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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 11TH DAY OF JANUARY, 2021

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

C.S.No.129 of 2020

and

O.A.Nos.171 and 172 of 2020

M/s.Ambur Star Briyani,
Represented by its Authorised Signatory,
Mr.M.Hafees Ahmed (M-22 years)
Having its office at No.16,
M.C.Road, Ambur, Ambur Taluk,
Vellore District – 635 802

Having branch office at
No.116/1, Arcot Road,
Vadapalani, Chennai- 600 026

..Plaintiff/Applicant
(in both applications)

-Versus-

M/s.Star Briyani,
No.823, Deen Plaza,
Shop No.1, (Near Mayajaal)
East Coast Road (ECR), Kanathur,
Chennai- 603 112

..Defendant/Respondent
(in both applications)

C.S.No.129 of 2020

Civil Suit praying that this Hon'ble Court be pleased to pass a
judgment and decree for:

(a) Granting a permanent injunction restraining the Defendant, their
men, servants, agents or anyone claiming through or under them from in any
manner **Infringing** the Plaintiff Trade Mark and Trading style "**AMBUR**



"STAR BRIYANI" by using the offending Trade Mark and Trading style

"STAR BRIYANI" or any other mark or marks which are similar or in any way deceptively similar to or a colourable imitation of the Plaintiff's Trade Mark **"AMBUR STAR BRIYANI"**.

(b) Granting a permanent injunction restraining the Defendant, their men, servants, agents or anyone claiming through or under them from in any manner **Passing off** the plaintiff Trade Mark and Trading style **"AMBUR STAR BRIYANI"** by using the offending Trade Mark and Trading style **"STAR BRIYANI"** or any other mark or marks which are similar or in any way deceptively similar to or a colourable imitation of the Plaintiff's Trade Mark **"AMBUR STAR BRIYANI"**.

(c) Directing the defendant to render a true and faithful account of the profits earned by them through the sale of food products bearing the offending trade mark **"STAR BRIYANI"** and directing payment of such profits to the Plaintiff by way of damages for Infringement committed by the Defendant.

(d) Directing the defendant to surrender to Plaintiff the entire stock of



unused offending goods with Trade Mark "**STAR BRIYANI**" with name boards, labels, wrappers, boxes, covers, bags, packets, cartons, bills, advertisements, materials, reports, envelops, brochures, printing blocks, etc., bearing the offending Trademark for destruction.

(e) Directing the defendant to pay the Plaintiff the costs of the suit.

O.A.No.171 of 2020:

Original Application praying that this Hon'ble Court be pleased to grant an order of ad-interim injunction restraining the Respondent/Defendant, their men, servants, agents or anyone claiming through or under them from in any manner infringing the Applicant/Plaintiff Trade Mark and Trading style "**AMBUR STAR BRIYANI**" by using the offending Trade Mark and Trading style "**STAR BRIYANI**" or any other mark or marks which are similar or in any way deceptively similar to or a colourable imitation of the Applicant's/Plaintiff's Trade Mark "**AMBUR STAR BRIYANI**", pending disposal of the suit.

O.A.No.172 of 2020:

Original Application praying that this Hon'ble Court be pleased to grant an order of ad interim injunction restraining the respondent/defendant, their men, servants, agents or anyone claiming through or under them from



Trading style “**AMBUR STAR BRIYANI**” by using the offending Trade Mark and Trading style “**STAR BRIYANI**” or any other mark or marks which are similar or in any way deceptively similar to or a colourable imitation of the Applicant's/Plaintiff's Trade Mark “**AMBUR STAR BRIYANI**”, pending disposal of the suit.

This suit alongwith these Original Applications coming on this day before this court for hearing in the presence of Mr.Vijayan Subramanian, Advocate for the Plaintiff in C.S.No.129 of 2020 and for the Applicant in both original applications and Mr.Sarath Kumar, Advocate for the defendant in C.S.No.129 of 2020 and for the respondent in O.A.Nos.171 and 172 of 2020 and upon reading the plaint filed in C.S.No.129 of 2020 and the order dated 22.12.2020 made in O.A.Nos.171 and 172 of 2020 and the joint compromise memo signed by the plaintiff and the defendant with their respective advocates and the said advocates for the parties hereto praying this court to pass a decree in terms of joint compromise memo morefully set out in the schedule hereunder, it is interms thereof ordered and decreed as follows:-

That the Defendant herein, shall not to use the Trademark of the Plaintiff "AMBUR STAR BRIYANI" or any other mark which is similar or identical to the Plaintiff's Trademark, and the Defendant has changed their mark as "" as projected in the design of the label attached with this memo in



Annexure – A.

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2. That the Defendant herein, shall not to use the get up, colour scheme, arrangement of the colour which are closely similar to it, get up and logo of the Plaintiff's Trademark "AMBUR STAR BRIYANI" and the trade dressing of the Defendant's product will be hereafter as projected in the design of label attached with this memo in Annexure – A.

3. That the Defendant herein, shall use the trade dress, colour scheme and get up for their product "" as attached with this memo in Annexure – A.

4. That the Defendant herein, shall not to Pass-off the goods as and for those of the Plaintiff's by adopting the similar or identical get up, colour scheme, arrangement of the colour, get up and logo of the plaintiff's product "AMBUR STAR BRIYANI" and its Pouch / Packing material.

5. That the Defendant herein, shall erase, remove, or obliterate from all infringing goods, materials or articles in his possession or control with the offending mark labels as described in Annexure - B and pouches claimed to be deceptively similar to the Plaintiff's "AMBUR STAR



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6. That the Defendant herein, shall not further violate the Plaintiff's Copyright in the artistic work from the date of signing this Joint Memo of Compromise.

7. That the Defendant herein, shall compensate the Plaintiff sufficiently with damages if it violates any of the clauses of this memo of compromise.

8. That these O.A.Nos.171 and 172 of 2020 do stand closed.

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

SCHEDULE – JMC alongwith two annexures



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18.08.2021

C.S.No.129 of 2020
and
O.A.Nos.171 & 172 of 2020

DECREE

DATED : 11.01.2021

THE HON'BLE MR.JUSTICE

C.V.KARTHIKEYAN

FOR APPROVAL: 12.11.2021

APPROVED ON: 15.11.2021



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2021

CORAM:

THE HON'BLE JUSTICE C.V.KARTHIKEYAN

C.S.No.129 of 2020
and O.A.Nos.171, 172 of 2020

M/s. Ambur Star Briyani,
Represented by its Authorised Signatory,
Mr.M.Hafees Ahmed (M - 22 years),
Having its Office at No.16,
M.C.Road, Ambur, Ambur Taluk,
Vellore District - 635 802.

Having branch Office at
No.116/1, Arcot Road,
Vadapalani, Chennai - 600 026.

... Plaintiff

..Vs..

M/s.Star Briyani,
No.823, Deen Plaza,
Shop No.1, (Near Mayajal),
East Coast Road (ECR), Kanathur,
Chennai - 603 112.

... Defendant

PRAYER : Plaintiff filed under and Order VII Rule 1 CPC Read With Order
IV Rule 1 of High Court Original Side Rules and Sections 134, 135 of the
Trademarks Act, 1999, prayed for a Judgment and Decree:-

(a) Granting a permanent injunction restraining the Defendant, their

men, servants, agents or anyone claiming through or under them from in any

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

manner **Infringing** the Plaintiff Trade Mark and Trading style "**AMBUR**



"STAR BRIYANI" by using the offending Trade Mark and Trading style **"STAR BRIYANI"** or any other mark or marks which are similar or in any way deceptively similar to or a colourable imitation of the Plaintiff's Trade Mark **"AMBUR STAR BRIYANI"**.

(b) Granting a permanent injunction restraining the Defendant, their men, servants, agents or anyone claiming through or under them from in any manner **Passing off** the plaintiff Trade Mark and Trading style **"AMBUR STAR BRIYANI"** by using the offending Trade Mark and Trading style **"STAR BRIYANI"** or any other mark or marks which are similar or in any way deceptively similar to or a colourable imitation of the Plaintiff's Trade Mark **"AMBUR STAR BRIYANI"**.

(c) Directing the defendant to render a true and faithful account of the profits earned by them through the sale of food products bearing the offending trade mark **"STAR BRIYANI"** and directing payment of such profits to the Plaintiff by way of damages for Infringement committed by the Defendant.

(d) Directing the defendant to surrender to Plaintiff the entire stock of



unused offending goods with Trade Mark "**STAR BRIYANI**" with name boards, labels, wrappers, boxes, covers, bags, packets, cartons, bills, advertisements, materials, reports, envelops, brochures, printing blocks, etc., bearing the offending Trademark for destruction.

(e) Directing the defendant to pay the Plaintiff the costs of the suit.

For Plaintiff : Mr.Vijayan Subramanian

For Defendant : M/s.Sarath Kumar

J U D G M E N T

A Joint Memorandum of Compromise had been filed in Court, which had been entered into between the plaintiff and the defendant on 04.01.2021. It has been signed by the Authorised Signatory of the plaintiff and also by the defendant. It is also signed by the learned counsel for the plaintiff and the learned counsel for the defendant.

2. The relevant portions of the Memorandum of Compromise are as follows:

"1. The Defendant undertakes not to use the

Trademark of the Plaintiff "AMBUR STAR BRIYANI" or



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any other mark which is similar or identical to the Plaintiff's Trademark, and the Defendant has changed their mark as "" as projected in the design of the label attached with this memo in Annexure - A.

2. The Defendant undertakes not to use the get up, colour scheme, arrangement of the colour which are closely similar to it, get up and logo of the Plaintiff's Trademark "AMBUR STAR BRIYANI" and the trade dressing of the Defendant's product will be hereafter as projected in the design of label attached with this memo in Annexure - A.

3. The Defendant undertakes to use the trade dress, colour scheme and get up for their product "" as attached with this memo in Annexure - A.

4. The Defendant undertakes not to Pass-off the goods as and for those of the Plaintiff's by adopting the similar or identical get up, colour scheme, arrangement of the colour, get up and logo of the plaintiff's product



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"AMBUR STAR BRIYANI" and its Pouch / Packing material.

5. The Defendant shall erase, remove, or obliterate from all infringing goods, materials or articles in his possession or control with the offending mark labels as described in Annexure - B and pouches claimed to be deceptively similar to the Plaintiff's "AMBUR STAR BRIYANI".

6. The Defendant shall not further violate the Plaintiff's Copyright in the artistic work from the date of signing this Joint Memo of Compromise.

7. The Defendant undertakes to compensate the Plaintiff sufficiently with damages if it violates any of the clauses of this memo of compromise.

It is therefore prayed that this Hon'ble Court may

be pleased to receive the Memo of Compromise and pass a



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decree in terms of the same and pass such further or other order as this Hon'ble Court may deem fit and proper in the circumstance of the case and thus render justice."

3. In view of the same, suit is decreed in accordance with the Memorandum of Compromise. No order as to costs. Consequently, the connected Original Applications are closed. The Memorandum of Compromise and the annexed photographs wherein the name of the defendant has been changed into Salman Briyani along with the two annexures shall form part of the Decree.

Sd/-C.V.K.J.

11.01.2021

// 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.