

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 07.01.2015

CORAM

THE HONOURABLE MR.JUSTICE **R.SUBBIAH**

Civil Suit No.868 of 2014

and

O.A.Nos.1055, 1056 and 1057 of 2014

Hatsun Agro Product Ltd.,
Having registered office at
No.1/20-A, Rajiv Gandhi Salai (OMR),
Karapakkam, Chennai-600 097.
and also carrying on its business at
Old No.AD-83/New No.AD-13,
Anna Nagar, Opp. IOB Towers Branch,
Chennai-600040.

... Plaintiff

Versus

1.L.Saravanan
Proprietor Jil Cool Ice Creame,
M/s.Energy Milk,
Poorivakkam Post & Village,
Vengal Via., Uthukottai Taluk,
Thiruvallur District - 601 103.

2.M/s.Jil Cool Food Products,
No.782, Bharathiyar Street,
Thamaraipakkam,
Uthukottai Taluk,
Thiruvallur District.

3.M/s.Aputhraa Dairy Foods Pvt Ltd.,
No.82, Koduvalli,
Redhills-Thiruvallur High Road,
Chennai-600055.

.. Defendants

The suit is filed under Order VII Rule I of CPC r/w Order
IV Rule 1 of the High Court Original Side Rules and Section 134
and 135 of the Trade Marks Act, 1999., for permanent injunction
restraining the defendants by themselves, their agents, servant

or any one claiming through them from in any manner infringing the plaintiff's Trade Marks as described in the Schedule to the plaint and the trademark label shown in the Annexure-P1, P2,P3 and P-4 by using the defendants' trademark label shown in Annexure D1 or any other mark or marks which are in any way identical or deceptively similar or colourable imitation of the plaintiff's trademarks as described in the schedule to the plaint; (b) for permanent injunction restraining the defendants by themselves, their agents, servant or any one claiming through them from in any manner passing off their milk products as that of the plaintiff by using the offending trademark label as shown in Annexure D1 which are similar, deceptively similar and identical to the plaintiff's trademark label as shown in Annexure P1,P2,P3 and P4 or by using any other trade mark or trademark label which is similar, deceptively similar or identical to that of the plaintiff's trademark label as shown in Annexure P1, P2, P3 and P4 either by manufacturing or selling or offering for sale or in any manner advertising the same; (c) Granting permanent injunction, restraining the defendants by themselves their servants or agents or anyone claiming through them from in any manner infringing the plaintiff's copyright in the artistic work over the trademark label "AROKYA" as shown in Annexure P1, P2, P3 and P4 by using the offending label as shown in Annexure D1 or any other label or labels which are in any way a reproduction of the plaintiff's copyright label AROKYA as

filed in Annexure P1, P2, P3 and P4; (d) Directing the

defendants to surrender to the plaintiff the entire products with the offending labels, stocks with offending labels together with the blocks and dies, name boards, sign boards etc for destruction; (e) Directing the defendants to render true and faithful accounts of the products earned by them through the sale of the offending milk products bearing the offending trademark label and directing payment for such profits to the plaintiff and for cost of the suit.

For Plaintiff : Mr.A.Prabhakara Reddy for
M/s.APP Associates

For Defendants : Mr.K.Arun Prasad for D1 and D2

J U D G E M E N T

The plaintiff herein has filed a suit for permanent injunction and for cost of the suit.

2. Today, when the matter is taken up for consideration, the learned counsel appearing on either side submitted that the matter has been compromised and they have also filed a memo of compromise signed by the parties and also the respective counsels. The memorandum of compromise is as follows:-

1. L.Saravanan is the Proprietor of Defendants 1 & 2.

2. The defendants 1 & 2 agree and consent for passing decree in terms of prayer a, b & c of paragraph 34 of the plaint and the suit may be decreed accordingly.

3. The plaintiff is not pressing for other reliefs in paragraph d, e & f.

4. The plaintiff has no objection for the defendants 1 & 2

to use the trademark and trade dress in respect of its milk

products as per the Annexure D2 enclosed with this Memorandum of Compromise.

5. The defendants 1 and 2 are allowed to exhaust the existing sachets till 17th Day of January, 2015.

6. The trademark and trade dress as used by the plaintiff is filed as Annexure P1, P2, P3 & P4

7. The trademark and trade dress in respect of which the present suit is filed as Annexures D1. The changed trademark label and trade dress is filed as Annexures D2.

8. The defendants 1 & 2 undertake that they will not infringe the plaintiff's Trademark and Copyright in the trademark label P1, P2, P3, and P4 or pass off their goods as that of the plaintiff.

9. The plaintiff gives up the third defendant and the suit against the third defendant may be dismissed as not pressed.

10. The parties shall bear their respective costs.

4. Recording the memo of compromise entered between the parties, the suit is disposed of. There shall be decree in terms of the memo of compromise. The memo of compromise shall form part of the Judgment and decree. No costs. Consequently, connected O.As are closed.

sd/.R.P.S.J
07.01.2015

//Certified to be a true copy//
Dated this the day of 2015.