

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2019

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.S.No.309 of 2019
and O.A.Nos.500 to 502 of 2019

M/s.KALEESUWARI REFINERY PRIVATE LIMITED,
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.ZION OIL MILLS
No:8, Self help Industrial Estate,
Keelakattalai, Chennai- 600 117 ... Defendant

PRAYER: Plaint under Order IV, Rule 1 of the Original Side Rules r/w Sections 134 & 135 of TradeMarks Act, 1999, praying for a Judgment and Decree against the defendant (a) For 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 "**DHEEPAM**" by using the offending Trade Mark "**OLEE OLEE DEEPAM OIL**" 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) 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 "**DHEEPAM**" Lamp oil by using the offending words "**OLEE OLEE DEEPAM OIL**" or any other words or mark and offending packing Material and pouch deceptively similar to the Plaintiff's trade mark "**DHEEPAM**" and Trade dress for "**DHEEPAM**"; (iii) For a preliminary decree directing the Defendant to render true account of profits made by them by selling lamp oil bearing offering label of "**OLEE OLEE DEEPAM OIL**" and the offending bottle/container similar to that of the Plaintiff's "DHEEPAM" Lamp Oil. (iv) Direct the Defendant their man, agents, assignees, dealers and/or retailers, distributor to surrender to the Plaintiff all offending "**OLEE OLEE DEEPAM OIL**", bottle/container/packing materials label, advertising materials hoarding, letter heads office stationary and all other goods containing/bearing offending mark/label "**OLEE OLEE DEEPAM OIL**" with distinct color scheme, get up or any other mark visually or phonetically similar to the plaintiff's well known trademark "DHEEPAM" label and bottle/container for destruction by an order of this Court; (v) To pay for the costs of the suit; and (vi) pass such further or other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and thus render justice.

For Plaintiff : Mr.Vijayan Subramanian

J U D G M E N T

When the matter is taken up for hearing, a Joint Memo of compromise dated 17.07.2019 has been filed on behalf of both the parties, by the learned counsel for the Plaintiff. The learned counsel for the Plaintiff would submit that in compliance with the order passed by this Court on 24.06.2019, suit summon was served on the defendant privately. An Affidavit of Service to that effect has been filed before this Court. In spite of service of summon on the sole defendant, none appeared on their behalf. The learned counsel for the Plaintiff further submits that his client approached the sole defendant and have arrived at compromise with certain terms and conditions. The said Memo has been signed by both the parties.

2. The learned counsel appearing for the Plaintiff has submitted that the suit may be decreed in terms of Memo of Compromise.

KRISHNAN RAMASAMY, J

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3. Recording the Joint Memo of Compromise dated 17.07.2019 this suit is decreed in terms of Joint Memo of Compromise. The Joint Memo of Compromise shall form part of the decree. Consequently, connected Applications stands closed.

19.07.2019

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C.S.No.309 of 2019

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