



IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE, TENKASI

Present:-Thiru.B.Rajavel, B.Sc.,B.L.,

Principal District Judge, Tenkasi

Thursday the 26<sup>th</sup> day of March 2026

O.S.No.13 of 2024

(CNR.No.TNTS010001002024)

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T.Rajaram  
Proprietor, R.S. Gold Beedi,  
Ventrilingapuram,  
Tenkasi District.

...Plaintiff

Vs.

1. Nagoor Kani,  
Proprietor, No.1.R.S.Gold Beedi  
Sankarankovil.  
2. Ibrahim Syed,  
Proprietor, No.1.R.S.Gold Beedi  
Sankarankovil.

...Defendants

(Plaint was amended as per order in I.A.No.8/2022, dated:-11.01.2023)

This suit is coming before me for final hearing on 06.03.2026 in the presence of Thiru.A.C.Sabarinathan, Counsel for the Plaintiff and Thiru.V.Kaviarasan, Counsel for the defendants and upon hearing the arguments of both sides and having stood over for consideration till this day, this court delivered the following.....

### **JUDGMENT**

This suit has been filed for permanent injunction restraining the defendants or their men from passing off their beedi products under the trade name “No.1 R.S. GOLD BEEDIS” with deceptively similar label, colour scheme and trade dress as that of the plaintiff’s product “R.S. GOLD BEEDIS” and also for mandatory injunction directing the defendants to surrender to the plaintiff all the unsold goods and banners, labels, printed matters etc. with the deceptively similar mark “No.1

R.S.GOLD BEEDIS” containing of the offending sign board, labels together with the blocks or dyes used for the purpose of printing the same for destruction and for the costs of the suit.

**2. The amended plaint averments in brief are as follows:-**

The plaintiff is the proprietor of the business carried on under the name and style “R.S. Gold Beedi” and has been manufacturing and marketing beedis since 2018. The trade mark “R.S. GOLD BEEDI” has been continuously and exclusively used by the plaintiff and has acquired goodwill and reputation. The expression “R.S.” is derived from the plaintiff’s name Rajaram and his family members’ names, and “Gold” from his father’s name Thangasamy. The plaintiff has obtained necessary licences and has applied for registration of the mark, which has been published in the Trade Mark Journal. By virtue of prior and continuous use, the mark has become exclusively associated with the plaintiff. The defendants have dishonestly adopted the deceptively similar mark “No.1 R.S. Gold Beedi” for identical goods. The impugned mark is phonetically, visually and structurally similar and is likely to cause confusion, amounting to infringement and passing off. Despite issuance of cease-and-desist notice dated 01.09.2020, the defendants continue their unlawful activities and have opposed the plaintiff’s trademark application. Complaints have been received from customers regarding inferior products sold under the defendants’ mark, damaging the plaintiff’s goodwill. Criminal cases have also been registered against the defendants for use of counterfeit marks. The cause of action arose in 2018 and continues within the jurisdiction of this Court. Hence, the suit is filed under Section 134 of the Trade Marks Act, 1999 seeking permanent injunction and consequential reliefs.

**3. The brief averments of written statement filed by the 1<sup>st</sup> defendant are as follows:-**

The 1<sup>st</sup> defendant denies each and every averments made in the plaint and except those specifically admitted herein and puts the plaintiff to the strict proof of the same. The 1<sup>st</sup> defendant is studying law college and he is no way connected with this suit. The 1<sup>st</sup> defendant is not the proprietor of defendant’s company, the plaintiff

has wantedly included the 1<sup>st</sup> defendant in the suit and as a misjoinder in the suit that there is no cause of action arose as stated in the plaint. Hence, this suit is liable to be dismissed at its initial stage.

**4. The brief averments of written statement filed by the 2<sup>nd</sup> defendant are as follows:-**

The 2nd defendant denies all the averments made in the plaint except those specifically admitted herein and puts the plaintiff to strict proof of the same. The 2nd defendant is the sole proprietor of M/s. No.1 R.S. Gold Beedi, engaged in manufacturing and marketing beedis and tobacco products from his business premises at South Sankarankovil. The defendant is the bona fide and prior adopter and user of the trademark "NO.1 R.S. GOLD BEEDI" since 21.03.2015, much prior to the plaintiff's alleged adoption in 2018. The defendant has applied for trademark registration and has been continuously, openly and exclusively using the mark since 2015, thereby acquiring goodwill and reputation in the market. The plaintiff is not the prior user. On the contrary, the plaintiff adopted a similar mark subsequently and is attempting to encroach upon the defendant's established reputation. The plaintiff's suit is vexatious, false and filed with ulterior motives. The defendant's mark is visually, structurally and phonetically distinct from the plaintiff's mark. There is no likelihood of confusion or deception among customers. The allegation of infringement and passing off is wholly baseless. The defendant has lawfully obtained necessary licences and GST registration and is conducting business legally. The allegations regarding false address and illegal activities are false and denied. The defendant admits issuance of legal notice by the plaintiff and states that a proper reply was sent asserting prior use. The defendant has also opposed the plaintiff's trademark application before the Registry. The plaintiff has not approached this Court with clean hands. The plaintiff has falsely claimed goodwill and prior use, whereas the defendant has been using the mark since 2015. The 1st defendant, who is the son of the 2nd defendant and a law student, has no connection with the business and has been unnecessarily impleaded to harass the 2nd defendant. The balance of

convenience is in favour of the defendant. The plaintiff has no cause of action, and the suit is liable to be dismissed in limine.

**5. The brief averments in the Additional Written Statement are as follows:-**

The amended plaint contains false and vexatious allegations made without any proof. The criminal cases referred to by the plaintiff are maliciously initiated. The defendant has obtained anticipatory bail, and appropriate proceedings have been initiated before the Hon'ble High Court. The defendant continues to conduct business at the registered address and has produced GST registration and supporting documents. The defendant reiterates that he is the prior user of the mark since 2015 and that the plaintiff commenced business only in 2018. It is the plaintiff who has adopted a similar mark and attempted to ride upon the goodwill of the defendant. The plaintiff has no prima facie case, no balance of convenience in his favour, and no cause of action. The suit is liable to be dismissed with costs.

**6. The reply statement averments in brief are as follows:-**

The plaintiff denies all averments made in the Additional Written Statement as false and baseless. The allegations of misuse of money, political influence, or false criminal complaints are denied. Criminal proceedings were initiated lawfully. Statements regarding anticipatory bail or proceedings before the Madras High Court are denied for want of proof. The defendant's claim of prior use since 2015 is specifically denied. The plaintiff reiterates that he is the prior and lawful user of the mark and has established goodwill and reputation. The allegations that the plaintiff deals in duplicate or inferior products are false and defamatory. On the contrary, it is the defendants who have adopted a deceptively similar mark to exploit the plaintiff's goodwill. The plaintiff has a valid cause of action and has made out a prima facie case. He reiterates the averments in the plaint and prays that the suit be decreed as prayed for.

**7. Issues framed on 20.02.2025 for consideration are:**

- 1 Whether the Beedi product of defendants "No.1.R.S. Gold Beedi" infringes the trade mark of Beedi product

of plaintiff as “R.S. Gold Beedi”?

- 2 Whether the defendants have caused loss and damages to the plaintiffs Beedi product “R.S.Gold Beedi”?
- 3 Whether the plaintiff is entitled to get permanent injunction as prayed for?
- 4 Whether the plaintiff is entitled to get mandatory injunction as prayed for?
- 5 To what other relief and cost, the plaintiff is entitled?

8. On side of plaintiff, the plaintiff is examined as P.W.1 and M.V.Samy and one Ravichandran were examined as P.W.2 and P.W.3 and Ex.P1 to Ex.P23 were marked and on the side of the defendants, the 1<sup>st</sup> defendant is examined as D.W.1 and one Nasarkan was examined as D.W.2 and Ex.D1 to D11 were marked.

### **9. Issue Nos. 1**

This is a suit for permanent injunction restraining the defendants from passing off their beedi products under the deceptively similar trade name “No.1 R.S. Gold Beedi”, which infringes the plaintiff’s well-established trade name “R.S. Gold Beedi.” Plaintiff contend that the above said trade name has been using from 2015 based on Commercial Tax registration dated 21.08.2015 and pending trademark applications. The plaintiff further content that the defendants have no explanation for adopting the identical dominant mark. They have no documentary proof of use prior to 2015. Their adoption is clearly dishonest and intended to trade upon the plaintiff’s goodwill.

10. The defendant submits that the 2nd defendant has been manufacturing “No.1 R.S. Gold Beedi” since 21.03.2015. The plaintiff has given varying commencement dates (2016 / 2017 / 2018). Ex.A5 is only a name-change certificate and not proof of actual trade. No continuous invoices prior to 2020 were produced. GST relied upon is retail GST and was later cancelled. Burden of proving prior use

lies on Plaintiff. The defendants argued that the plaintiff has stated different years in different proceedings. This discrepancy is not fatal for the following reasons:

- \* Ex.A5 establishes that business under the name “R.S. Gold Beedi” existed from 21.08.2015.
- \* Ex.B2 (filed by defendants themselves) acknowledges plaintiff’s commercial existence prior to 24.12.2019.
- \* The trademark application filed on 18.12.2019 predates defendants’ application of 15.09.2020.
- \* Minor inconsistencies in the exact year of commencement do not negate documentary proof of business existence prior to the defendants’ assertion.

11. The Supreme Court in **Cadila Health Care Ltd. v. Cadila Pharmaceuticals Ltd. (2001) 5 scc 73 on 26 March, 2001** has held that overall probabilities and commercial realities must guide the Court, not hyper-technical inconsistencies. It is correct that Ex.A5 is a change-of-name certificate issued by the Commercial Tax Department. However, it evidences statutory recognition of business conducted under the name “R.S. Gold Beedi.” It is not a self-serving document; it is a government record. It establishes existence of business identity from 21.08.2015. While Ex.A5 alone may not prove volume of trade, it corroborates plaintiff’s commercial adoption of the mark prior to the defendants’ formal assertion.

12. The plaintiff has produced Ex.A3 showing purchase of beedi leaves and tobacco on 23.01.2020. It is also in evidence that purchases occurred on 23.01.2020. These transactions are prior to defendants’ trademark registration. Consistent with ongoing manufacturing activity. Corroborative of active business. In small-scale beedi trade, particularly in rural sectors, absence of elaborate documentary trails does not automatically negate trade existence.

13. The defendants argue that the GST relied upon was retail GST and later cancelled. Even assuming cancellation of GST registration reflects commercial activity at the relevant time. Cancellation does not erase prior trade. Nature (retail/wholesale) does not affect trademark rights. Passing off protects goodwill arising from actual market presence, not the scale of tax classification. Thus, GST

cancellation does not defeat prior user if commercial activity is otherwise shown. But in ExB2 no such cancelled entry noted. From the above, the plaintiff has established earlier commercial existence and has shown active trade prior to defendants' trademark registration.

14. More over clear admission from evidence of defendant (D.W.1) that,

"என் தந்தை 21-03-2015 லிருந்து புகையிலை, புகையிலை பொருட்கள், பீடிகள் மொத்தமாகவும், சில்லறையாகவும் விற்பனை செய்ய No.1 R.S.கோல்டு பீடி என்ற வணிக முத்திரையை பயன்படுத்தி வந்து, வணிக முத்திரை பதிவு அலுவலகத்தில் விண்ணப்பம் கொடுத்துள்ளார்."

D.W.1 has asserted in chief examination that his father has been using the trade mark "No.1 R.S. Gold Beedi" since 21.03.2015. However, during cross-examination, the witness failed to substantiate this assertion with any reliable documentary evidence. It was specifically suggested to D.W.1 that no documents prior to 2015 have been produced to show use of "No.1 R.S. Gold Beedi," and the witness admitted that no such documents have been filed before this Court. He further conceded that the relevant documentary proof, if any, was not produced.

15. Significantly, no invoices or sales bills from 2015 were marked. No GST returns or tax filings for 2015–2016 were exhibited. No stock registers, purchase accounts, transport receipts, or distributor agreements were produced. No advertisement materials or packaging samples dated 2015 were placed on record. The witness also admitted that their application before the Trade Marks Registry was filed only in September 2020, i.e., after receipt of the plaintiff's legal notice dated 01.09.2020. This timing materially weakens the plea of independent prior adoption.

16. The Court finds that the testimony of D.W.1 is vague, unsupported and lack of contemporaneous commercial records. Mere oral assertion of use from 21.03.2015, without documentary corroboration, is insufficient to establish prior user in a passing off action. As laid down in **Century Traders v. Roshan Lal Duggar & Co., AIR 1978 Delhi 250 on 27 April, 1977** prior user must be proved by clear and cogent evidence of

actual commercial use. In the present case, the cross-examination has exposed that the defendants' plea of user since 2015 is unsupported by documentary proof and therefore unreliable. Accordingly, the Court rejects the defendants' claim of prior use.

17. The foundation of a passing off action is prior use coupled with goodwill. The plaintiff asserts use of the mark "R.S. Gold Beedi" from 21.08.2015. Ex.A5 (Change of Name & Style Certificate issued by the Commercial Tax Department dated 21.08.2015) evidences business conducted under the said name. Significantly, Ex.B2 (filed by the defendants) itself demonstrates that the plaintiff was carrying on beedi business under the name "R.S. Gold Beedi" prior to 24.12.2019. Thus, even the defendants' document corroborates plaintiff's commercial existence under the impugned mark before the dispute crystallised.

18. D.W.1 asserted in chief examination that his father has been using "No.1 R.S. Gold Beedi" since 21.03.2015. However, during cross-examination, he admitted that no documentary proof prior to 2015 was produced. No invoices or sales bills from 2015 were marked. No GST returns or tax filings for 2015–2016 were exhibited. No stock registers, purchase accounts, transport receipts, or distributor agreements were produced. No advertisement materials or packaging samples dated 2015 were filed. He further admitted that the defendants applied for trademark registration only in September 2020, after receiving the plaintiff's legal notice dated 01.09.2020. This admission materially weakens the plea of independent prior adoption. The Court finds the testimony of D.W.1 vague and unsupported by contemporaneous commercial records. Mere oral assertion is insufficient to establish prior user in a passing off action.

19. As held in **Century Traders v. Roshan Lal Duggar & Co., AIR 1978 Delhi 250 on 27 April, 1977** prior user must be proved by clear and cogent evidence of actual commercial use. The defendants have failed to discharge the burden under Sections 101–103 of the Evidence Act. Accordingly, the plea of prior use since 21.03.2015 is rejected. Comparative Analysis of Evidence

Sl. No.	Particulars	Plaintiff	Defendants	Court's Finding
1	Claimed Date of Use	21.08.2015	21.03.2015	Both claim 2015; burden on defendants to prove earlier date.
2	Documentary Proof	Ex.A5 (21.08.2015)	None prior to 2015	Plaintiff supported by statutory record.
3	Commercial Records	Business certificate + corroboration	No invoices, GST, accounts	Defendants failed to prove continuity.
4	Trademark Application	18.12.2019	15.09.2020	Plaintiff earlier.
5	Sequence Post Notice	Notice on 01.09.2020	Application on 15.09.2020	Defendants' application appears reactive.
6	Label	"R.S. Gold Beedi"	"No.1 R.S. Gold Beedi"	Dominant portion identical.
7	Overall Trade Dress	Similar layout & presentation	Similar	Likely confusion.

On comparative evaluation, the evidentiary strength of the plaintiff outweighs that of the defendants. Issue No.1 is answered in favour of Plaintiff.

### **20. Issue No.2**

The sequence of events shows that the Plaintiff issued legal notice on 01.09.2020. Defendants applied for trademark registration on 15.09.2020. Plaintiff applied on 14.09.2020; objections raised by defendants (Ex.A8). The timing indicates reactive conduct by defendants after notice. Defendants have not produced credible evidence of continuous commercial use prior to 2015. Hence, adoption lacks bonafides. Issue No.2 is answered against Defendants.

### **21. Issue No.3 –**

On comparison of plaintiff's and defendants' labels, the following similarities are noticed:

- \* Identical dominant words: "R.S. Gold Beedi"
- \* Rectangular layout structure.
- \* Similar placement of brand name.

- \* Substantially similar colour combination.
- \* Similar font style and lettering emphasis.

The addition of prefix “No.1” does not materially distinguish the mark. The test is not side-by-side comparison but overall impression in the mind of an ordinary purchaser of average intelligence and imperfect recollection.

**22. In Cadila Health Care Ltd. v. Cadila Pharmaceuticals Ltd.,(2001) 5 scc 73 on 26 March, 2001**, the Hon’ble Supreme Court held that broad similarity and likelihood of confusion must be assessed from the standpoint of common consumers. Further, in **Laxmikant V. Patel v. Chetanbhai Shah, (2002) 3 scc 65 on 4 December, 2001**, it was held that passing off protects goodwill and deception need not be proved by actual damage; likelihood is sufficient. In the present case, both goods are identical (Beedi – Class 34), sold in the same geographical market and targeted at common consumers. The overall get-up and trade dress are deceptively similar and capable of causing confusion. Hence, defendants are guilty of passing off.

Plaintiff has established:

- \* Prior user.
- \* Goodwill and reputation.
- \* Deceptive similarity in word mark.
- \* Deceptive similarity in label and trade dress.
- \* Likelihood of confusion.
- \* Balance of convenience lies in favour of plaintiff.
- \* Irreparable injury would result if defendants continue usage.

Therefore, plaintiff is entitled to get the relief of permanent injunction. Hence, Issue No.3 is answered in favour of Plaintiff.

### **23. Issue No.4 –**

The plaintiff prays as ‘b’ relief for mandatory injunction directing the defendants to surrender to the plaintiff all the unsold goods and banners, labels, printed matters etc. with the deceptively similar mark “No.1 R.S. Gold Beedis”

containing or consisting of the offending sign board, labels together with the blocks or dyes used for the purpose of printing the same for destruction. Since the plaintiff has already been granted the relief of permanent injunction as prayed for, the relief of mandatory injunction sought by the plaintiff has become unnecessary. Therefore, with regard to the relief sought under prayer “b”, the suit is liable to be dismissed. Hence, issue No.4 is answered against the plaintiff.

**24. Issue No.5:-**

It is already decided that the plaintiff is entitled to get the relief of permanent injunction as prayed for and with regard to the relief of mandatory injunction this suit is liable to be dismissed and hence the plaintiff is not entitled to get any other relief.

In the result, the suit is partly decreed with cost. The plaintiff is entitled to the relief of permanent injunction restraining the defendants, their servants, agents, distributors or anyone claiming through them are permanently restrained from using the trade name “No.1 R.S. Gold Beedi” or any mark deceptively similar to “R.S. Gold Beedi” using any label, colour scheme, layout, trade dress or packaging deceptively similar to that of the plaintiff. With regard to the relief of mandatory injunction sought by the plaintiff, this suit is dismissed.

Directly dictated to the Steno-Typist and typed by her, corrected and pronounced by me in the Open Court on this the 26<sup>th</sup> day of March 2026.

**Principal District Judge,  
Tenkasi.**

**Witness Examined on the side of the Plaintiff.**

PW1 Thiru.Rajaram (Plaintiff)

PW2 Thiru.Samy

PW3 Thiru.Ravichandran

**Exhibits marked on the side of the Plaintiff**

Ex.A1 01.04.2017 Registration Certificate of “R.S.Gold Beedi”.

Ex.A2	---	Invoices 6 Nos.
Ex.A3	---	Cash/Credit Bills and Tax Invoices 6 Nos.
Ex.A4	---	Tax Invoicesn 8 Nos.
Ex.A5	21.08.2015	Certificate of change of name and style of business.
Ex.A6	18.12.2019	Application for Registration of a Trademark Form TM-A.
Ex.A7	12.08.2020	GST Registration Certificate.
Ex.A8	---	Tax Invoices 4 Nos.
Ex.A9	21.10.2020	Notice of opposition given by 2 <sup>nd</sup> defendant before Trade Mark Registry.
Ex.A10	---	Plaintiff's Trade Mark Labels.
Ex.A11	---	Defendant's Trade Mark Labels
Ex.A12	01.09.2020	Advocate notice sent by the plaintiff to the defendants.
Ex.A13	01.10.2020	Reply notice sent by the defendant to the plaintiff.
Ex.A14	04.03.2021	Notice of Counter Statement by the plaintiff.
Ex.A15	04.03.2021	Notice of Counter Statement by the plaintiff.
Ex.A16	---	Returned Court Summon.
Ex.A17	23.08.2021	Copy of F.I.R. in Cr.No.483/2021.
Ex.A18	28.12.2021	Copy of F.I.R. in Cr.No.630/2021.
Ex.A19	27.12.2021	Copy of F.I.R. in Cr.No.773/2021.
Ex.A20	29.12.2021	News published in Daily Thanthi.
Ex.A21	24.08.2021	News published in Daily Thanthi.
Ex.A22	---	Copy of Aadhaar Card of P.W.2
Ex.A23	---	Identification Card of P.W.2

**Witness Examined on the side of defendant**

D.W.1 Thiru.Nagoor Kani (1<sup>st</sup> Defendant)

D.W.2 Thiru.Nazarkan

**Exhibits marked on the side of the defendant:**

Ex.B1	---	Registration Certificate of R.S.Gold Soap.
Ex.B2	24.12.2019	GST Registration Certificate.
Ex.B3	---	GST Registration Certificate.
Ex.B4	12.08.2020	GST Registration Certificate.

- Ex.B5 10.03.2022 Virtual Hearing u/r 115 of Trade Marks Rules 2017.
- Ex.B6 --- Label of Nellai R.S. Gold Beedi.
- Ex.B7 --- Label of Special R.S. Gold Beedi.
- Ex.B8 19.07.2023 Copy of order of the Hon'ble Madurai Bench of Madras High Court in CRL OP (MD)No.12994/2023 and CRL MP(MD)No.10165/2023.
- Ex.B9 --- Notice by R.S.Gold Beedi Company.
- Ex.B10 --- Labels of R.S.Gold Beedi.
- Ex.B11 --- Cover with logo of R.S.Gold Beedi.

Principal District Judge,  
Tenkasi.

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Principal District Court,  
Tenkasi.  
**O.S. No. 13/2024**  
26.03.2026  
Draft/Fair Judgment

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