

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2019

CORAM

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

C.S.No.425 of 2019

and

O.A.NO.667, 668 and 669 of 2019 and

A.NO.4928 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 Anitha marketing,
No.8/1, Nallamuthupillai Road,
Keeraithurai, Madurai 625 001.

... Defendant

PRAYER Civil Suit filed under Order IV Rule 1 of the Original Side

Rules read with Order VII Rule 1 of the Code of Civil Procedure read with
Sections 134, and 135 of the Trademarks Act, 1999 red with Section 61 and
62 of the Copyright Act, 1957 to pass a decree and judgment for

i) a permanent injunction restraining the defendant, their men,
agents, associates and/ or assignees or any person claiming rights from them
from infringing the plaintiff's registered Trademark " Gold Winner" by using

the offending Trademark " The Gold Drops" or any mark or word deceptively similar to the aforesaid Trademark 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) a permanent injunction restraining 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 " Gold Winner" edible refined sunflower oil by using the offending words " The Gold Drops" or any other words or mark and offending packing material and pouch deceptively similar to the plaintiff's trademark " Gold Winner" and Trade dress for " Gold Winner".

iii) a permanent injunction restraining the defendant from violating the plaintiff's copyright in the artistic work used 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 with the offending words " The 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 trademark " gold Winner".

iv) preliminary decree directing the defendant to render true account of profits made by the defendant by using the aforesaid offending label of " The 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 " The Gold Drops" 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 with the offending mark/labels and pouches deceptively similar to the plaintiff's " Gold Winner" refined sunflower oil and for costs.

For Plaintiff : Mr.Vijayan Subramanian

For Defendant : Mr.V.Vijay Shankar

JUDGEMENT

The suit has been filed for

i) a permanent injunction restraining the defendant, their men, agents, associates and/ or assignees or any person claiming rights from them from infringing the plaintiff's registered Trademark " Gold Winner" by using

the offending Trademark " The Gold Drops" or any mark or word deceptively similar to the aforesaid Trademark 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) a permanent injunction restraining 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 " Gold Winner" edible refined sunflower oil by using the offending words " The Gold Drops" or any other words or mark and offending packing material and pouch deceptively similar to the plaintiff's trademark " Gold Winner" and Trade dress for " Gold Winner".

iii) a permanent injunction restraining the defendant from violating the plaintiff's copyright in the artistic work used 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 with the offending words " The 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 trademark " gold Winner".

iv) preliminary decree directing the defendant to render true account of profits made by the defendant by using the aforesaid offending label of " The 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 " The Gold Drops" 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 with the offending mark/labels and pouches deceptively similar to the plaintiff's " Gold Winner" refined sunflower oil and for costs.

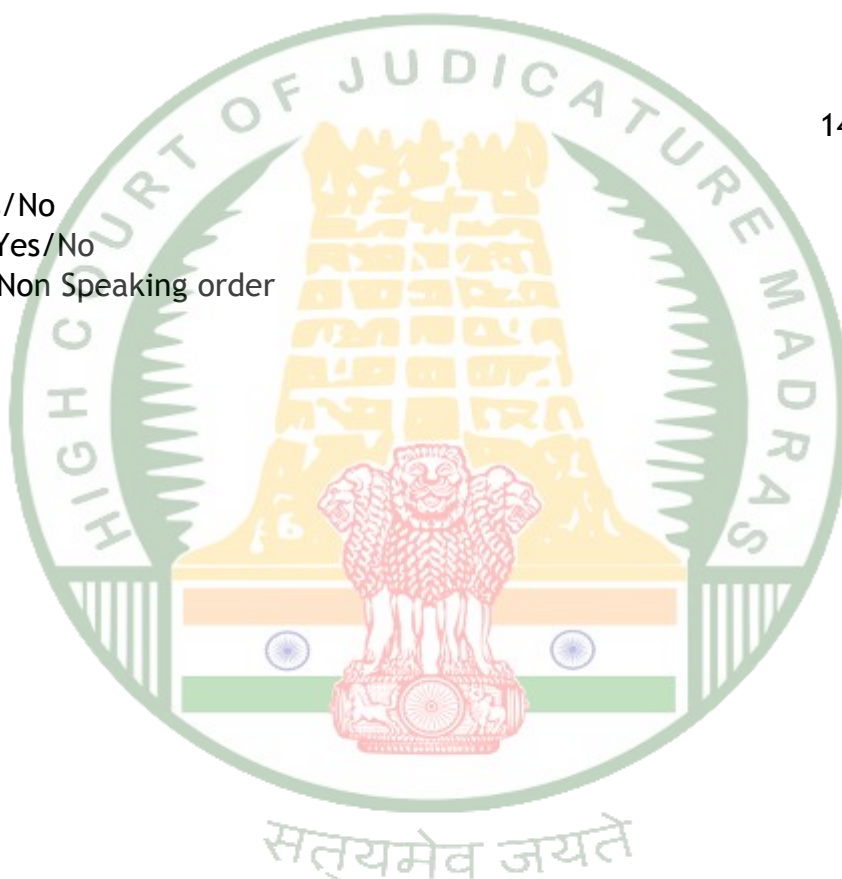
2. The learned counsel appearing for the plaintiff and the defendant filed a memorandum of compromise entered into between the plaintiff and the defendant duly signed by them.

3. The memorandum of compromise is recorded.

4. Accordingly, the suit is decreed in terms of the Memorandum of compromise, as agreed by the parties. No costs. Consequently, connected original applications and application are closed. The memorandum of compromise shall form part and parcel of the decree.

14.11.2019

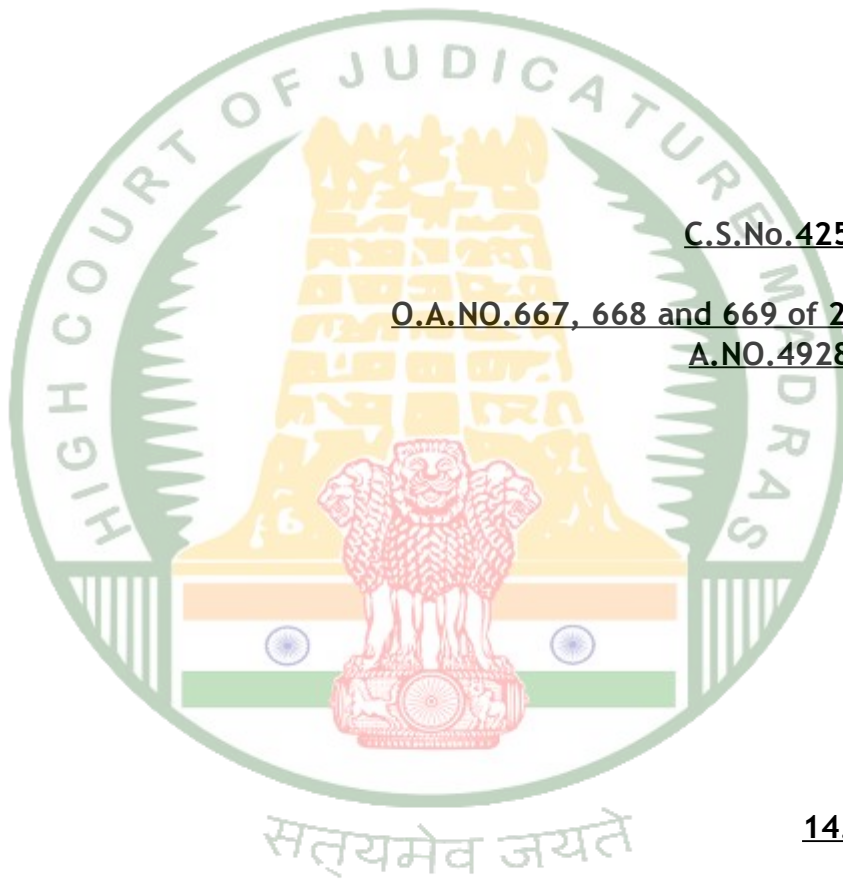
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