

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2019

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.S.No.432 of 2019
and
O.A.Nos.677 to 679 of 2019
and
A.No.4957 of 2019

M/s.Kaleesuwari Refinery Private Limited,
Rep., by its Manager (Legal),
Mr.A.Saravanan,
No.53, Rajasekaran Street,
Opp. Kalyani Hospital, Radhakrishnan Salai,
Mylapore, Chennai-600 004.

.. Plaintiff

-VS-

M/s.Popular Trading Company,
No.367/2, Pillaiyar Nagar,
Kandhampatti, Salem-636 005.

.. Defendant

Civil Suit filed under Order IV Rule 1 of the Original Side Rules
r/w Order VII Rule 1 of Code of Civil Procedure r/w Sections 134 & 135
of Trade Marks Act, 1999 r/w Section 61 & 62 of the Copyright Act,
1957 for the following judgment and decree:-

i. 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 registered Trade Mark
"Gold Winner" by using the offending Trade Mark "Gold Drops" 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 "Gold Winner" edible refined sunflower oil by offending words "Gold Drops" 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 copyright in the artistic word used in the plaintiff's packing material/pouches used for packing refined edible sunflower oil and bearing its reputed and well known registered Trademarks "Gold Winner" by substituting the Trademark "Gold Winner" with the offending words "Gold Drops" 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 the account of profits made by the defendant by using the aforesaid offending label of "Gold Drops";

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 stationary and all other material containing/bearing

offending mark/label "Gold Drops" 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. For erasure, removal of 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; and

vii. To pay for the costs of the suit.

For Plaintiff : Mr.Vijayan Subramaninan

For Defendant : Mr.A.Esakkiappan

JUDGMENT

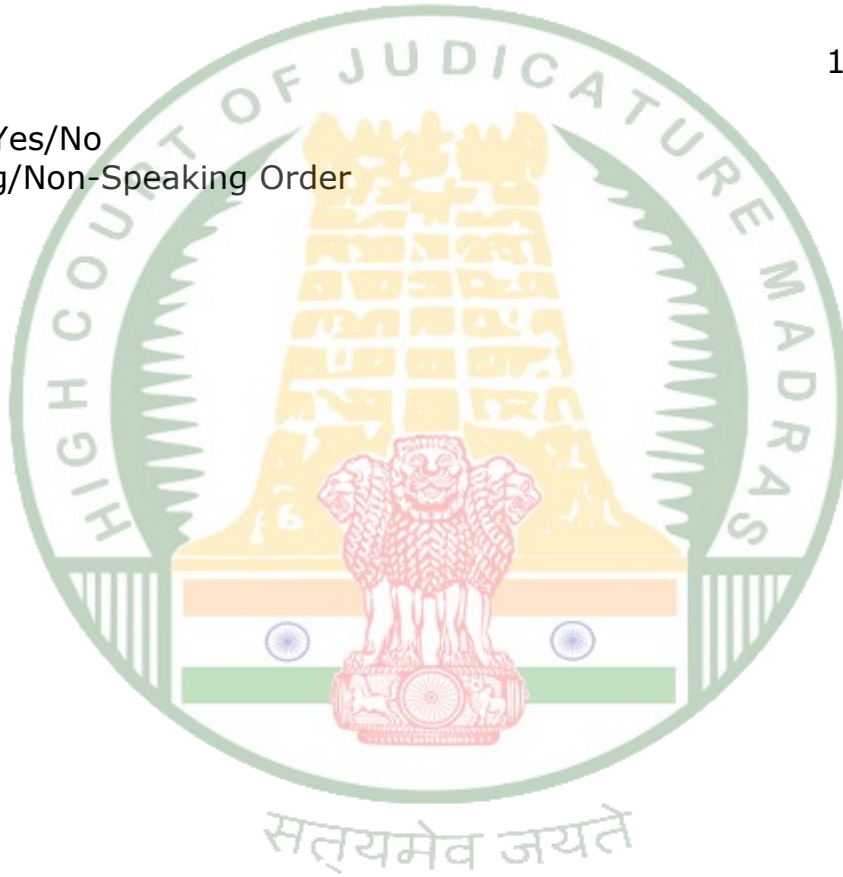
When the matter was taken up today, the learned counsel for the plaintiff and the defendant submitted that the parties have entered into Joint Compromise Memo and they have settled the matter as per the joint compromise memo executed by the parties. The learned counsel has also produced the Joint Compromise Memo entered between the parties. The learned counsel further submitted that the suit may be decreed in terms of the joint compromise memo.

2. In view of the same, this suit is decreed in terms of the Joint Compromise Memo and the Joint Compromise Memo shall form part of the decree. Consequently, the connected applications are closed. No cost.

19.09.2019

Index : Yes/No
Speaking/Non-Speaking Order

abr

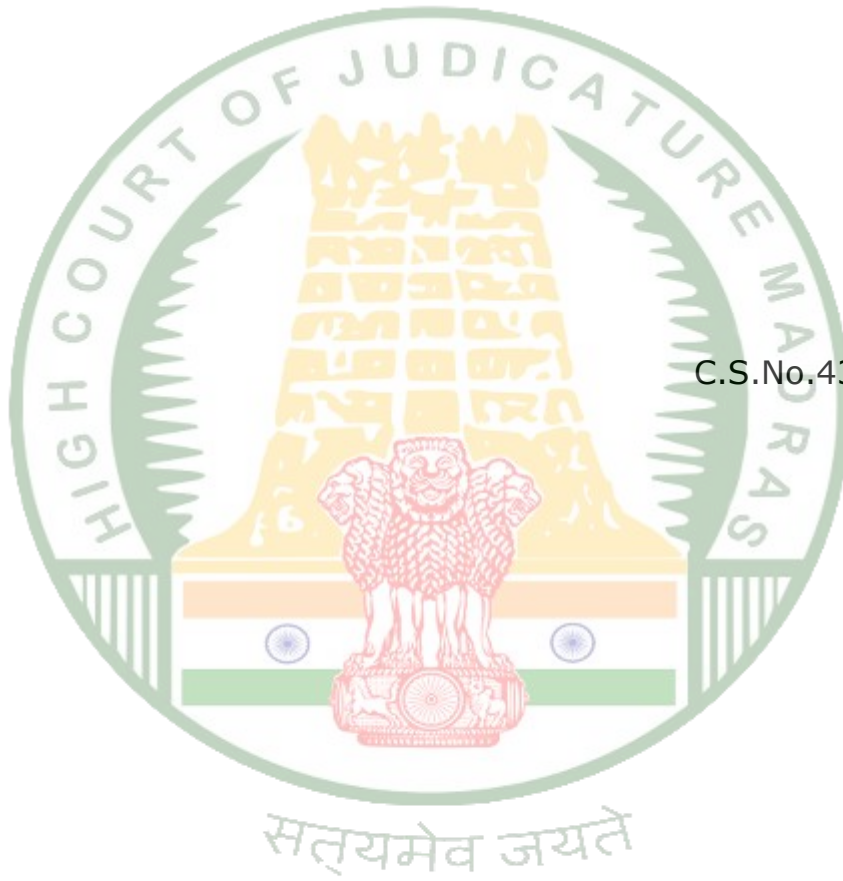


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N.Sathish Kumar, J.

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