



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 31ST DAY OF MARCH, 2021

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

C.S. No.64 of 2021

and

O.A. Nos.100 & 101 of 2021

and

A. No.622 of 2021

Hatsun Agro Product Ltd.,
having registered office at
No.1/20-A, Rajiv Gandhi Salai (OMR),
Karapakkam, Chennai-600 097
and also carrying on its business at
Old No.AD-83/New No.AD13,
Anna Nagar, Opp. IOB Towers Branch,
Chennai-600 040
rep. by its Authorised Signatory

... Applicant/Plaintiff
(in all the applications)

-Versus-

1. M/s.Sreeja Farm,
rep. by its Partners,
No.388, Mettu Street,
Ekkadu, Thiruvallur-602 021.

2. JK Foods,
rep. by its Partners,
No.862, Kakkalur Bypass Road,
Thiruvallur-602 001.

... Respondents/Defendants
(in all the applications)

C.S. No.64 of 2021

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

judgment and decree:-



(a) For permanent injunction restraining the defendant by themselves, their agents, servants, distributors or any one claiming through them from using in any infringing manner the plaintiff's trademark "AROKYA" by exposing for sale or using it or copying / reproducing or causing reproduction of the same in any packaging or literature or any colourable imitation or substantial reproduction thereof in any manner whatsoever or causing infringement to the plaintiff's registered trademark as described in the Schedule to the Complaint.

(b) For permanent injunction restraining the defendants by themselves, their agents, servants, distributors or any one claiming through them in any manner whatsoever from passing off their products as that of the plaintiff's by using the offending trademark "ARUNA" which is similar, deceptively similar and identical to the plaintiff's trademark AROKYA or by using any other trademark which is similar, deceptively similar or identical to that of the plaintiff's trademark AROKYA by manufacturing or selling or offering for sale in any manner advertising the same.

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

(d) Directing the Defendants to render true and faithful accounts of the profits earned by them through the sale of the offending milk products



bearing the offending trademark labels and directing payment of such profits to the plaintiff.

(e) Directing the Defendant to pay to the plaintiff the cost of this suit.

O.A. No.100 of 2021:-

Original Application praying that this Hon'ble Court be pleased to grant an order of interim injunction restraining the Respondents/Defendants by itself, its servants or agents or any one claiming through it from in any manner passing off its products as that of the Applicant/Plaintiff by using the offending trademark "ARUNA" which is identical and deceptively similar to the Applicant/Plaintiff's trademark AROKYA or by using any other trademark which is similar or identical to that of the Applicant/Plaintiff's trade mark AROKYA by manufacturing or selling or offering for sale or in any manner advertising the same pending disposal of the suit.

O.A. No.101 of 2021:-

Original Application praying that this Hon'ble Court be pleased to grant an order of interim injunction restraining the Respondents/Defendants by itself, its agents, servants, distributors or any one claiming through it from using in any manner infringing the Applicant/Plaintiff's trademark



which are in any way identical or deceptively similar or colourable imitation of the applicant/plaintiff's registered trademarks as described in the schedule to the plaint pending disposal of the suit.

A. No.622 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 Respondents/Defendants or other places where the Respondents/Defendants are 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 Hon'ble court.

This Civil Suit alongwith these applications coming on this day before this court for hearing in the presence of Mr.G.Kalyan Jhabakh for M/s.Surana & Surana, Advocates for the Plaintiff in C.S.No.64 of 2021 and for the applicant in O.A.No.100, 101 of 2021 and A.No.622 of 2021 and Mr.S.C.Vishwanth, Advocate for the 1st defendant in C.S.No.64 of 2021 and for the 1st respondent in O.A.No.100, 101 of 2021 and A.No.622 of 2021 and M/s.S.Uma Maheswari, Advocate for the 2nd defendant in



2021 and A.No.622 of 2021 and upon reading the order dated 29.03.2021 made in O.A.Nos.100 and 101 of 2021 and A.No.622 of 2021 and the memo of compromise signed by the plaintiff and the defendants with 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 set out in the schedule hereunder, it is in term thereof ordered and decreed as follows:-

That the Defendants herein acknowledge and accept the Plaintiff's rights to exclusively use the trademark AROKYA.

2. That 1. M/s.SREEJA FARM, rep. by its partners and 2.JK FOODS, rep. by its partners, the defendants herein, by themselves, their agents, servants, distributors or any one claiming through them be and are hereby restrained by an order of permanent injunction from (a) using in any infringing manner the plaintiff's trademark "AROKYA" by exposing for sale or using it or copying / reproducing or causing reproduction of the same in any packaging or literature or any colourable imitation or substantial reproduction thereof in any manner whatsoever or causing infringement to the plaintiff's registered trademark morefully set out in the schedule hereunder, and (b) in any manner whatsoever from passing off their products as that of the plaintiff's by using the offending trademark



plaintiff's trademark AROKYA or by using any other trademark which is similar, deceptively similar or identical to that of the plaintiff's trademark AROKYA by manufacturing or selling or offering for sale in any manner advertising the same.

3. That the defendants herein, be and are hereby directed to the plaintiff all the products with the offending labels, stocks with offending labels together with the blocks and dies, name boards, sign boards etc. for destruction.

4. That 1. M/s.SREEJA FARM, rep. by its partners and 2.JK FOODS, rep. by its partners, the defendants herein, jointly and severally agree through themselves, their agents, servants, distributor or anyone claiming through or under them, to not infringe the Plaintiff's trademark AROKYA by using the trademark "ARUNA" 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 morefully set out in the schedule hereunder.

5. That the defendants herein reaffirm that by virtue of board resolution passed by the 1st Defendant in January 2020, the defendants herein, have stopped selling, marketing, distributing, etc., products under the impugned mark ARUNA and undertake that they shall not use the mark



registered trademark AROKYA as mentioned in clause (1) supra.

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6. That the plaintiff given up its claims in para No.39(d) and para No.39(e) and the suit in C.S.No.64 of 2021, be and is hereby dismissed with respect to reliefs (d) and (e).

7. That these O.A.Nos.100 and 101 of 2021 and A.No.622 of 2021 do stand closed.

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

SCHEDULE

<i>Sl. No.</i>	<i>Trademark</i>	<i>Class</i>	<i>Number</i>	<i>Status</i>	<i>Type of Mark</i>
1	AROKYA FRESH CREAMY MILK	29	669001	Registered	Device
2	AROKYA (label)	29	1402205	Registered	Word
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	2791527	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



<i>Sl. No.</i>	<i>Trademark</i>	<i>Class</i>	<i>Number</i>	<i>Status</i>	<i>Type of Mark</i>
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
31	AROKYA	32	2574532	Registered	Device
32	AROKYA	32	2871354	Registered	Device

MEMO OF COMPROMISE



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NK-16/04/2021

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C.S. No.64 of 2021
and
O.A. Nos.100 & 101 of 2021
and
A. No.622 of 2021

DECREE

DATED : 31.03.2021

THE HON'BLE MR.JUSTICE
C.V.KARTHIKEYAN

FOR APPROVAL: 20.07.2021

APPROVED ON: 22.07.2021



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2021

CORAM:

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

C.S.No.64 of 2021
and O.A.Nos.100, 101 of 2021
and A.No.622 of 2021

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

And 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
Mr.P.Sivasakthivel

... Plaintiff

..Vs..

1.M/s.Sreeja Farm,
Represented by its partners,
No.388, Mettu Street,
Ekkadu, Thiruvallur - 602 021.

2.JK Foods,
Represented by its partners,
No.862, Kakkalur Bypass Road,
Thiruvallur - 602 001.

... Defendants

PRAYER : Complaint filed under Order VII Rule 1 CPC read with Order IV

Rule 1 of High Court O.S.Rules and Sections 134 and 135 of the
Trademarks Act, 1999 and Section 7 of the Commercial Courts Act, 2015,

prayed for a Judgment and Decree:-



(a) For permanent injunction restraining the defendant by themselves, their agents, servants, distributors or any one claiming through them from using in any infringing manner the plaintiff's trademark "AROKYA" by exposing for sale or using it or copying / reproducing or causing reproduction of the same in any packaging or literature or any colourable imitation or substantial reproduction thereof in any manner whatsoever or causing infringement to the plaintiff's registered trademark as described in the Schedule to the Plaint.

(b) For permanent injunction restraining the defendants by themselves, their agents, servants, distributors or any one claiming through them in any manner whatsoever from passing off their products as that of the plaintiff's by using the offending trademark "ARUNA" which is similar, deceptively similar and identical to the plaintiff's trademark AROKYA or by using any other trademark which is similar, deceptively similar or identical to that of the plaintiff's trademark AROKYA by manufacturing or selling or offering for sale in any manner advertising the same.

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



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

(e) For costs of this suit.

For Plaintiff : M/s.G.Kalyan Jhabakh

For Defendants : M/s.S.C.Vishwanth for D1
M/s.S.Uma Maheswari for D2

J U D G M E N T

A Memo of Compromise dated 25.03.2021 signed by the Authorized Signatory of the plaintiff and by the Proprietor of the first defendant and also by the Proprietor of the second defendant had been filed in Court on 29.03.2021. It has also been signed by the learned counsel for the plaintiff and by the learned counsels for the first and second defendants.

2. In the Memo of Compromise the defendants had agreed not to infringe the plaintiff's Trademarks AROKYA by using the Trademark ARUNA or any other mark which is identical or which is similar to the registered Trademark of the plaintiff, AROKYA or any other Trademark which is a colourable replication of the plaintiff's registered Trademark.



3. The list of Trademarks the plaintiff has registered had also been given in the Compromise memo. The defendants have also stated that by virtue of a Board Resolution passed by the first defendant in January 2020, the defendants have stopped selling or marketing or even distributing any product with the mark ARUNA and they have also undertaken not to use the mark ARUNA to the detriment of the interests of the plaintiff.

4. The suit is partly decreed in terms of the Memo of Compromise with respect to the reliefs (a), (b) and (c) and dismissed with respect to reliefs (d) and (e). The Memo of Compromise dated 25.03.2021 shall form part of the Decree. No order as to costs. Connected Applications are closed.

Sd./-C.V.K.J.
31/03/2021

// Certified to be true copy//
Dated at Madras this day of 2021.

Court Officer(O.S.)
From 25th day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.



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<https://hcservices.ecourts.gov.in/hcservices/> WITNESS THE HON'BLE MR.JUSTICE SANJIB BANERJEE, CHIEF JUSTICE, HIGH COURT
AT MADRAS AFORESAID THIS THE 9th DAY OF APRIL, 2021.

ASSISTANT REGISTRAR (O.S.I)