

C.S.No.595 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.11.2019

CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.S.No.595 of 2019 &

O.A.Nos.916 to 918 of 2019

M/s.Kaleesuwari Refinery Private Limited,
Represented by its Manager (Legal) Mr.A.Saravanan,
No.53, Rajasekaran street,
Opp: Kalyani Hospital, Radhakrishnan Slaai,
Mylapore, Chennai – 600 004.

... Plaintiff

Vs

M/s.Sri Vetrivel Traders,
No.68, Thiruvankatam Street,
Arcot, Vellore – 632 503.

... Defendant

Civil Suit filed under Order IV Rule 1 of O. S. Rules read with Order VII
Rule 1 of CPC read with sections 134 & 135 of Trademarks Act, 1999 read with
sections 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 trademark 'Gold Winner' by using the offending trademark 'Sun O Gold' 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] For 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 using the offending words 'Sun O Gold' 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] For a 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 trademark 'Gold Winner' with the offending words 'Sun O 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 trademark 'Gold Winner'.

[iv] For preliminary decree directing the defendant to render true account of profits made by the defendant by using the aforesaid offending label of 'Sun O Gold'.

[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 stationery and all other material containing/bearing offending mark/label 'Sun O 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 particles in the possession and 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 for costs of the suit.

For Plaintiff : Mr.Vijayn Subramanian

For defendant : Mr.A.M.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 matter has been compromised between the parties and the Joint Compromise Memo has also been signed by the parties. The learned counsel for the plaintiff has also produced the Joint Compromise Memo signed by the parties and 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 entered between the parties and the above Joint Compromise Memo shall form part of the decree. Consequently, the connected applications are closed.

29.11.2019

vrc

Index : Yes/No

Internet : Yes/No

Speaking/Non-Speaking Order

C.S.No.595 of 2019

N.SATHISH KUMAR, J.

VRC



C.S.No.595 of 2019

WEB COPY

29.11.2019