

C.S.No.428 of 1998

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2019

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.S.No.428 of 2009

1. S.Sudhakar
2. Shri Lakshmi Agro Foods Pvt. Ltd.,
No.9, N.N.Garden,
10th Street, Chennai-600021
Rep. by its Managing Director
Mr.S.Sudhakar ... Plaintiffs

M/s.Puvaneshwari Oil Traders,
Palayakottai Road,
Kangayam ... Defendant

.Vs.

सत्यमेव जयते

PRAYER: Plaint under Sections 55 and 62 of the Copyright Act 1957 Read with Order IV Rule 1 of O.S.Rules Read with Sections 27, 29, 134 and 135 of the Trade Marks Act, 1999 and Sections 51,55 and 62 of the Copyright Act, 1957 praying for a Judgment and Decree against the defendant (a) A perpetual injunction restraining the defendant, its distributors, stockiest, servants, agents, retailers,

representatives or any other person claiming under/through them from in any manner infringing the plaintiffs registered trademark 'UDHAIYAM' by manufacturing, selling, offering for sale, stocking, advertising, either directly and/or indirectly any goods and particular any food and/or allied products including Gingelly Oil under the trademark 'UDAYAM' either per-se or in combination and/or any other mark either in English or Tamil of any other language, which is identical with and/or deceptively similar to plaintiffs' registered trademark "UDHAIYAM" or in any other manner whatsoever; (b) A perpetual injunction restraining the defendant, its distributors, stockiest, servants, agents, retailers, representatives or any other person claiming under/through them from in any manner infringing the plaintiffs copyright contained in their trademark 'UDHAIYAM' by printing, manufacturing, selling, offering for sale, stocking, advertising, either directly and/or indirectly any labels for goods and in particular any food and/or allied products including Gingelly Oil under the trademark "UDAYAM" by employing an identical/deceptively similar lettering style as used by the plaintiffs' for their trademark "UDAIYAM" either in English or Tamil or any other language, or in any other manner whatsoever; (c) A perpetual injunction restraining the defendant, its distributors, stockiest, servants, agents, retailers, representatives or any other person claiming under/through them from in any manner manufacturing, selling, offering for sale, stocking, advertising, either directly and/or indirectly any goods and in particular any food

and/or allied products including Gingelly Oil under the trademark 'UDAYAM' either per se or in combination and/or any other mark either in English or Tamil or any other language which is identical with or deceptively similar to the plaintiffs trademark 'UDHAIYAM' so as to pass off the defendant's products as and for the products of the plaintiffs or in any other manner whatsoever connected with the plaintiffs.; (d) The defendant be ordered to surrender to plaintiffs for destruction all packed goods, labels, dyes, blocks, moulds, screen prints, packing materials and other materials bearing the trademark 'UDAYAM' either per se or in combination in English or Tamil or any other language; (e) A preliminary decree be passed in favour of the plaintiffs directing the defendant to render account of profits made use of trademark 'UDAYAM' and a final decree be passed in favour of the plaintiffs for the amount of profits thus found to have been made by the defendant after the latter have rendered accounts; (f) The defendant be ordered and decreed to to pay the plaintiffs a sum of Rs.10,01,000/- as damages for acts of passing off and infringement of trademark committed by the defendant. (g) for costs of the suit;

For Plaintiff : Ms.Devi
for Madhan Babu

KRISHNAN RAMASAMY, J

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J U D G M E N T

Today, when the matter is taken up for hearing, the learned counsel appearing for the Plaintiff has sought permission of this Court to withdraw this suit with liberty to file fresh suit if the defendant infringes the plaintiff registered trademark in future. He has also made the following endorsement:

"Plaintiff may be permitted to withdraw the suit with the liberty to institute a fresh suit if the defendant infringes the plaintiff registered Trademark in future."

2. Based on the submission made by the learned counsel for the Plaintiff and also in view of the endorsement made, this Civil Suit is dismissed as withdrawn with liberty. No costs.

05.08.2019

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