

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2019

CORAM

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

C.S.NO.679 OF 2013

M/s Kaleesuwari Refinery Pvt. Ltd.,
Represented by its Director Mr.K.Ashok Kumar,
No.53, Rajasekaran Street (Opp. Kalyani Hospital),
Radhakrishnan Salai, Mylapore, Chennai 600 04. ... Plaintiff

Vs.

1. M/s PVP Refineries Private Limited,
55, Chennimalai Road, Erode 638 009.

2. Sri Rathna Oil Mills,
No.113, Kalyana Sundaram Street,
Erode H.O., Erode 638 001.

And also at 36C, Chennimalai Road,
Erode Town, Erode 638 002. ... Defendants

PRAYER Civil Suit filed under Order IV Rule 1 of the Original Side

Rules read with Order VII Rule 1 of the Code of Civil Procedure read with
Sections 134 and 135 of the Trade Marks Act, 1999 read with Sections 61 and
62 of the Copyright Act, 1957 to pass decree and judgment for

i) a permanent injunction restraining the defendants, their men, agents, associates and/or assignees or any person claiming rights from them from infringing the plaintiff's reputed and well known registered Trade Mark "Gold Winner" registered vide Trade mark No.605323 dated 27.08.1993, Trade mark No.1147963 dated 01.11.2002 and Trade Mark No.1399086 dated 16.11.2005 for sunflower oil and refined sunflower oil in class 29 of the IV schedule to the Trade Marks Rules 1999 by using the offending Trade Mark "Gold Star" deceptively similar to the aforesaid Trade Mark of the plaintiff's for any edible oil marketed by the defendants, their men, agents, associates and / or assignees or any person claiming rights from the defendants.

ii) a permanent injunction restraining the defendants, their men, agents, assignee and / or associates or any person claiming rights from them from using the offending pouch/packing material bearing the offending words "Gold Star" and color scheme and get up deceptively similar to that of the plaintiff packing material/ pouch used for their refined edible sunflower oil with distinct color scheme, get up with their reputed and well known trade mark "Gold Winner" for sunflower oil and refined sunflower oil registered vide Trade mark No.605323 dated 27.08.1993, Trade mark No.1147963 dated 01.11.2002 and Trade Mark No.1399086 dated 16.11.2005.

iii) a permanent injunction restraining the defendants from violating the plaintiff's copyright registered vide Copyright Registration No.A-63205/2003 dated 17.01.2003, Copyright Registration No.A-68242/2005 dated 27.01.2005, Copyright Registration No.A-68243/2005 dated 27.01.2005, Copyright Registration No.A-28244/2005 dated 27.01.2005, Copyright Registration No.78000/2006 dated 29.12.2006, Copyright Registration No.A-78004/2006 dated 29.12.2006, Copyright Registration No.78063/2007 dated 09.01.2007, in the artistic work used in the plaintiff's packing material and for pouches for refined edible sunflower oil and other edible products bearing the reputed and well known registered Trademarks " gold Winner " by using the offending words " Gold Star" with color scheme and get up in the offending pouches and packing material deceptively similar to that of the plaintiff's colour scheme and Trade dress of the plaintiff's pouches and packing with the Trade Mark " Gold Winner" registered vide the above copyright registration certificates.

iv) a permanent injunction restraining the defendants, their men, agents, associates and/or assignees or any person claiming rights from them from passing off their inferior product as that of the plaintiff's " Gold Winner" edible refined sunflower oil by using the offending words " Gold Star" and offending packing material and pouch deceptively similar to the plaintiff trade mark " Gold Winner " and trade dress for " Gold Winner" .

v) a preliminary decree directing the defendants to render true account of profits made by the defendants by using the aforesaid offending label of " Gold Star".

vi) directing the defendants, their men, agents, assignees, dealers and/ or retailers, distributor, to surrender to the plaintiff all offending pouch/packing material, label, advertising materials, hoarding, letter heads, office stationary and all other material containing/bearing offending mark/label " Gold Star" with distinct color scheme, get up or any other mark visually or phonetically similar to the plaintiff's well known trademark " Gold Winner" label for destruction by an order of this court.

vii) for erasure, removal or obliteration from all infringing goods, materials or articles in the possession or control of the defendants with the offending mark/labels and pouches deceptively similar to the plaintiff's " Gold Winner" refined sunflower oil and for costs.

For Plaintiff

: Mr.R.Anish Kumar

For Defendants

: Mr.K.Rajasekaran

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JUDGEMENT

The learned counsels appearing for the plaintiff and the defendants filed a memorandum of compromise entered into between the parties duly signed by the authorised signatory of the plaintiff and the defendants.

2. The Memorandum of Compromise entered into between the parties is recorded.

3. Accordingly, the suit is decreed in terms of the Memorandum of compromise dated 04.11.2019 and the Memorandum of Compromise shall form part and parcel of the decree. No costs.

04.11.2019

Index: Yes/No

Internet: Yes/No

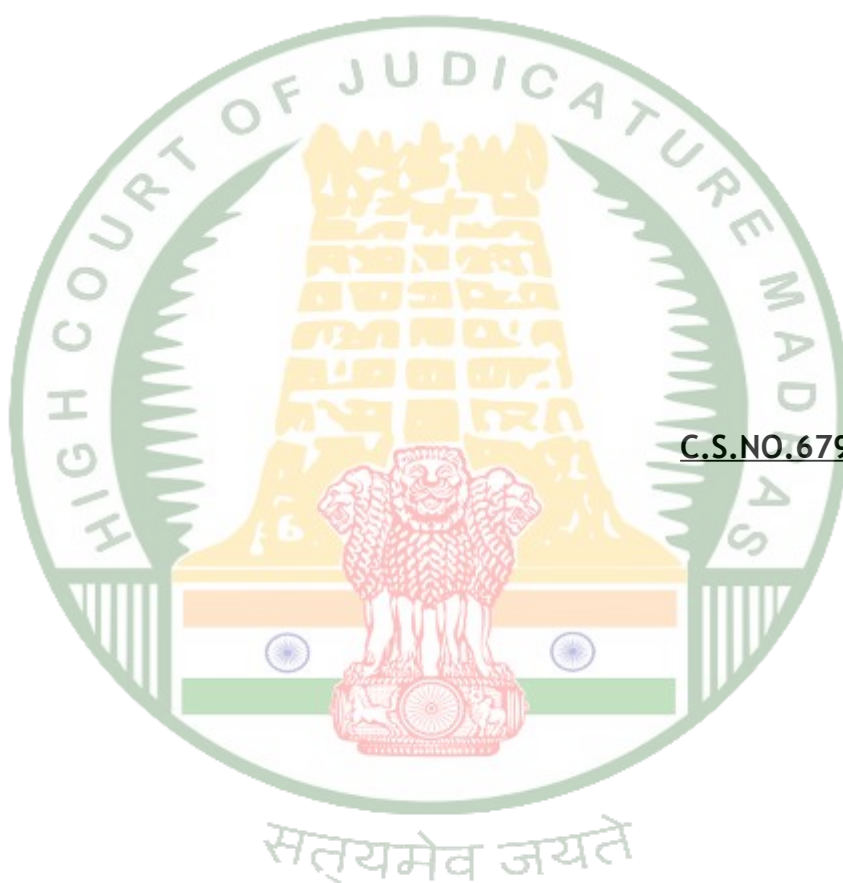
Speaking/Non Speaking order

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