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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 05TH DAY OF OCTOBER 2021

THE HON'BLE DR.JUSTICE G.JAYACHANDRAN

C.S(Comm.Div.).No.7 of 2021

and

O.A.Nos.370 & 371 of 2021

and A.Nos.2171 & 2172 of 2021

Hatsun Agro Product Ltd.,
Having registered office at
No.1/20-A, Rajiv Gandhi Salai (OMR),
Karapakkam, Chennai-600 097

Also carrying on its business at
Old No.AD-83/New No.AD13,
Anna Nagar, Opp:IOB Towers Branch,
Chennai-600 040.

Represented by its Authorized Signatory.

... Plaintiff

Vs.

M/s.Mettu Vaishno Shree,
Sole Proprietor of
M/s.VS Agro Foods,
2nd Floor, 1-6-287/A/38/1,
Kaladharnagar Colony,
Musheerabad,
Hyderabad-500 020.

... Defendant

C.S(Comm.Div.).No.7 of 2021

Civil Suit praying that this Hon'ble Court be pleased to pass a

judgment and Decree:

<https://hcservices.ecourts.gov.in/hcservices/>

(a). For a permanent injunction restraining the defendant, by



herself, her heirs, legal representatives, successors-in-business, agents, servants, distributors or any one claiming through her from in any manner infringing the plaintiff's registered trademark AROKYA by using the mark AROGYA-AMRUTH or any other deceptively similar mark in any manner whatsoever causing infringement to the plaintiff's registered trademark as described in the schedule to the plaint;

(b). For a permanent injunction restraining the defendant, by herself, her heirs, legal representatives, successors-in-business, agents, servant, distributors or any one claiming through them from in any manner whatsoever from passing off and enabling others to pass off the defendant's business as that of the plaintiff's by using the mark AROGYA-AMRUTH or any other mark which is deceptively similar or identical to the plaintiff's trademark AROKYA in any manner whatsoever;

(c). Directing the defendant to surrender to the plaintiff all the products and stocks with the offending labels, together with the blocks, dies, name boards, sign boards, etc., for destruction;

(d). Directing the defendant to render true and faithful accounts of the profits earned by them through the sale of the products bearing the offending trademark labels and directing payment of such profits to the



plaintiff;

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(e). Directing the defendant to pay to the plaintiff a sum of Rs.1,00,000/- as damages for committing acts of infringement of trademark and passing off.

O.A.Nos.370 of 2021

Original Application praying that this Hon'ble Court be pleased to grant an order of interim injunction restraining the Respondent/defendant, by herself, her agents, servant, distributors or any one claiming through her from using in any manner infringing the applicant / Plaintiff trademark AROGYA by using the trademark AROGYA-AMRUTH or any other mark or marks which are in any way identical or deceptively similar or a colourable imitation of the Applicant/Applicant's registered trademark as described in the schedule to the plaint pending disposal of the suit.

O.A.Nos.371 of 2021

Original Application praying that this Hon'ble Court be pleased to grant an order of interim injunction restraining the Respondent/Defendant by herself, her servants, or agents or any one claiming through her from in any manner passing off her products as that of the Applicant/Plaintiff by using the offending trademark AROGYA-AMRUTH or any other mark or marks which are identical or deceptively similar to the Applicant/Plaintiffs



any manner advertising the same, pending disposal of the suit.

Application No.2171 of 2021

Application praying that this Hon'ble Court be pleased to appoint an Advocate Commissioner with directions to go to the premise of the Respondent/Defendant or other places where the Respondent/Defendant is storing the stocks, labels and other infringing articles, to take the inventory of the infringing goods with the offending trade mark, documents and other records related to the use of offending trade mark, seize those infringing products with the offending trademark, documents and other records related to the use of offending trade mark and deposit them before this Honble Court.

Application No.2172 of 2021

Application praying that this Hon'ble Court be pleased to permit the Applicant to combine the cause of action for infringement of Trade Mark and passing off and file a combined suit beofre this Honble Court.

This civil Suit along with these applications coming on this day before this court for hearing Through Video Conferencing in the presence of Mr.Prashant Alaitar for M/s. Surana & Surana, advocates for the plaintiff in C.S.(comm. Div) No. 7 of 2021 and the applicant in O.A.Nos. 370 & 371 of 2021 and A.Nos. 2171 & 2172 of 2021 and Mr. Rahul M.Shankar advocate



in O.A.Nos. 370 & 371 of 2021 and A.Nos. 2171 & 2172 of 2021 and upon reading the plaint and memo of compromise dated 05/10/2021 filed in C.S.(comm. Div) No. 7 of 2021 and the judges summon and the common affidavit of P.Sivasakthivel filed in O.A. Nos. 370 & 371 of 2021 and A.Nos.2171 of 2021 and the said memo of compromise signed by plaintiff and the defendant and their respective advocates and the said advocates for the parties hereto praying this court to pass a decree in terms of memo of compromise morefully setout in the schedule hereunder and **it is interms thereof ordered and decreed as follow:-**

(1) That the Defendant herein submits that she has stocks of approximately about 2000 printed labels/ packaging material for 1 litre oil cartons and approximately about 2500 printed labels/ packaging material for 500 ml. Oil cartons carrying the impugned mark “AROGYA-AMRUTH” and on the said representation made by the Defendant, the Plaintiff permits the Defendant to use the impugned mark “AROGYA-AMRUTH” for a period of 90 days from the date of signing of this Memo of Compromise to enable the Defendant to liquidate the said stock.

(2) That M/s. Mettu Vaishno Shree, Sole Proprietor of M/s. VS Agro Foods, the defendant herein, (a) by herself, her heirs, legal representatives, successors-in-business, agents, servant, distributors or any one claiming through her be and are hereby restrained by an order of



permanent injunction from in any manner (a) infringing the plaintiff's registered trademark AROKYA by using the mark AROGYA-AMRUTH or any other deceptively similar mark in any manner whatsoever causing infringement to the plaintiff's registered trademark morefully setout in the Schedule hereunder. (b) passing off and enabling others to pass off the defendant's business as that of the plaintiff's by using the mark AROGYA-AMRUTH or any other mark which is deceptively similar or identical to the plaintiff's trademark AROKYA in any manner whatsoever and the decree shall come into effect on the expiry of the 90 days period agreed between the parties in clause (1) supra.

3) That the plaintiff herein gives up the claims in prayer c, d & e of the plaint contingent to the defendant complying with the terms of this memo of compromise.

4) That the defendant herein agreed not to infringe the plaintiff's trademark AROKYA by using the trademark "AROGYA-AMRUTH" or any other mark which is identical or similar to the plaintiff's registered trademark AROKYA or any trademark which is a colorable imitation of the plaintiff's registered trademarks AROKYA as detailed below.

S.No.	TRADEMARK	CLASS	NUMBER	STATUS	TYPE OF MARK
1	AROKYA FRESH CREAMY MILK	29	669001	Registered	Device
2	AROKYA (label)	29	1402205	Registered	Word



S.No.	TRADEMARK	CLASS	NUMBER	STATUS	TYPE OF MARK
3	AROKYA (Tamil)	29	1402212	Advertised	Device
4	AROKYA Milk (Malayalam)	29	1421080	Registered	Word
5	AROKYA Milk (Telugu)	29	1421081	Registered	Word
6	AROKYA Milk	29	1421082	Registered	Word
7	AROKYA	29	2469516	Registered	Word
8	AROKYA	29	2574529	Registered	Device
9	AROKYA MILK	29	2791526	Registered	Device
10	AROKYA MILK	29	2191527	Registered	Device
11	AROKYA MILK	29	2791528	Registered	Device
12	AROKYA MILK	29	2791529	Registered	Device
13	AROKYA	29	2871351	Registered	Device
14	AROKYA CURD	29	3989206	Pending	Device
15	AROKYA CURD	29	3989207	Pending	Device
16	AROKYA CURD	29	3989208	Pending	Device
17	AROKYA CURD	29	3989209	Registered	Device
18	AROKYA DOUBLE TONED MILK	29	4026601	Pending	Device
19	AROKYA TONED MILK	29	4026602	Pending	Device
20	AROKYA STANDARDISED MILK	29	4026603	Pending	Device
21	AROKYA FULL CREAM MILK	29	4026604	Pending	Device
22	AROKYA	30	2467714	Registered	Word
23	AROKYA	30	2574530	Pending	Device
24	AROKYA	30	2871352	Pending	Device
25	AROKYA	31	2467715	Registered	Word
26	AROKYA	31	2574531	Registered	Device
27	AROKYA	31	2871353	Registered	Device
28	AROKYA	32	1402206	Registered	Word
29	AROKYA	32	1402211	Registered	Word
30	AROKYA	32	2467716	Registered	Word



S.No.	TRADEMARK	CLASS	NUMBER	STATUS	TYPE OF MARK
31	AROKYA	32	2574532	Registered	Device
32	AROKYA	32	2871354	Registered	Device

5) That the defendatn herein undertakes to withdraw the trademark application no. 4494465 currently pending on the file of the Trademark Registry within a period of two weeks from the date of signing this memo of compromise.

6) That the defendant herein shall not attempt to register any trademark containing the plaintiff's Trademark "AROKYA" or any trademark which is identical or similar to the plaintiff's trademark AROKYA or any trademark which is a colourable imitation of the plaintiff's registered trademark in any class for any of it products/services.

7) That these O.A.Nos. 370 & 371 of 2021 and A.Nos. 2171 & 2172 of 2021 do stand closed.

8) That there shall be no order as to costs of this suit.

SCHEDULE

Memo of Compromise



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C.S(Comm.Div.).No.7 of 2021
and
O.A.Nos.370 & 371 of 2021
and A.Nos.2171 & 2172 of 2021

DECREE
DATED 05/10/2021

THE HON'BLE DR.JUSTICE
G.JAYACHANDRAN

FOR APPROVAL: 17/02/2022

APPROVED ON: 18/02/2022



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2021

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.S(Comm.Div.).No.7 of 2021

and

O.A.Nos.370 & 371 of 2021
and A.Nos.2171 & 2172 of 2021

Hatsun Agro Product Ltd.,
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Sole Proprietor of
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2nd Floor, 1-6-287/A/38/1,
Kaladharnagar Colony,
Musheerabad,
Hyderabad-500 020.

... Defendant

Prayer: The Civil Suit has been filed under Order IV Rule 1 of the Original Side Rules read with Order VII Rule 1 of C.P.C, and Sections 134 & 135 of Trade Marks Act 1999 and Section 7 of the Commercial Courts Act, 2015,
praying for



(a). For a permanent injunction restraining the defendant, by herself, her heirs, legal representatives, successors-in-business, agents, servant, distributors or any one claiming through her from in any manner infringing the plaintiff's registered trademark AROKYA by using the mark AROGYA-AMRUTH or any other deceptively similar mark in any manner whatsoever causing infringement to the plaintiff's registered trademark as described in the schedule to the plaint;

(b). For a permanent injunction restraining the defendant, by herself, her heirs, legal representatives, successors-in-business, agents, servant, distributors or any one claiming through them from in any manner whatsoever from passing off and enabling others to pass off the defendant's business as that of the plaintiff's by using the mark AROGYA-AMRUTH or any other mark which is deceptively similar or identical to the plaintiff's trademark AROKYA in any manner whatsoever;

(c). Directing the defendant to surrender to the plaintiff all the products and stocks with the offending labels, together with the blocks, dies, name boards, sign boards, etc., for destruction;

(d). Directing the defendant to render true and faithful accounts of the profits earned by them through the sale of the products bearing the offending trademark labels and directing payment of such profits to the plaintiff;

(e). Directing to the defendant to pay to the plaintiff a sum of Rs.1,00,000/- as damages for committing acts of infringement of trademark and passing off.



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For Plaintiff : Mr.Prashant Alaiter

For Defendant : Mr.Rahul M.Shankhar

J U D G M E N T

(Case has been heard through video conference)

The parties have entered into a compromise and had filed a memo of compromise reducing the terms of compromise in the memo dated 05.10.2021.

2. In view of the memo of compromise dated 05.10.2021 filed by the parties, the suit is decreed in terms of compromise memo. The memo of compromise shall form part of the decree. Consequently, all the connected applications are closed. No order as to costs.

Sd/- G.J.J.
05/10/2021

//Certified to be true copy//
Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.