



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 30TH DAY OF JULY 2021

THE HON'BLE DR. JUSTICE G.JAYACHANDRAN

C.S.(Comm.Div) No.120 of 2021

And

O.A.Nos.183 to 185 of 2021

C.S.(Comm.Div) No.120 And O.A.Nos.183 to 185 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.

...Applicant/ Plaintiff
in O.A.Nos.183 to 185 of 2021

Vs

M/s.Uma Maheshvari Agro Tech,

Umatec, 1854/1, Kolar Main Road,

Bangarpet- 563 114.

...Respondent/Defendant
in O.A.Nos.183 to 185 of 2021

C.S.(Comm.Div) No.120 of 2021:-

Civil Suit Praying that this Hon'ble Court be pleased to pass
judgment and decree:-

- 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 “113 GOLD COINS” 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.

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 “113 GOLD COINS” 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 “113 GOLD COINS” 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



WEB COPY

iv. For preliminary decree directing the Defendant to render true account of profits made by the Defendant by using the aforesaid offending label of “113 GOLD COINS”.

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 “113 GOLD COINS” 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/label and pouches deceptively similar to the Plaintiff's “Gold Winner” refined sunflower oil;

vii. To pay for the costs of the suit;

O.A.No.183 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 Applicant's/Plaintiff's



reputed and well known registered Trade Mark “Gold Winner” by using the offending Trade marks “113 GOLD COINS” or any mark or word deceptively similar to the aforesaid Trade Mark of the Applicant's/Plaintiff's 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 of the above suit.

O.A.No.184 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 Applicant's/Plaintiff's “Gold Winner” edible refined sunflower oil by using the offending words “113 GOLD COINS” or any other words or mark and offending packing Material and pouch deceptively similar to the Applicant's/Plaintiff's trade mark “Gold Winner” and Trade dress for “Gold Winner”, pending disposal of the above suit.

O.A.No.185 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 Applicant's/Plaintiff's



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 “113 GOLD COINS” bearing same trade dress, colour scheme and get up deceptively similar to that of the Applicant's/Plaintiff's colour scheme and trade dress in the packing material/pouch bearing trade Mark “Gold Winner”, pending disposal of the above suit.

This Suit along with 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.120 of 2021 and for the applicant in O.A.Nos.183 to 185 of 2021 and Mr.N.C.Vishal, Advocate for the defendant in C.S.No.120 of 2021 and for the respondent in O.A.Nos.183 to 185 of 2021 and upon reading the plaint filed in C.S.No.120 of 2021 and the judge's summons and the affidavit of A.Saravanan filed in O.A.Nos.183 to 185 of 2021 and 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 in terms thereof ordered and decreed as**



That the defendant herein, undertakes not to use the Trade mark of the plaintiff, “Gold Winner” 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 annexed hereunder as Annexure-A.

2) That the defendant herein, undertakes not to use the getup, colour scheme, arrangement of the colour which are closely similar to it, getup and logo of the plaintiff's product “Gold Winner” and the trade dressing of the Defendant's product shall be hereto as projected in the design of label annexed hereunder as Annexue-A

3) That the defendant herein, undertakes to use the trade dress, colour scheme and get up for their product “113 GOLD COIN” as annexed hereunder as 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 getup, colour scheme, arrangement of the colour, getup, 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 Annexue-B and pouches claimed to be deceptively similar to the plaintiff's "Gold Winner"

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 the 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 this memo of compromise.

8) That the O.A.Nos.183 to 185 of 2021 stand closed.

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

Schedule-Joint Compromise Memo



WEB COPY VSP

08/10/2021

8

C.S.(Comm.Div) No.120 of 2021
And
O.A.Nos.183 to 185 of 2021

DECREE

DATED : 30.07.2021

THE HON'BLE DR. JUSTICE
G.JAYACHANDRAN

FOR APPROVAL:21/10/2021

APPROVED ON:25/10/2021

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

Date : 30.07.2021

Coram::

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN**C.S.(Comm.Div).No.120 of 2021**
& O.A.Nos.183 to 185 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.Uma Maheshvari Agro Tech,**

Umatec, 1854/1, Kolar Main Road,

Bangarpet – 563 114.

... 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.

(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 “**113 GOLD COINS**” 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.

(b). 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 "**113 GOLD COINS**" 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 of "**Gold Winner**".

(c). 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 "**113 GOLD COINS**" bearing same trade mark 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**".



(d). Preliminary Decree directing the defendant to render true account of profits made by the defendant by using the aforesaid offending label of **“113 GOLD COINS”**.

(e). 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 **“113 GOLD COINS”** 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.

(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.N.C.Vishal



WEB COPY

JUDGMENT

The parties have entered into a compromise and agreed to settle the dispute amicably. In view of the terms of compromise entered between the parties on 25.05.2021, the suit is decreed. The terms of compromise shall form part of the decree. No order as to costs. Consequently, connected Applications are closed.

Sd./-G.J.J
30.07.2021

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