or is likely to cause confusion or deception among the consumers or public. Similarly, no evidence has been adduced by the Plaintiff/first Respondent in support of its allegation that the Defendants/Petitioners have poached or induced any of the Plaintiff's employees. It is further submitted that the Defendants' packaging and trade dress cannot be characterised as deceptive, as the same has been honestly adopted in keeping up with prevailing industry practices. The contrasting colour schemes used on the wrappers and the use of the word 'Dr./Doctor' are features commonly adopted by several third parties operating in the same industry. In



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this regard, the learned counsel points out that the plaintiff witness PW1, during cross-examination, has himself admitted that several brands in the industry use the prefix 'Doctor'. Therefore the learned counsel submits that Plaintiff/ first respondent had intentionally filed frivolous suit just to interfere with the defendants/petitioners business. It is further submitted that the plaintiff/ first respondent had obtained their trade mark "**Dr.WASH**" registered under Registration No. 1130214 in Class 3 by playing fraud upon the learned Trade Mark Registry. Therefore in light of the above facts the learned counsel seeks this court to allow the present Original petition and dismiss the present suit.

22. I have considered the submissions made by the learned counsel appearing on either side and perused the materials available on record.

23. The primordial contention of the plaintiff is that the plaintiff company had been benefited with the registered trademark and is the prior adopter and user of the trade dress packaging wrapper together with write up under the said trademark and had sought for the following reliefs:

(A) Granting PERMANENT INJUNCTION restraining the Defendants by themselves, their servants, agents representatives or men, or anyone claiming through them from in any manner infringing the Plaintiff's Trade Mark "**Dr. WASH**" and label bearing registration No. 1130214 in respect of Washing Soap by using any identical, similar or deceptively similar or any



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resembling mark and label on their product, packaging wrapper together with any write up or any other representation or words which are in any manner identical to and deceptively similar with the registered mark of the Plaintiff including colour scheme, packaging, get up, trade dress, write up and wrapper on any of the Defendants product including those under the mark “Dr.BRIGHT” for Washing Soap in any manner whatsoever;

(B) Granting PERMANENT INJUNCTION restraining the Defendants by themselves, their servants, agents representatives or men, or anyone claiming through them from in any manner passing off the Defendant's washing soap-bearing the offending trade mark ‘Dr. Bright’ with identical and / or deceptively similar colour scheme, get up, trade dress, packaging, wrapper together with any write up or any other representation or words which are in any manner identical to and deceptively similar with the Trade Mark of the Plaintiffs on the Defendants products, as and for the celebrated washing soap of the Plaintiff bearing the trade mark “Dr. WASH” Soap, with peculiar get-up, label and write-up, either by manufacturing or selling or offering for sale or in any manner advertising the Defendant's offending product 'Dr.Bright' with its variants and deceptively similar labels and marks to the public;

(C) Granting PERMANENT INJUNCTION restraining the Defendants by themselves, their servants, agents representatives or men, or anyone claiming through them from in any manner misrepresenting the Defendant's washing soap bearing the offending trade mark ‘Dr. Bright’ with identical and / or



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deceptively similar colour scheme, get up, trade dress, packaging, wrapper together with any write up or any other representation or words which are in any manner identical to and deceptively similar with the Trade Mark of the Plaintiff on any of the Defendants products, as and for the celebrated washing soap of the Plaintiff bearing the trade mark “Dr. WASH” Soap, with peculiar get-up, label and write-up, either by manufacturing or selling or offering for sale or in any manner advertising the Defendant's offending product ‘Dr.Bright’ with its variants and deceptively similar labels and marks to the public as though manufactured and marketed by the Plaintiff in a new/variant form;

(D) Directing the Defendants to surrender to the Plaintiff the entire stock of unused offending ‘Dr. Bright’ soap bars and unused wrappers, packaging material, advertisement and promotional material together with blocks and dyes for destruction;

(E) A direction appointing an Advocate Commissioner to seize wherever found the offending labels and products and their labels and dyes with the mark ‘Dr.Bright’ and all deceptively similar and offending labels and destroy them under report to this Honourable Court;

(F) A direction to the Defendants to render a true and faithful account of the profits earned by it through the sale of the offending bath soap bearing the offending trade mark ‘Dr.Bright’ wrapper/carton and directing payment of such profits to the



plaintiffs for infringement and passing off committed by the
Defendants;

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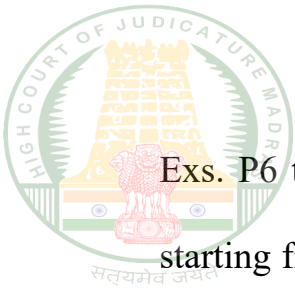
(G) Directing the Defendants to pay to the Plaintiff the cost of
the suit.

24. The defendants had claimed that the plaintiff had suppressed the contingency that was imposed by the Trademarks Registry while registering the trademark, apart from contesting that there could be no deception in the minds of the end users with regard to the plaintiff's product vis-a-vis the defendant's product. The defendants had also taken up an application under Section 57 of the Trademarks Act for removing or expunging the entry relating to the plaintiff's trademark as capitulated above. Issues were framed and the parties have let in evidence in support of their case. This Court shall now proceed to answer the issues as framed, based upon the pleadings and the evidence let in by the respective parties.

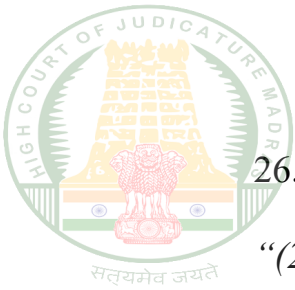
25. Issue No.1:

“(1) Whether the plaintiff is the prior adopter and user of the trade dress packaging wrapper together with write up under the mark 'Dr. Wash' vis-a-vis the defendants?”

Answer: In support of the said issue, the plaintiff had relied upon Exs.P3, P4 and P5. The trademark registration certificate and the renewal thereof, and



Exs. P6 to P31, various invoices and delivery challans raised to its customers starting from the year 2002. It had also placed on record Exs.P32 to P40, which relate to the expenditure incurred towards marketing its products under the alleged infringing trademark, starting from the year 2007. It had further relied upon the Chartered Accountant's certificate under Exs.P40 to P42 in that regard. PW1, who was the Manager (Legal) of the plaintiff, was examined to substantiate the aforesaid exhibits as regards, Exs. P6 to P40, the alleged invoices. He had admitted that the same had been issued to a sister concern of the plaintiff. It is an admitted case of the defendants that they came into the industry in the year 2016, even though Exs.P6 to P40 was sought to be disregarded as invoices that were drawn in the name of the sister concern of the plaintiff, it is to be noted that Exs.P31 to P40 are not of the sister concern of the plaintiff, and an independent organisation which had been engaged by the plaintiff for advertisement of their product as early as from the year 2007. In view of the admitted fact that the defendants have started production only in the year 2016, based upon Exs. P32 to P40, it is clear that the plaintiffs have been in the market by manufacturing and marketing products under the impugned trademark. In this regard, this Court do not have any hesitation in holding Issue No.1 in favour of the plaintiff.

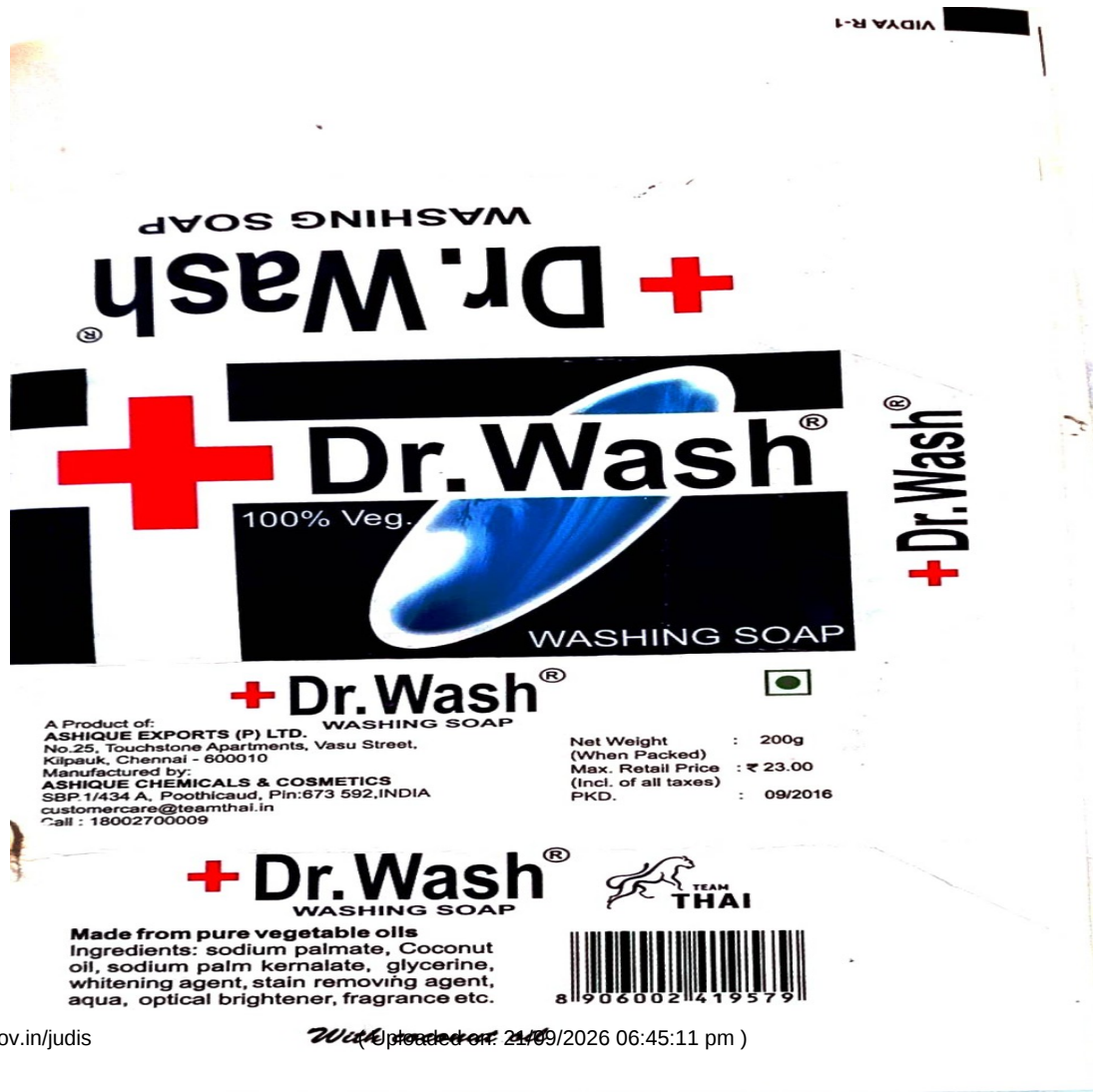


26. Issue No.2:

“(2) Whether the defendants washing soap with the trade dress packing wrapper together with write up under the mark 'Dr. Bright' comprises and usurps the essential and distinct features of the Plaintiff's soap trade dress packing wrapper together with writ up sold under the mark 'Dr. Wash'?”

Answer: Exs.P71 and P72 were marked to suggest that the defendant had usurped the essential and distinct feature of the plaintiff's trade dress packaging wrapper together with the write up of the plaintiff. In this regard, it would be useful to refer to Exs.P71 and P72.

Ex.71 is scanned below:





تستعمل للغسل
صابون

نباتية ١٠٠٪

Dr. Wash®

د. واش
صابون للغسل

WASHING SOAP

Dr. Wash®

منتج من
شركة عاشق للتصدير خاصة المحدودة
الصنع من قبل:
شركة عاشق للمواد الكيميائية والمستحضرات التجميل
اس ب بي ٤٣٢/١ ب، بونيكود، رمز البريد: ٦٧٣٥٩٢
الهند.

منتج من الهند

Dr. Wash®

الوزن الصافي: ٢٠٠ جم
تاريخ الإنتاج:
تاريخ الانتهاء:
الدفعة رقم:

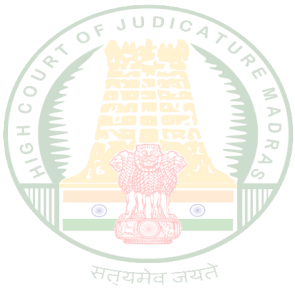
مصنوع من زيوت النباتية الصافية
المحتويات: بالميت الصوديوم، زيت جوز الهند،
بالم كرنليت الصوديوم، جليسيرين، عامل التبييض،
عامل مزيل البقع، ماء، ملمع الضوئي، المطور الخ.

Warning: Always keep the soap out of children. In case of ingestion, give plenty of water to drink. In case of eye contamination, flush with plenty of water keeping the eye-lids open.

Instruction: Dr.Wash give best washing results for white as well as coloured clothes.

Dr. Wash®

8 906002 419579



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Ex.72 is scanned below:

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27. A comparison of Exs.P71 and P72, which had been extracted supra, would indicate that the respondent's trade dress packaging wrapper together with the write up and the product sold under the trademark "Dr.Bright" is distinct from the trade dress packaging wrapper together with the write up of the plaintiff's product sold under the trade name "Dr.WASH". In view of the



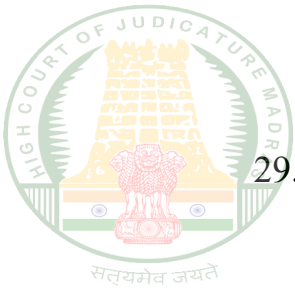
aforesaid finding based upon Exs.P71 and P72, this Court would have to answer Issue No.2 in the negative, holding that the defendants have not usurped the essential and distinct feature of the plaintiff's trade dress packaging wrapper together with the write up.

28. **Issue No.3:**

“Whether the plaintiff's trademark is generic to trade?”

Answer:

Under Exs.D5 and D6, which related to the registration of the label of the plaintiff, the same was allowed to be published with the disclaimer that there could be no right over the device of plus or the word **“Dr.WASH”** independently, except as shown in the representation in the label. The prefix **“Dr.”** used in the trade name cannot be a generic term, as well as the word **“WASH”** in a common parlance, is a word commonly used. In this regard, this Court takes into consideration the judgment of the Hon'ble Apex Court reported **2025 SCC Online SC 1701** , wherein the word “Pride” was considered to be generic and cannot be monopolized by any one proprietor. By applying the ratio laid down by the Hon'ble Apex Court in the aforesaid judgment, this Court comes to an irresistible conclusion that the plaintiff's trademark is generic to the trade.



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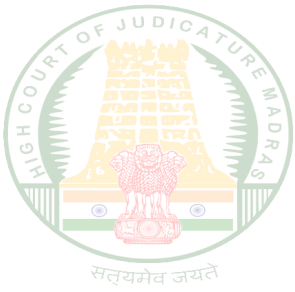
29. Issue No.4

“Whether the plaintiff's trademark registration under number.1130214 is valid?

Answer: It is the claim of the defendant that, based upon the certificate of registration that had been issued and by suppressing the contingency, whether the plaintiff cannot claim any exclusive right over the device of plus and the word “**WASH**”, had filed a suit, and also in view of the fact that the registration has been made without recording the said contingency, the registration of trademark in favour of the plaintiff is liable to be removed. It is to be noted that the plaintiff had been granted registration of the trademark under Ex.P3 for the trade name “**Dr.WASH**”, which had also been renewed subsequently. Exs.D5 and D6 does not relate to the trade name, which was registered under Ex.P3 as early as in the year 2002 but to the label. In that regard, this Court do not find any merits in the application for rectification as claimed by the defendant.

30. Issue Nos.3, 5, 7, 8 and 9:

“3. Whether the defendants have indulged in unfair trade practice including acts of poaching the plaintiff's employees, misrepresenting to traders and public, to sell their soap thereby causing the trade and public to deal with familiar people and pass off their soap as that of the plaintiff's manufacture and as though their products come from the same source as that of the plaintiff?



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5. Whether the plaintiff has approached the Court with unclean hands by concealing the material fact regarding the disclaimer provider in the trade mark journal to gain an unfair advantage?

7. Whether the defendants are to Surrender to the plaintiff the entire stock of unused offending 'Dr. Bright' soap bars and unused wrappers, packing material, advertisement and promotional material together with blocks and dyes for destruction;

8. Whether the defendants are to render a true and faithful account of the profits earned by it through the sale of the offending bath soap bearing the offending trade mark 'Dr. Bright' wrapper/carton and directing payment of such profits to the plaintiffs for infringement and passing off committed by the defendants?

9. Whether the defendants are liable to pay to the plaintiff the cost of the suit?

Answer: In view of the reasonings and findings arrived at by this Court in respect of Issue No.2, this Court is of the view that the plaintiff could not be entitled to any reliefs in the suit and it is wholly unnecessary for this Court to dwell upon the aforesaid issues, as it would only be an empty formality.



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31. In fine, C.S.No.687 of 2017 and (T)OP(TM)No.340 of 2023 stand
dismissed. No costs.

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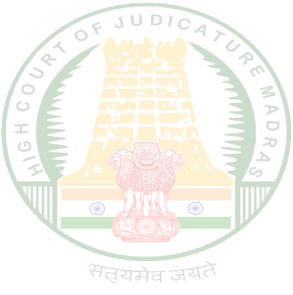
21-09-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

kak

To

The Registrar of Trademarks
Office of the Trade Marks Registry,
Boudhik Sampada Bhawan, G.S.T. Road,
Guindy, Chennai 600032



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and(T)OP(TM) No. 340 of 2 **Order QR**

K.KUMARESH BABU J.

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**(T)OP(TM) No. 340 of 2023
AND
CS NO. 687 OF 2017**

21-09-2026