

C.S.No.435 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.09.2019

CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.S.No.435 of 2019 &

O.A.Nos.689 to 691 of 2019 & A.No.4993 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.RVS Traders,
No.1, Agathiyar Street,
Arcot, Vellore District,
Tamil Nadu – 632 503. ... Defendant

Civil Suit filed under Order IV Rule 1 of Original Side Rules of Madras High Court read with Order VII Rule 1 of CPC read with Sections 134 and 135 of Trade Marks Act, 1999 read with sections 61 and 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 “SPS Gold” 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, their men, agents, associates and/or assignees or any person claiming rights from them from passing-off their inferior product, as that of the plaintiff's “Gold Winner” edible refined sunflower oil by using the offending words “SPS Gold” 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 work 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 Trade mark “Gold Winner” with the offending words “SPS Gold” bearing same trade dress, colour 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”.

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iv) for preliminary decree directing the defendant to render true account of profits made by the defendant by using the aforesaid offending label of “SPS Gold”.

v) Directing the defendant, its men, agents, assignees, dealers and/or retailers, distributors, to surrender to the plaintiff all offending pouch/packing material, lable, advertising materials, hoarding, letter heads, office stationery and all other material containing/bearing offending mark/label “SPS Gold” with distinct colour 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 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;

vii) To pay costs of the suit.

For Plaintiff : Mr.Vijayan Subramanian

For defendant : Mr.A.Esakkiappan

J U D G M E N T

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

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

13.09.2019

vrc

Index : Yes/No

Internet : Yes/No

Speaking/Non-Speaking Order

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N.SATHISH KUMAR, J.

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