

C.S.No.683 of 2013 and  
A.Nos.4680 & 4681 of 2013 and  
O.A.Nos.783, 785 & 786 of 2013

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 02.08.2019

CORAM

**THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY**

C.S.No.683 of 2013  
and  
A.Nos.4680 & 4681 of 2013  
and  
O.A.Nos.783, 785 & 786 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 – 600 004. ... Plaintiff

Vs.

Sri Amman Oil Mill  
Oodayam Road, Navakadu,  
Muthur – 638 105  
Kangayam Taluk. ... Defendant

Plaint filed under Order VII Rule 61 C.P.C. read with Order IV  
Rule 1 of the High Court Original Side Rules praying for:

(a) For a permanent injunction to restrain the  
defendant, its 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, Trademark No.1147963

dated 01.11.2002, and trademark No.1399086 dated 16.11.2005 for Sunflower oil and Refined Sunflower oil in class 29 of the IV schedule to the Trademark Rules, 1999 by using the offending Trademark "Gold Minister" deceptively similar to the aforesaid Trademark of the plaintiff's for any edible oil marketed by the defendant, their men, agents, associates and/or assignees or any person claiming rights from the defendant.

(b) For a permanent injunction restraining the defendant, its 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 Minister" 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 trademark "Gold Winner" for sunflower oil and refined sunflower oil registered vide Trademark No.605323 dated 27.08.1993, Trademark No.1147963 dated 01.11.2002 and Trademark No.1399086 dated 16.11.2005.

(c) For a permanent injunction restraining the defendant from violating the plaintiff's Copyright registered vide Copyright Registration No.A-63205/2003 dated 17.01.2003, 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.78004/2006 dated 29.12.2006, and 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 Trademark "Gold Winner" by using the offending word "Gold Minister" 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 Trademark "Gold Winner" registered vide the above copyright registration certificates.

(d) For a permanent injunction to restrain the defendant, its men, agents, associates and/or assignees or any person claiming rights from therein from passing-off their inferior product as that of the plaintiff's "Gold Winner" edible refined sunflower oil by using the offending words "Gold Minister" and offending packing material and pouch deceptively similar to the plaintiff trademark "Gold Winner" and Trade dress for "Gold Winner".

(e) For preliminary decree directing the defendant to render true account of profits made by the defendant by unauthorizedly using the aforesaid offending label of "Gold Minister".

(f) directing the defendant, its 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 stationery and all other material containing/bearing offending mark/label "Gold Minister" 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;

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

For Plaintiff : Mr.R.Anish Kumar  
For Defendant : Mr.R.Sathish Kumar

### **J U D G M E N T**

The learned counsel appearing for the defendant filed an affidavit dated 09.01.2019, stating that the defendant is no longer using the old label anymore or intend to use it in future or used in the last 4 years except it was used during last two months due to inadvertent error on part of label manufacturer and packing unit.

Therefore, they tender unconditional and sincere apology for violating this Court's order and requested this Court to accept this affidavit and apologize and dispose the main suit.

2. The learned counsel for both the parties submits that once undertaking is recorded, the main suit can be disposed of.

3. The affidavit of the defendant dated 09.01.2019 is recorded. Accordingly, the suit is decreed in terms of affidavit and the said affidavit shall form part of the decree. While, decreeing the suit, this Court is inclined to award a cost for a sum of Rs.50,000/- (Rupees Fifty Thousand only) payable by the defendant to the plaintiff within a period of two weeks from the date of receipt of a copy of this judgment. Consequently, connected applications are closed.

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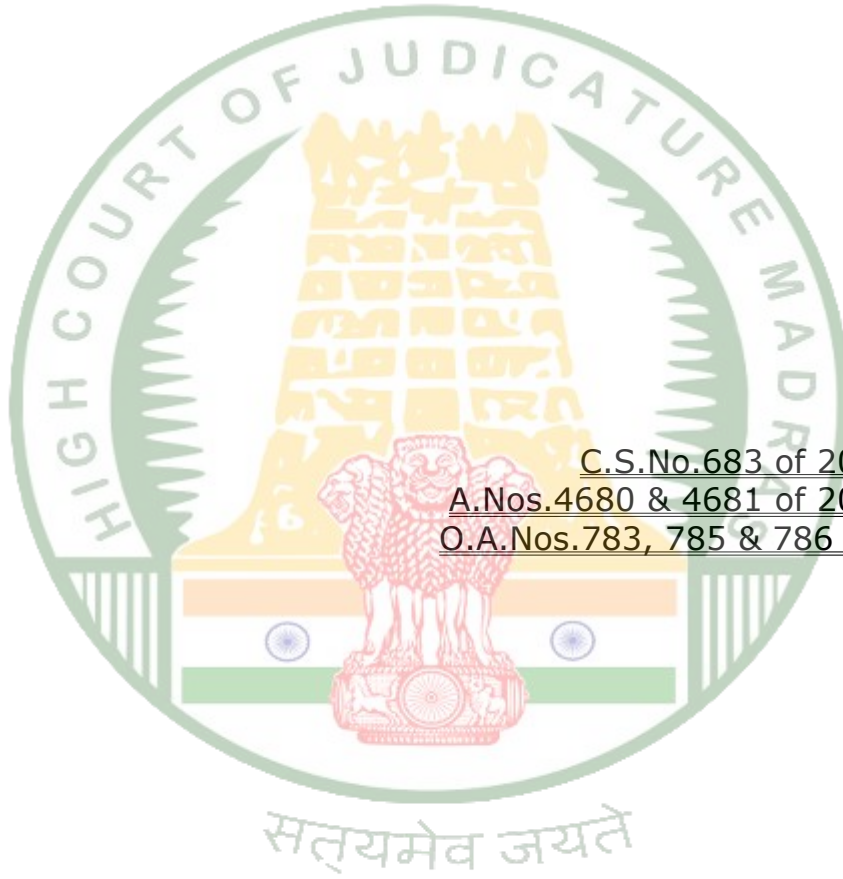
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**KRISHNAN RAMASAMY,J.**

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