

O.A.Nos.380 to 382 of 2020,
A.Nos.3284 to 3286 of 2021
in
C.S. No.215 of 2020

DR.G.JAYACHANDRAN, J.

Heard the learned counsel for the plaintiff and the defendant.

2.The suit is filed for permanent injunction to restrain the defendant, their men and agents from infringing the plaintiff's registered trademark "GOLD WINNER" by using the offending trademark "GOLD PRIMME", artistic work and passing off. The plaintiff has taken out interlocutory applications in A.Nos.380 to 382 of 2020 for interim injunction restraining the respondents from infringing the trademark, artistic work and passing off. The interim order was granted restraining the respondent.

3.Along with the counter, the respondent has come forward with Application Nos.3284 to 3286 of 2020 to modify the exparte injunction. In these applications, the defendant had stated that as soon as the receipt of the Cease and Desist notice from the plaintiff, to avoid litigation, they have changed the colour scheme, arrangement of the colour, get up and logo of their package and therefore, there is no similarity between the plaintiff's package and the defendant's package.

4.When the applications were taken up for consideration, the learned counsel for the plaintiff pointing out that the similarity is still in existence in the modified pouch of the defendant, insisted upon permanent injunction restraining the defendant as prayed.

5.This Court after giving anxious consideration towards the rival submissions and on perusing the pouch of the rival parties, find that the defendant's pouch is deceptively similar to that of the plaintiff. The adoption of the word mark "GOLD PRIMME" stand alone without the word "SHIIOSC" which find place in the left top of the defendant's pouch clearly indicates that the defendant wants to ride upon the plaintiff's trade name "GOLD WINNER" reputation. Hence, the interim order granted on 07.09.2020 is made absolute. Accordingly, the other applications 3284 to 3286 of 2020 are closed.

Post the suit for further proceedings on 13.08.2021.

22.07.2021

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