

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 03.11.2020

PRONOUNCED ON: 09.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

**C.S.No.153 of 2020
and
O.A.Nos. 226 & 227 of 2020
And
A.No. 1400 of 2020**

Indo French Laboratories Ltd.,
No.12, 66th Street,
11th Sector, K.K.Nagar
Chennai – 600 078.
Rep. by its Director Ms. Ianthy Fernandez ... Plaintiff

Vs

1. M/s. Kausikh Therapeutics (P) Ltd.,
Plot Nos. 6 & 7, Door No. 728, Kakkanji Cross Street
Paraniputhur Village Gerugambakkam,
Chennai – 602 101.
2. Mr. Vaidhyanathen Neelakantan,
Plot Nos. 6 & 7, Door No. 728, Kakkanji Cross Street
Paraniputhur Village Gerugambakkam,
Chennai – 602 101.
3. Mr.Vaidhyanathen Ramasubrahmanian
Plot Nos. 6 & 7, Door No. 728, Kakkanji Cross Street
Paraniputhur Village Gerugambakkam,
Chennai – 602 101.

4. Mr. Anantharamakrishnan
Plot Nos. 6 & 7, Door No. 728, Kakkanji Cross Street
Paraniputhur Village Gerugambakkam,
Chennai – 602 101. .. Defendants

5. Indo French Health Care Pvt. Ltd.,
(formerly Indo French Network Ltd.,)
No. 862, Mangadu Main Road,
Paraniputhur, Chennai – 600 122,
Represented by its Director
Mr. Praveen Fernandez

... 5th defendant impleaded as per
order dated 29.07.2020 in A.No. 1489 of 2020

PRAYER:- This Civil Suit is filed under Order VII Rule 1 of Original Side Rules read with Sections 27, 28, 29, 134 and 135 of the Trade Marks Act, 1999 and Section 7 of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, No. 4 of 2016 praying for the following reliefs for:

(a) a permanent injunction restraining the defendants, their directors, affiliates, manufacturers, distributors, stockists, servants, agents, wholesalers, retailers, legal representatives, successor in business or any other person claiming under it from in any manner manufacturing exporting, selling, offering for sale, stocking, trading, advertising directly or indirectly infringing plaintiff's registered trademark REJUCALCIUM by use of an identical mark REJUCALCIUM or any mark deceptively similar to plaintiff's registered trademark or in any other manner whatsoever;

(b) a permanent injunction restraining the defendant, their directors, affiliates, manufacturers, distributors, stockists, servants, agents, wholesalers, retailers, legal representatives, successor in business or any other person claiming under it from in any manner manufacturing, exporting, selling, offering for sale, stocking, trading, advertising directly or indirectly under the trademark REJUCALCIUM or any other trademark that is identical and/or deceptively similar as that of the plaintiff's mark REJUCALCIUM so as to pass off the defendants' products as and for the medicinal preparations of the plaintiff and/or in any other manner whatsoever connected with the plaintiff;

(c) the defendants be ordered to pay to the plaintiff a sum of Rs.10,00,000/- as damages for committing acts of infringement against the plaintiff's registered trademark so as to pass off its products as and for the plaintiff's products;

(d) the defendants be ordered and decreed to deliver up for destruction to the plaintiff all the preparations, dies, blocks, labels, packaging either filled or empty, brochures, leaflets, pamphlets, hand bills,

hoardings, wall posters, calendars, carry bags, stationery items and such other sales promotional materials bearing and/or containing the impugned trademark REJUCALCIUM; and

(e) a preliminary decree be passed in favour of the plaintiff directing the defendants to render accounts of profits made by it by use of the trademarks REJUCALCIUM which is identical and/or deceptively similar and a final decree be passed in favour of the plaintiff for the amount of profits found to have been made by the defendants after the latter has rendered accounts.

For plaintiff : Ms S.Suba Shiny

For DD 1 to 4 : M/s. ARL. Sundaresan (SC) for
M/s. T.Ramachandran

For 5th Defendant : M/s. B.Madhan Babu

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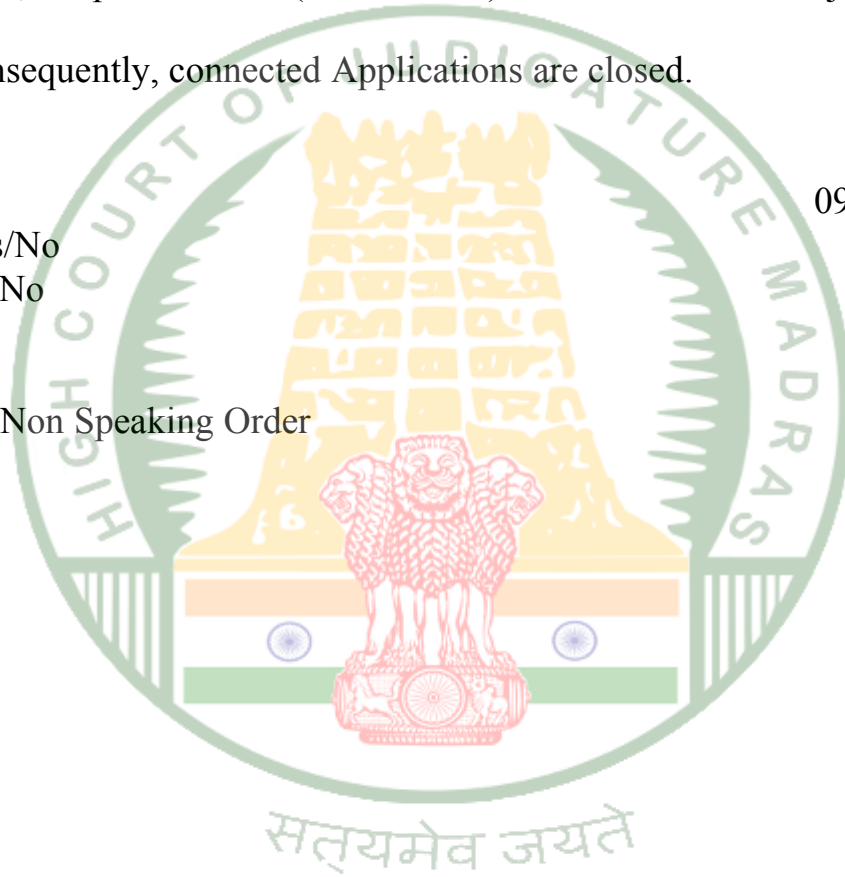
JUDGEMENT

In view of the Order passed in A.Nos. 1548 & 1921 of 2020 dated 09.11.2020, the plaint in C.S.(Commercial) No. 153 of 2020 is rejected. No costs. Consequently, connected Applications are closed.

Index: Yes/No
Web: Yes/No
vsg

Speaking/Non Speaking Order

09.11.2020
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C.V.KARTHIKEYAN, J.

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Pre-Delivery Judgement in

C.S.No.153 of 2020

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09.11.2020

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