

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2019

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.S.No.258 of 2019 and
O.A.Nos.383 to 385 of 2019 and Application No.2859 of 2019

M/s. KALEESUWARI REFINERY PRIVATE LTD.,
Represented by its
Manager (Legal) Mr.A.Saravanan,
No.53, Rajasekaran Street,
Opp . Kalyani hospital, Radhakrishnan Salai,
Mylapore, Chennai-600 004 ... Plaintiff

.Vs.

M/s.Kalasakthi Agro Private Ltd.,
No.434/2, Tindivanam Main Road,
Pudhupadi Village,
Arcot 632 503, Vellore District. ... Defendant

PRAYER: Plaint under Order IV, Rule 1 of the O.S.Rules R/W Order VII Rule 1 of C.P.C. Rules R/W Sections 134 & 135 of Trade Marks Act, 1999 R/W. Sections 61 & 62 of the Copyright Act, 1957, praying for a Judgment and Decree against the defendant (a) Permanent injunction to restrain the Defendant, 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**" by using the offending Trade Mark "GOLD WIN 'S'" or any mark or word deceptively similar to the aforesaid Trade Mark 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. (ii) 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 WIN'S**" edible refined sunflower oil by using the offending words "**GOLD WIN'S**" or any other words or mark and offending packing Material and pouch deceptively similar to the Plaintiff's trade mark "Gold Winner" and Trade dress for "**Gold Winner**". (iii) Permanent injunction restraining the Defendant from violating the Plaintiff's registered **Copyright, A-68242/2005 dated 27.01.2005** in the artistic work used in the Plaintiff's packing material/pouches used for packing refined edible sunflower oil and bearing its reputed registered Trademark "**Gold Winner**" by substituting the Trademark "**Gold Winner**" with the offending words "**GOLD WIN'S**" bearing same trade dress, color scheme and get up deceptively similar to that of the Plaintiff's colour scheme and trade dress in the packing material/pouch bearing trade Mark "Gold Winner". (iv) For preliminary decree directing the Defendant to render true account of profits made by the Defendant by using the aforesaid offending label of "**GOLD WIN'S**". (V) Directing the Defendant, its men, agents, assignees, dealers and/or retailers,

distributors, 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 WIN'S**" with distinct color scheme, get up or any other mark visually or phonetically similar to the Plaintiff's trademark "Gold Winner" label for destruction by an order of this Court. (vi) to pay the costs of the suit; (vi) and pass such further or other orders as this Court may deem fit and proper in the facts and circumstances of the case.

For Plaintiff : Mr.Vijayan Subramanian

For Defendant : Mr. Shakespeare

J U D G M E N T

Today, when this matter is taken up for hearing, the learned counsel appearing on behalf of the Defendant has filed an affidavit dated 31.07.2019, stating that they have changed the colour scheme, Trade Dress in packing materials/pouches for their products as early as in the month of February 2019 and the same was intimated to the Plaintiff by way of reply dated 20.03.2019 in response to the Cease and Desist Notice dated 13.03.2019 and hence he prayed this Court to pass appropriate orders based on the said Affidavit. The learned counsel for the Plaintiff also submitted

KRISHNAN RAMASAMY, J

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that the suit may be decreed in terms of the said affidavit and he has also made an endorsement to that effect on the reverse side of the affidavit dated 31.07.2019.

2. Recording the said Affidavit dated 31.07.2019, the suit is decreed in terms of the Affidavit dated 31.07.2019. The said Affidavit shall form part of the decree. Consequently, connected Applications are closed.

31.07.2019

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To

M/s.Kalasakthi Agro Private Ltd.,
No.434/2, Tindivanam Main Road,
Pudhupadi Village,
Arcot 632 503, Vellore District.

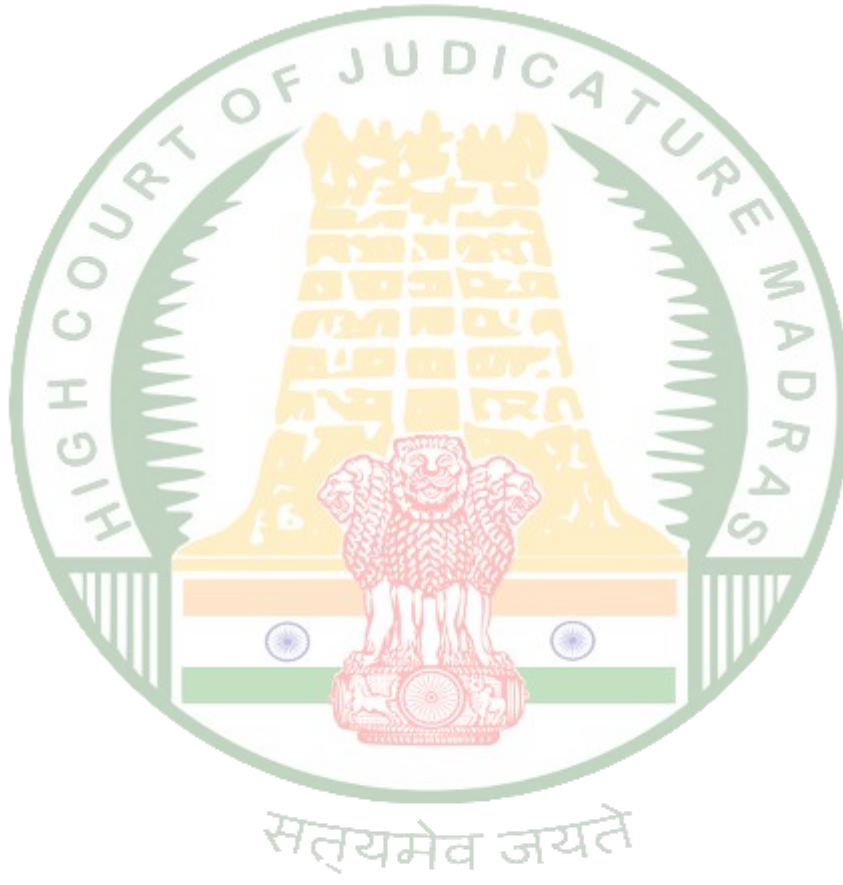
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