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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.09.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

O.S.A.NO.135 OF 2021
AND C.S. (CD) NO.503 OF 2019

New Pattukottai Kamatchi Mess
rep. by its Proprietor, G.Suthakar,
No.22, Govindhan Street,
T.Nagar, Chennai - 600 017.

... Appellant in OSA/
Defendant in CS

Vs

New Pattukottai Kamatchi Mess -
Nunpahal Unavagam LLP
rep. by its Designated Partner, K.Selvakumar
No.119, 3rd Avenue, Bharathi Puram,
Anna Nagar, Chennai - 600 102.

... Respondent in OSA/
Plaintiff in CS

Original Side Appeal No.135 of 2021 filed under Order XXXVI, Rule 1 of Original Side Rules read with Clause 15 of the Letters Patent against the Order dated 30.9.2020 passed in Application No.9879 of 2019 in C.S.No.503 of 2019 on the file of this Court.

A.No.9879/2019 in C.S.No.503/2019:-

This application filed under Order XIV Rule 8 of O.S.Rules R/W.Section.8 of Arbitration and Conciliation Act to refer the parties to this suit to arbitration proceedings as per clause 31 of the limited liability partnership agreement dated 28.09.2018 and consequently, dismiss the suit.

C.S.(Commercial Division) No.503 of 2019 filed under Order IV, Rule 1 of O.S.Rules read with Order VII, Rule 1 CPC, 1908 read with Sections 27, 29, 134 and 135 of the Trademarks Act, 1999 praying for judgment and decree against the defendant (a) for a permanent injunction restraining the defendant from in any way



using the mark/words - 'New Pattukottai Kamatchi Mess', or any other mark is identical or deceptively similar to the registered trademark of the plaintiff - 'New Pattukottai Kamatchi Mess - Nunpahal Unavagam LLP'; (b) for a permanent injunction restraining the defendant from passing off their food products as that of the plaintiff; (c) to direct the defendant to pay a sum of Rs.10,00,000/- (Rupees Ten Lakh only) at 18% p.a. for harming the plaintiff's reputation in the existing market, along with delivery-up of all infringing labels and marks for destruction or erasure; (d) to grant any other relief which this Hon'ble Court may deem fit in the interest of justice and equity; (e) Costs of the suit.

For the Appellant/ : Mr.T.S.Baskaran
Defendant

For the Respondent/ : Ms.N.Kavitha Rameshwar
Plaintiff

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

A joint memorandum has been filed by learned counsel representing the appellant and the respondent.

2. As per such memorandum, the parties agree that all disputes and differences which have arisen between them in respect of the LLP agreements dated September 28, 2018 and October 12, 2018, including the subject-matter of the proceedings in C.S.No.503 of 2019 and O.S.A.No.135 of 2021, may be resolved by arbitration by appointing the arbitrator as named therein.

3. Accordingly, in terms of the said memorandum, Mr.K.V.Babu, advocate, is appointed arbitrator by consent of the parties and all disputes and differences as referred to in the memorandum are referred to the arbitrator. It is hoped that the reference would be concluded as expeditiously as possible. The fees of the arbitrator will be in accordance with law, subject to the consensus in such regard between the parties.

4. O.S.A.No.135 of 2021 is disposed of. As a consequence, C.S.(CD) No.503 of 2019 is also disposed of and the parties will be obliged to bring this to the notice of the trial court. The



subsisting injunction will continue unless expressly modified in course of the arbitral reference.

There will be no order as to costs. C.M.P.No.6111 of 2021 and Application Nos.221, 222 and 438 of 2020 are closed.

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Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

sasi

To:

The Sub Assistant Registrar
Original Side
High Court
Madras.

+1cc to Mr.T.S.Baskaran, Advocate, S.R.No.47115

O.S.A.No.135 of 2021 and
C.S. (CD) No.503 of 2019

MG(CO)
PM/21/09/2021