

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.01.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

O.S.A. Nos. 239 to 244 of 2018
and C.S.No.100 of 2017

OSA No. 239 of 2018:

M/s. Kaleesuware Refinery Pvt Ltd.,
Rep. By its Director Mr. K. Ashok Kumar,
No. 53, Rajasekaran Street,
(Opp. Kalyani Hospital, Radhakrishnan Salai)
Mylapore, Chennai - 600 004 ...Appellant/
Plaintiff

Vs.

M/s. Sri Durgai Oil Stores,
Rep. By its Proprietor of Mr.I.M.Selvaraj,
No.2240, TNHB, Villapuram,
Madurai - 625 011 ...Respondent/
defendant

and batch cases

For Appellant : Mr.Mohan
in all OSAs for M/s. Chiristopher Manoharan

For Respondent : Mr.Subbaiah, Senior Counsel
in all OSAs assisted by Ms. Elizabeth Rani

Original Side Appeal filed under Order 36 Rule 1 of the
O.S.Rules of this Court, read with Clause 15 of the Letters
Patent, against

1. the order dt.26.04.2018 passed in OA.143/2017 in
CS.No.100/2017 and allow the application as prayed in
OA.No.143/2017 (OSA No.239/2018)

2. the order dt.11.06.2018 passed in A.4163/2018 in
OA.No.143/2017 in CS.No.100/2017 (OSA No.240/2018)

3. the order dt.11.06.2018 passed in A.4164/2018 in
OS.No.144/2017 in CS.No.100 of 2017 and allow the application as

prayed in OS.No.144 of 2017 (OSA No.241/2018)

4.the order dt.11.06.2018 passed in A.4165/2018 in OA.No.145/2017 in CS No.100/2017 (OSA No.242/2018)

5.the order dt.26.04.2018 passed in OA.144/2017 in CS.No.100/2017 and allow the application as prayed in OA.No.144/2017 (OSA No.243/2018)

6. the order dt.26.04.2018 passed in OA.145/2017 in CS.No.100/2017 and allow the application as prayed in OA.No.145/2017 (OSA No.244/2018)

COMMON JUDGMENT
(Delivered by M.M.SUNDRESH, J.)

By consent, the suit itself has been taken up.

2. When the matter is taken up for hearing, learned Senior Counsel appearing on behalf of the respondent/defendant, placing reliance upon the affidavit dated 17.11.2018, submitted that the respondent has decided to close down the business carried on in the name and style "SON Gold Lite" in blended vegetable oil. Reliance has been made on paragraphs 4 and 6 of the aforesaid affidavit, which are recorded hereunder:-

"4. Pending the above Appeal, I have decided to close down by business, carried on by me, in the name and style of "SON Gold Lite" in blended vegetable oil, a refined lighting oil, for external use only.

x x x x

6. I shall not use the Trade Mark, allegedly infringed by me, being the subject matter of the suit in C.S.No.100 of 2017, on the file of this Honourable Court, also the label with all characteristics, as accepted by the learned Judge, being the subject matter of all the above Original Side Appeals."

Learned counsel appearing for the respondent/defendant would submit that the suit may be decreed in terms of the aforesaid affidavit.

3. Considering the same, the suit in C.S.No.100 of 2017 is decreed in terms of the above mentioned affidavit dated 17.11.2018. Accordingly, it is hereby ordered that the respondent shall not carry on any business in the name and style of "SON Gold Lite" in blended vegetable oil, a refined lighting oil. The respondent/defendant further shall not use the label

with all characteristics as placed before the learned Single Judge and accepted thereafter.

5. In the result, the suit in C.S.No.100 of 2017 is decreed in the above terms and consequently, the appeals stand allowed with the aforesaid observations. No costs. Consequently, connected CMP Nos. 11640 to 11644 of 2018 stand closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssm

To

The Sub Assistant Registrar
Original Side
High Court, Madras.

+1 cc to M/s.Elizabeth Rani, Advocate, Sr.No. 7934

+1 cc to M/s.R.Anish Kumar, Advocate, Sr.No. 7719

O.S.A. Nos. 239 to 244 of 2018

CSL/15.05.2019



WEB COPY