

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2015

CORAM

THE HONOURABLE MR. **JUSTICE K.RAVICHANDRABAABU**

**C.S.No.649 of 2015
and O.A.Nos.822 & 823 of 2015**

Sri Narasus Coffee Company Limited,
P.B.No.701, 16, Court Road,
Johnsonpet, Hasthampatty (Post),
Salem Tamilnadu 636 007

And also at: Sri Narasus Coffee Co.Ltd.,
No.39, Nethaji Subhash Bose Road,
George Town, Chennai-600 001

... Plaintiff

vs.

B.Krishnan,
C-16, Shreyas Apartments
(Next to Andhara Club),
No.20, vijayaraghava Road,
T.Nagar,
Chennai-600 017

... Defendant

Plaint filed under Order IV Rule 1 of O.S.Rules read with Order VII Rule 1 of C.P.C. and Section 134 and 135 of the Trademarks Act, 1999 seeking to (i) grant a permanent injunction restraining the defendant by himself, his servant, agents or any one claiming through him from in any manner infringing the plaintiff's registered Trade Mark "NARASU'S" by using the identical and offending Trade Mark "NARASU'S FOOD PRODUCTS" or any other mark or marks which are in way identical, deceptively similar to or a colourable imitation of the Plaintiff's registered Trade Mark "NARASU'S", either by manufacturing or selling or marketing directly or through agents or offering for sale or

in any manner advertising the same; (ii) grant a permanent injunction restraining the defendant by himself, his servant, agents or any one claiming through him from in any manner passing off his food products bearing the offending Trade Mark "NARASU'S" as and for the plaintiff's celebrated food products bearing the plaintiff's registered Trade Mark "NARASU'S" by manufacturing, selling marketing or offering for sale or in any manner advertising the same.(iii) direct the defendant to render a true and faithful account of the profits earned by the defendant through the sale of his products, including the products bearing the offending Trade Mark "NARASU'S" and direct payment of such profits to the plaintiff for the passing of committed by the defendant; (iv) direct the defendants to surrender to the plaintiff the entire stock of unused offending labels bearing the offending Trade Mark "NARASU'S" and Trade Mark "NARASU'S FOOD PRODUCTS" along with the blocks and dyes for destruction; (v) direct the defendant to pay to the plaintiff the cost of the suit.

For plaintiff : Mr.Rajesh Ramanathan

For defendant : Mr.Shabhnam Banu

JUDGMENT

The suit is filed seeking for the following reliefs:

(i) To grant a permanent injunction restraining the defendant by himself, his servant, agents or any one claiming through him from in any manner infringing the plaintiff's registered Trade Mark "NARASU'S" by using the identical and offending Trade Mark "NARASU'S FOOD PRODUCTS" or any

other mark or marks which are in way identical, deceptively similar to or a colourable imitation of the Plaintiff's registered Trade Mark "NARASU'S", either by manufacturing or selling or marketing directly or through agents or offering for sale or in any manner advertising the same ;

(ii) To grant a permanent injunction restraining the defendant by himself, his servant, agents or any one claiming through him from in any manner passing off his food products bearing the offending Trade Mark "NARASU'S" as and for the plaintiff's celebrated food products bearing the plaintiff's registered Trade Mark "NARASU'S" by manufacturing, selling marketing or offering for sale or in any manner advertising the same.

(iii) To direct the defendant to render a true and faithful account of the profits earned by the defendant through the sale of his products, including the products bearing the offending Trade Mark "NARASU'S" and direct payment of such profits to the plaintiff for the passing of committed by the defendant;

(iv) To direct the defendants to surrender to the plaintiff the entire stock of unused offending labels bearing the offending Trade Mark "NARASU'S" and Trade Mark "NARASU'S FOOD PRODUCTS" along with the blocks and dyes for destruction;

(v) To direct the defendant to pay to the

plaintiff the cost of the suit.

2. Today, a memo of compromise, entered into between the plaintiff and the defendant dated 25.09.2015, is filed before this Court, signed by both the parties as well as their respective counsels. The above said memo of compromise reads as follows:

1. The Defendant hereby agrees and admits that the plaintiff is the proprietor of the registered trademark "NARASU'S" and as such the Defendant agrees and admits that the plaintiff has the exclusive rights over and above the registered trademark "NARASU'S".

2. The defendant further agrees that they will not use, infringe and pass off the registered trademark "NARASU'S" now or any time for any goods and/or services including Coffee in the future. The Defendant also agrees and undertakes to withdraw any and all applications already filed before the Trademark Registry, Chennai and also refrain from filing in future any application for the registration of marks, that are identical and or deceptively similar to the plaintiff's trademark NARASU'S. The said withdrawal letter to be filed before the trademark Registry is enclosed herewith as ANNEXURE A.

3. The Defendant therefore submits to

decree the suit in terms of reliefs prayed in the plaint paragraph 35(i) to 35(iv).

4. In view of the above, the plaintiff is not pressing the reliefs prayed for in paragraph 35(v) to 35(vi) as against the defendant.

5. The suit may be decreed in terms of the above said compromise."

3. Learned counsels appearing for the respective parties seek for decreeing the suit in terms of the above said memo of compromise.

4. Both the parties are present before this Court.

5. Considering the above stated facts and circumstances, the suit is decreed in terms of the above said memo of compromise which shall form part of the record as well as the decree. Consequently, connected applications are closed. However, there shall be no order as to costs.

30.10.2015

vsi

K.RAVICHANDRABAABU.,J

vsi

C.S.No.649 of 2015

DATED: 30.10.2015