



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 12TH DAY OF AUGUST 2021

THE HON'BLE DR. JUSTICE G.JAYACHANDRAN

C.S.(Comm.Div)No.123 of 2021

And

O.A. Nos.190 & 191 of 2021

C.S.No.123 And O.A.Nos.190 & 191 of 2021:-

M/s.Kaleesuware Refinery Private Limited,
Represented by its Manager(Legal),
Mr.A.Saravanan(M-44 years),
No.53, Rajasekaran Street,
Opp: Kalyani Hospital, Dr.RadhakrishnanSalai,
Mylapore, Chennai – 600 004.

... Plaintiff/Applicant in
O.A.Nos.190 & 191 of 2021

Versus

M/s.RB oil Mills,
No.186 / 3, Andipalayam,
Tiruppur – 641 687.

... Defendant/Respondent in
O.A.Nos.190 & 191 of 2021

C.S.No.123 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 reputed and well known registered Trade Mark “DHEEPAM” by using the



offending Trade Mark “DEEPAM” 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 “DHEEPAM” lamp oil by using the offending words “DEEPAM” or any other words or mark and offending packing Material/Pouch/Bottles deceptively similar to the Plaintiff's trade mark “DHEEPAM” and Trade dress for “DHEEPAM”.

iii) Direct the Defendant their men, agents, assignees, dealers and/or retailers, distributor to surrender to the Plaintiff all offending “DEEPAM” bottle/ container/ packing materials label, advertising materials hoarding, letter heads office stationary and all other goods containing/bearing offending mark/label “DEEPAM” with distinct color scheme, get up or any other mark visually or phonetically similar to the plaintiff's well known trade mark “DHEEPAM” label and bottle/container for destruction by an order of this Court;

iv) To pay for the costs of the suit.

O.A.No.190 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, agent 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 “DHEEPAM” by using the offending Trade Mark “DEEPAM” or any mark or word deceptively similar to the aforesaid Trade Mark of the Applicant's / Plaintiff's for lamp 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. 191 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 “DHEEPAM” Lamp oil by using the offending words “DEEPAM” or any other words or mark and offending packing Material and pouch deceptively similar to the Applicant's/Plaintiff's trade mark “DHEEPAM”, pending disposal of the above suit.

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.(Comm.Div) No.123 of 2021 and for the applicant in O.A.Nos.190 & 191 of 2021 and Mr.R.Sathish Kumar, advocate for the defendant in C.S.(Comm.Div) NO.123 of 2021 and for the respondent in O.A.Nos.190



& 191 of 2021 and upon reading the plaint and joint compromise memo dated 19.07.2021 filed in C.S.(Comm.Div) No.123 of 2021 and the Judge's Summon and the affidavit of A.Saravanan filed in O.A.Nos.190 & 191 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 joint compromise memo morefully setout in the schedule hereunder and this court doth recording the said joint compromise memo and **it is in terms thereof ordered and decreed as follows:-**

That the Defendant herein undertakes not to use the Trademark of the Plaintiff, “Deepam” or any other mark which is similar or identical to the Plaintiff's registered Trademark, and the Defendant herein has changed their mark as “Pooja Oil” as a label with a colour combination as projected as a design of the label attached as 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 “deepam” and the trade dressing of the Defendant's product shall be hereafter as projected in the design of label attached as Annexure-A.

3.That the Defendant herein undertakes to use the trade dress, colour scheme and get up for their product “Pooja Oil” as attached 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 get up, colour scheme, arrangement



of the colour, get up and logo of the Plaintiff's product "Deepam" 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 "Deepam".

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 this memo of compromise.

8. That these O.A.Nos.190 & 191 of 2021 do stand closed.

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

Schedule

Joint Compromise Memo



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PK
08/12/2021

C.S.(Comm.Div). No.123 of 2021
And
O.A. Nos.190 & 191 of 2021

DECREE
DATED :12/08/2021

THE HON'BLE DR.JUSTICE
G.JAYACHANDRAN

FOR APPROVAL:01/03/2022

APPROVED ON:03/03/2022

**IN THE HIGHCOURT OF JUDICATURE AT MADRAS**

Dated: 12.08.2021

Coram:**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN**C.S.(Comm.Div.)No.123 of 2021andO.A.Nos.190 and 191 of 2021**M/s.KALEESUWARI REFINERY PRIVATE LIMITED,**

Represented by its Manager (Legal),

Mr.A.Saravanan (44-years),

No.53, Rajasekaran Street,

Opp: Kalyani Hospital,

Dr.Radhakrishnan Salai,

Mylapore, Chennai

.. Plaintiff

/versus/**M/s.RB Oil Mills,**

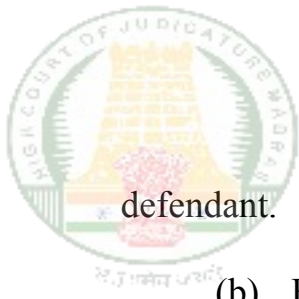
No.186/3, Andipalayam,

Tiruppur - 641 687

..Defendant

Prayer:- Civil Suit has been 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.

(a). 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 reputed and well known registered Trade Mark "**DHEEPAM**" by using the offending Trade Mark "**DEEPAM**" 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). 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 "**DHEEPAM**" passing-off their inferior product, as that of the plaintiff's :"**DHEEPAM**" lamp oil by using the offending words "**DEEPAM**" or any other words or mark and offending packing material/pouch/Bottles deceptively similar to the plaintiff's trade mark "**DHEEPAM**" and Trade dress for "**DHEEPAM**"

(c). Direct the defendant their men, agents, assignees, dealers and/or retailers, distributor to surrender to the plaintiff all offending "DHEEPAM" bottle/container/packing Materials label, advertising materials hoarding, letter heads office stationary and all other goods containing/bearing offending mark/label "DEEPAM" with distinct color scheme, get up or any other mark visually or phonetically similar to the plaintiff's well known trademark "DHEEPAM" label and bottle/container for destruction by an order of this Court.

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

For Plaintiffs :Mr.Vijayan Subramanian

For Defendant :Mr.R.Sathish Kumar



J U D G M E N T

(Case has been heard through Video Conferencing)

The suit is filed for permanent injunction alleging infringing of trademark and passing off.

2. On receipt of the suit summons, the defendant has settled the dispute with the plaintiff by changing the label and mark. The Joint Compromise Memo also filed by the parties which is duly signed by them as well as the respective counsels.

3. Recording the compromise memo, the suit is decreed as per the terms of the compromise. No order as to costs. The terms of the compromise shall form part of the decree. Consequently, connected applications are closed.

Sd./-G.J.J
12.08.2021

//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.