



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 10TH DAY OF AUGUST, 2021

THE HON'BLE DR. JUSTICE G.JAYACHANDRAN

C.S. No.119 of 2021

and

O.A.Nos.179 to 181 of 2021

M/s.Kaleesuwari Refinery Private Limited,
Represented by its Manager(Legal),
Mr.A.Saravanan (M-44 Years),
No.53, Rajasekaran Street,
Opp:Kalyani Hospital, Dr.Radhakrishnan Salai,
Mylapore, Chennai – 600 004 ... Plaintiff/Applicant in
O.A.Nos.179 to 181 of 2021

/versus/

M/s.Bhairavi Traders,
No.63/7, Bye Pass Road, (Roundana),
Vedhathri Nagar, T.Pet Road,
Musiri – 621 211. ..Defendant/Respondent in
O.A.Nos.179 to 181 of 2021

C.S.(Comm.Div). No. 119 of 2021

Civil Suit praying that this Hon'ble Court be pleased to pass a
judgement and decree against the defendant by

(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 Plaintiffs registered Trade Mark Gold Winner by
using the offending Trade Mark GREEN GOLD or any mark or word



deceptively similar to the aforesaid Trade Mark of the Plaintiffs 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 a 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 "**GREEN GOLD**" or any other words or mark and offending packing Material and pouch deceptively similar to the Plaintiff's trade mark "Gold Winner" and Trade dress for "Gold Winner".

(iii) 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 "**GREEN GOLD**" bearing same trade dress, color scheme and get up deceptively similar to that of the Plaintiff's colour scheme and trade dress in the packing material/pouch bearing trade Mark "**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 "**GREEN 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 stationary and all other material containing/bearing offending mark/label “**GREEN GOLD**” with distinct color 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 articles in the possession or 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 the costs of the suit.

OA.No.179 of 2021:-

Original Application praying that this Hon'ble Court be pleased to grant an order of interim injunction restraining the Respondent/Defendant, their men, agents, associates and/or assignees or any person claiming rights from them from infringing the Applicants/Plaintiffs reputed and well known registered Trade Mark “**Gold Winner**” by using the offending Trade Mark “**GREEN GOLD**” or any mark or word deceptively similar to the aforesaid Trade Mark of the Applicants/Plaintiffs for any edible oil marketed by the

Respondent/Defendant, their men, agents, associates and/or assignees or any



person claiming rights from the Respondent/Defendant pending disposal.

OA.No.180 of 2021:-

Original Application praying that this Hon'ble Court be pleased to grant an order of interim injunction restraining the Respondent/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 Applicants/Plaintiffs **“Gold Winner”** edible refined sunflower oil by using the offending words **“GREEN GOLD”** or any other words or mark and offending packing Material and pouch deceptively similar to the Applicants/Plaintiffs trade mark Gold Winner and Trade dress for **“Gold Winner”**.

OA.No.181 of 2021:-

Original Application praying that this Hon'ble Court be pleased to grant an order of interim injunction restraining the Respondent/Defendant from violating the Applicants/Plaintiffs Copyright in the artistic work used in the Applicants/Plaintiffs 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 **“GREEN GOLD”** bearing same trade dress, colour scheme and get up deceptively similar to that of the Applicant/Plaintiff colour scheme and trade dress in the packing material/pouch bearing trade mark **“Gold Winner”**.



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This Civil suit along with these original applications coming on this day before this court for hearing through video conferencing in the presence of Mr.Vijayan Subramanian, Advocate for the plaintiff in C.S.No.119 of 2021 and for the applicant in O.A.Nos.179 to 181 of 2021 and Mr.T.Dhamodaran, advocate for the defendant in C.S.No.119 of 2021 and for the respondent in O.A.Nos.179 to 181 of 2021 and upon reading the plaint and joint compromise memo dated 06/08/2021 filed in C.S.No.119 of 2021 and the Judges summons and the Affidavit of A.Saravanan filed in O.A.Nos.179 to 181 of 2021 and the said joint compromise memo signed by the plaintiff and the defendant herein and their respective advocates and the said advocates for the parties hereto praying this court to pass a decree in terms of the Joint Compromise memo morefully set out in the schedule hereunder and **it is interms thereof ordered and decreed as follows:-**

1. That the Defendant herein, undertakes not to use the Trade dress of the Plaintiff, “Red Colour Background” or any other mark which is similar or identical to the Plaintiff's Trademark, and the Defendant herein has changed their mark as “GREEN GOLD” as projected in the design of the label attached in Annexure -A

2. That the Defendant herein, 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 product “GOLD WINNER” and the trade dressing of



the Defendant's product shall be hereafter as projected in the design of the label attached in Annexure – A.

3. That the Defendant herein undertakes to use the trade dress, colour scheme and get up for their product “GREEN GOLD” as attached in Annexure – A.

4. That the Defendant herein 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 “ GOLD WINNER” 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.

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

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

8. That these O.A.Nos.179 to 181 of 2021 do stand closed.



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

Schedule

Joint Compromise Memo



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PK
15/12/2021

C.S. No. 119 of 2021
and
O.A.Nos. 179 to 181 of 2021

DECREE
DATED: 10.08.2021

THE HON'BLE DR.JUSTICE
G.JAYACHANDRAN

FOR APPROVAL:28/12/2021

APPROVED ON: 05/01/2022



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 10.08.2021

Coram::

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.S.No.119 of 2021

and

O.A.Nos.179 to 181 of 2021

M/s.KALEESUWARI REFINERY PRIVATE LIMITED,
Represented by its Manager (Legal),
Mr.A.Saravanan (M-44 years),
No.53, Rajasekaran Street,
Opp: Kalyani Hospital, Dr.Radhakrishnan Salai,
Mylapore, Chennai – 600 004

... Plaintiff

/versus/

M/s.Bhairai Traders,
No.63/7, Bye Pass Road, (Roundana),
Vedhathri Nagar, T.Pet Road,
Musiri – 621 211.

... Defendant

Prayer: Complaint is filed under Order IV Rule 1 of the Original Side Rules read with Order VII Rule 1 of C.P.C rules read with Sections 134 & 135 of Trade Marks Act, 1999, read with Sections 61 & 62 of the Copyright Act, 1957.

(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 Trade Mark "Gold Winner" by using the offending Trade Mark "GREEN GOLD" or any mark or word deceptively similar to the aforesaid Trade Mark 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.



(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 stationary and all other material containing/bearing offending mark/label viz “**GREEN GOLD**” with distinct color scheme, get up or any other mark visually or phonetically similar to the plaintiff's trademark “**Gold**



Winner” label for destruction by any order of this Court.

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(f). For erasure, removal and obliteration from all infringing goods, materials or articles in the possession or control of the defendant with the offending mark/labels and pouches deceptively similar to the plaintiff's **“GOLD Winner”** refined sunflower oil.

(g). To pay the costs of the suit.

For Plaintiff : Mr.Vijayan Subramanian

For Defendant : Mr.T.Dhamodaran

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J U D G M E N T

(The case has been heard through video conferencing)

The suit for permanent injunction in connection with infringement of trademark and passing off.

2.On receipt of the suit summon, the defendant has entered into a compromise with the plaintiff agreed to change the colour dress on the trademark. Accordingly, the parties have entered into a joint memorandum of compromise on 06.08.2021. The joint compromise memo filed and taken on record. The suit is decreed in terms of the compromise memo. The



compromise memo shall form part of the decree. No order as to costs.

Consequently, connected applications are closed.

Sd./-G.J.J.

10/08/2021

//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.