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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 16th DAY OF MARCH 2021

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

C.S.No.173 of 2020

and

O.A. Nos. 278 and 279 of 2020

M/s.Kaleesuwari Refinery Private Limited,
Represented by its Manager (legal)
Mr.A.Saravanan (M-43 years),
No.53, Rajasekaran Street,
Opp: Kalyani Hospital, Dr.Radhakrishnan Salai,
Mylapore, Chennai 600 004.

... Plaintiff/Applicant
(in both Original Applications)

-Versus-

M/s.Amman Trader,
49/1, Ambedhkar Nagar,
Marapalam, Chithode Road,
Erode - 638 102.

... Defendant/Respondent
(in both Original Applications)

C.S.No.173 of 2020:-

Civil Suit praying that this Hon'ble Court be pleased to grant a 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 "SRI 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 "SRI 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 "SRI DEEPAM" bottle / container / packing materials label, advertising materials hoarding, letter heads office stationary and all other goods containing / bearing offending mark / label "SRI 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.



iv. To pay for the costs of the suit.

O.A. No.278 of 2020:-

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 "DHEEPAM" by using the offending Trade Mark "SRI 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.279 of 2020:-

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 "SRI DEEPAM" or any other words or mark and offending packing Material and pouch deceptively similar to the Applicant's/ Plaintiff's trade



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This Suit alongwith these applications coming on this day before this court for hearing in the presence of Ms.R.S.Suriya, Advocate for the Plaintiff in C.S.No.173 of 2020 and for the applicant in O.A.Nos.278 and 279 of 2020 and Mr.R.Satish Kumar, Advocate for the defendant in C.S.No.173 of 2020 and for the respondent in O.A.Nos.278 and 279 of 2020 and upon reading the plaint filed in C.S.No.173 of 2020 and the order dated 12.03.2021 made in O.A.Nos.278 and 279 of 2020 and the joint compromise memo signed by the plaintiff and the defendant with their respective advocates and the said advocate for the parties hereto praying this court to pass a decree in terms of joint compromise memo morefully setout in the schedule hereunder, **it is interms thereof ordered and decreed as follows:**

That the defendant herein, undertakes not to use the trademark of the plaintiff “DHEEPAM” or any other mark which is similar or identical to the plaintiff is Trademark and he also undertakes that he shall henceforth stop the production of the goods bearing the impugned mark as mentioned in Annexure-A, herein and has already taken steps for the same.

2. That the defendant herein, undertakes not to use the get up, colour scheme, arrangement of the colour which is closely similar/identical to the get up and logo of the plaintiffs product “DHEEPAM”.



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3. 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 "DHEEPAM" and its pouch/packing material.

4. That defendant herein, shall erase, remove or obliterate from all infringing goods, materials, or articles in his possession or control with the offending mark labels and pouches claimed to be deceptively similar to the Plaintiff's "DHEEPAM".

5. That the defendant herein, undertakes to compensate the plaintiff sufficiently with damages if it violates any of the clauses of this memo of compromise.

6. That these O.A.Nos.278 and 279 of 2020 do stand closed.

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

(Schedule – JCM with Annexure)



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12.05.2021

16.08.2021

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C.S.No.173 of 2020
and
O.A. Nos. 278 and 279 of 2020

ORDER :-

DATED: 16.03.2021

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

FOR APPROVAL: 19.08.2021

APPROVED ON: 25.08.2021



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7

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2021

CORAM:

THE HON'BLE JUSTICE C.V.KARTHIKEYAN

C.S.No.173 of 2020
and O.A.Nos.278, 279 of 2020

M/s.Kaleesuwari Refinery Private Limited,
Represented by its Manager (Legal),
Mr.A.Saravanan (M - 43 years)
No.53, Rajasekaran Street,
Opp: Kalyani Hospital, Dr.Radhakrishnan Salai,
Mylapore, Chennai - 600 004.

... Plaintiff

..Vs..

M/s.Amman Trader,
49/1, Ambedhkar Nagar,
Marapalam, Chithode Road,
Erode - 638 102.

... Defendant

PRAYER : Complaint filed under and Order IV Rule 1 of Original Side Rules read with Order VII Rule 1 of CPC Rules read with Sections 134 and 135 of the Trademarks Act, 1999, prayed for a 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 "SRI 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 "SRI 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 "SRI DEEPAM" bottle / container / packing materials label, advertising materials hoarding, letter heads office stationery and all other goods containing / bearing offending mark / label "SRI 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.

(iv) For costs of this Suit.

For Plaintiff : Ms.R.S.Suriya

For Defendant : M/s.R.Satish Kumar

**J U D G M E N T**

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The plaintiff and the defendant had entered into a compromise and had also reduced the terms in writing and have presented the same by a memo captioned Joint Compromise Memo. This memo is dated 11.02.2021. It had been signed by the authorized signatory on behalf of the plaintiff and also by the proprietor on behalf of the defendant. The Compromise Memo had also been signed by the learned counsel for the plaintiff and the learned counsel for the defendant.

2. By the compromise, the defendant has undertaken not to infringe the product of the plaintiff DHEEPAM and also undertaken not to pass off their goods as that of the plaintiff. In the annexure the modified label of the bottle of the defendant is also given.

3. In view of the Joint Compromise Memo, the suit is decreed in accordance with the compromise reached. No order as to costs. The Memo of Compromise and the Annexure shall form part of the Decree. Connected applications are closed.

Sd./-C.V.K.J.
16.03.2021

//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.