



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 22ND DAY OF OCTOBER 2021

THE HON'BLE MR. JUSTICE R. SUBRAMANIAN

C.S.No. 946 of 1991

BROOKE BOND INDIA LTD.,  
9, Shakespeare Sarani,  
Calcutta – 700 071.

... Plaintiff

-Vs-

1. Arafa Stores,  
No.9, Perambur Barracks Road,  
Madras – 600 012.
2. Saravana Stores,  
154, D'Mellows Road,  
Madras – 600 012.
3. Vetrivel Stores,  
Muthu Mudaly Street,  
Vyasarpadi, Madras.
4. Khaja Stores,  
43, Shaik Davood Street,  
Royapettah, Madras – 14.
5. Khadar Stores,  
31, Shaik Davood Street,  
Royapettah, Madras – 14.
6. S.R. Stores,  
16, Mohd. Hussain Khan Street,  
Madras – 14.
7. Mansoor Stores,  
96, Elephant Tank Road,  
Ice House, Madras – 14.



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8. Mohideenia Stores,  
24, Gajapathy Street,  
Ice House, Madras – 14.

9. Thangam Stores,  
45, P.V. Koil St,  
Mylapore – Madras – 4.

10. Selvaraj Stores,  
6, Bazar Road,  
Mylapore, Madras – 4.

11. Jayapandian Stores,  
9, North Mada Street,  
Nungambakkam, Madras.

12. Selvakumar Stores,  
14, North Mada Street,  
Nungambakkam, Madras.

... Defendants

Civil suit praying that this Hon'ble Court be pleased to pass a  
Judgment and decree:

a) granting a permanent injunction restraining the defendants, themselves, their servants or agents or anyone claiming through them from in any manner infringing the plaintiffs' well established registered trade mark “BROOKE BOND 3 ROSES” referred as Document No.1 and M.O.No.1, by using the offending “BROOKE BOND 3 ROSES” trade mark referred as M.O.No.2 or any other trade mark or marks which are in any way deceptively similar to or a colourable imitation of the plaintiffs' registered trade mark, either by selling or offering for sale;



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b) granting permanent injunction restraining the defendants by themselves, their servants or agents or anyone claiming through them from in any manner passing off of the defendants' "tea" as and for the celebrated "tea" of the plaintiffs by using the offending BROOKE BOND 3 ROSES trade mark label or any other mark or marks which are deceptively similar to or a colourable imitation of the plaintiffs' registered trade mark label "BROOKE BOND 3 ROSES" filed as Document No.1 and M.O.No.1.

c) directing the defendants to surrender to the plaintiffs the entire stock of unused offending trade mark labels for destruction.

d) directing the defendants to render a true and faithful account of the profits earned by them through the sale of "tea" bearing the offending BROOKE BOND 3 ROSES trade mark label and directing payment of such profits to the plaintiffs by way of damages for the passing off committed by the defendants.

e) directing the defendants to pay to the plaintiffs the costs of the suit.

This civil suit coming on this day before this court for hearing in the presence of Mr. Madhan Babu, Advocate for the Plaintiff herein and the defendants herein, not appearing in person or by advocate and upon reading the plaint filed in C.S.No. 946 of 1991 and the learned counsel for the

plaintiff having submitting that he has got instructions to withdraw the suit,



and this Court doth recording the same, **it is ordered as follows:-**

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That the suit in C.S.No. 946 of 1991, be and is hereby dismissed as withdrawn.

2) That the plaintiff herein, shall be at liberty to sue, if there is a subsequent cause of action.

3) That there shall be no costs of this suit.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,  
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE  
22ND DAY OF OCTOBER 2021.

Sd/-

ASSISTANT REGISTRAR (Comm.Cases)

//Certified to be true copy//

Dated at Madras this the                      day of                      2022.

COURT OFFICER(O.S.)

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ED

03.01.2022

C.S.No. 946 of 1991

ORDER:

DATED : 22/10/2021

THE HON'BLE MR. JUSTICE  
R. SUBRAMANIAN

FOR APPROVAL: 05/01/2022

APPROVED ON : 10/01/2022



**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 22.10.2021**

**CORAM**

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN**

**C.S.No.946 of 1991**

BROOKE BOND INDIA LTD.,  
9, Shakespeare Sarani  
Calutta – 700 071.

...Plaintiff

.Vs.

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9, North Mada Street  
Nungambakkam, Madras.

12.Selvakumar Stores  
14, North Mada Street,  
Nungambakkam, Madras.

... Defendants

Plaint filed under Order IV Rule 1 of the Original Side Rules and Section 105 and 106 of the Trade and Merchandise Marks Act, 1958 praying for a judgment and decree:

a) granting a permanent injunction restraining the defendants, themselves, their servants or agents or anyone claiming through them from in any manner infringing the plaintiffs' well established registered trade mark “BROOKE BOND 3 ROSES” referred as Document No.1 and M.O.No.1, by using the offending “BROOKE BOND 3 ROSES” trade mark referred as M.O.No.2 or any other trade mark or marks which are in any way deceptively similar to or a colourable imitation of the plaintiffs' registered trade mark, either by selling or offering for sale;





b) granting permanent injunction restraining the defendants by themselves, their servants or agents or anyone claiming through them from in any manner passing off of the defendants' "tea" as and for the celebrated "tea" of the plaintiffs by using the offending BROOKE BOND 3 ROSES trade mark label or any other mark or marks which are deceptively similar to or a colourable imitation of the plaintiffs' registered trade mark label "BROOKE BOND 3 ROSES" filed as Document No.1 and M.O.No.1;

c) directing the defendants to surrender to the plaintiffs the entire stock of unused offending trade mark labels for destruction;

d) directing the defendants to render a true and faithful account of the profits earned by them through the sale of "tea" bearing the offending BROOKE BOND 3 ROSES trade mark label and directing payment of such profits to the plaintiffs by way of damages for the passing off committed by the defendants and

e) directing the defendants to pay to the plaintiffs the costs of the suit.

For Plaintiff : Mr.Madhan Babu

For Defendants : No appearance

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### **J U D G M E N T**

Mr.Madhan Babu learned counsel appearing for the plaintiff would submit that he has got instructions to withdraw the suit.



2. Recording the said statement of the counsel for the plaintiff,

this suit is dismissed as withdrawn, reserving liberty to the plaintiff to sue, if there is, a subsequent cause of action. No costs.

**List of the witnesses examined on the side of the plaintiff:** Nil

**List of Exhibits marked on the side of the plaintiff :** Nil

**List of the witnesses examined on the side of the defendants:** Nil

**List of Exhibits marked on the side of the defendants:** Nil

Sd./- R.S.M.J.  
22.10.2021

//Certified to be true copy//

Dated at Madras this the            day of            2022.

COURT OFFICER(O.S.)

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