



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 7TH DAY OF APRIL 2021

THE HON'BLE DR. JUSTICE G.JAYACHANDRAN

C.S. No.198 of 2020

and

O.A. Nos. 345 to 347 of 2020

and

A.No. 1806 of 2020

M/s.Kaleesuware 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 all
the Applications

/versus/

M/s.Mythili Traders,
Door No.9-1-90C, Selaikkariamman Trust Complex,
Kallikudi Main Road, T.Kallupatti (PO),
Periyar Taluk, Madurai District-625 702.

.. Defendant / Respondent in
all the Applications

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 “Krishnaa 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.

(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 “Krishnaa 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 “Krishnaa 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 “Krishnaa Gold”.

WEB COPY

(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 “Krishnaa Gold” with distinct colour scheme, get up of 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;

O.A. No. 345 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 infringing the Applicant's/Plaintiff's reputed and well known registered Trade Mark “Gold Winner” by using the offending Trade Mark “KRISHNAA GOLD” or any mark or word deceptively similar to the aforesaid Trade Mark of the Applicant's/Plaintiff's for any edible oil marked



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. 346 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 "Gold Winner" edible refined sunflower oil by using the offending words "KRISHNAA 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" pending disposal of the above suit.

O.A. No. 347 of 2020

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 Copyright in the artistic work used in the Applicant's/Plaintiff's packing material/pouches used for packing refined edible sunflower oil and bearing its reputed and well known registered Trade marks "GOLD WINNER" by substituting the Trade mark



trade dress, colour scheme and get up deceptively similar to that of the Applicants/Plaintiffs colour scheme and trade dress in the packing material/pouch bearing trade mark “Gold Winner” pending disposal of the above suit.

A.No. 1806 of 2020:

Application praying that this Hon'ble Court be pleased to grant leave to Applicant/Plaintiff to file a single suit for Jointer of Cause of Action and reliefs under Trade Marks Act, 1999 and copy rights act 1957 against the Respondent/Defendant.

This suit along with these 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. 198 of 2020 and for the applicant in O.A.No.345 to 347 of 2020 and A.No. 1806 of 2020 and Ms.R.Saritha, Advocate for the defendant herein in C.S. No. 198 of 2020, and for the respondent in O.A.No.345 to 347 of 2020 and A.No. 1806 of 2020 and upon reading the plaint filed in C.S. No. 198 of 2020 and the order dated 30/03/2021 made in O.A.No.345 to 347 of 2020 and A.No. 1806 of 2020 and the Memo of Compromise signed by the plaintiff and the defendant with their respective advocates morefully setout in the schedule hereunder, it is ordered and decreed as follows:-



associates and / or assignees or any person claiming rights from them, be and are hereby restrained by an order of permanent injunction from (a) infringing the plaintiff's registered Trade Mark "Gold Winner" by using the offending Trade Mark "Krishnaa 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, and (b) passing-off their inferior product, as that of the plaintiff's "Gold Winner" edible refined sunflower oil by using the offending words "Krishnaa 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".

2. That M/s.Mythili Traders, the defendant herein be and are hereby restrained by an order of permanent injunction 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 "Krishnaa 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".



3. That the defendant herein, be and is hereby directed to render true account of profits made by the defendant by using the aforesaid offending label of “Krishnaa Gold”.

4. That the defendant herein, its men, agents, assignees, dealers and / or retailers, distributors, be and are hereby directed 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 “Krishnaa Gold” with distinct colour scheme, get up of any other mark visually or phonetically similar to the plaintiff's trademark “Gold Winner” label for destruction and for erasure, removal or obliteration from all infringing goods, materials or articles in the possession or control of the defendant herein with the offending mark/labels and pouches deceptively similar to the plaintiff's “Gold Winner” refined sunflower oil;

5. That these O.A.Nos. 345 to 347 of 2020 and A. No. 1806 of 2020 do stand closed.

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

(Schedule – MOC)



EVK

WEB COPY
23/08/2021
08/10/2021

8

C.S. No.198 of 2020
and
O.A. Nos. 345 to 347 of 2020
and
A.No. 1806 of 2020

DECREE

DATED : 07.04.2021

THE HON'BLE DR.JUSTICE
G.JAYACHANDRAN

FOR APPROVAL: 08/10/2021

APPROVED ON: 21/10/2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.04.2021

CORAM:**THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN**

C.S.(Com.Div.) No.198 of 2020
and O.A.Nos.345 to 347 of 2020
and A.No.1806 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

/versus/

M/s.Mythili Traders,
Door No.9-1-90C, Selaikkariamman Trust Complex,
Kallikudi Main Road, T.Kallupatti (PO),
Periyar Taluk, Madurai District-625 702.

.. Defendant

This Civil Suit is filed under Order IV Rule 1 Original Side Rules read with Order VII Rule 1 of CPC and under Sections 134 and 135 of the Trade Marks Act, 1999, R/W Sections 61 & 62 of the Copyright Act, 1957, prayed for (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 "Krishnaa Gold" or any mark or word deceptively similar to the aforesaid Trade Mark of the plaintiff's for



or assignees or any person claiming rights from the defendant.

WEB COPY

(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 "Krishnaa 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 "Krishnaa 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 "Krishnaa 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 "Krishnaa Gold" with distinct colour scheme, get up of 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;

For plaintiff : Mr. Vijayan Subramanian
For Defendant : Ms. R. Saritha

JUDGMENT

The suit is filed to protect the registered trademark of the plaintiff, since the defendant had adopted identical and similar colour combination that of the plaintiff.

2. This Court, at the time of admission being prima facie satisfied that there is an infringement of trademark and passing off, had granted interim injunction. Thereafter, the defendant had appeared before this Court and reported that they have changed the colour combination and get up and they are not using the logo of the plaintiff.

3. The parties have also entered into compromise and a Joint Memo of Compromise has been filed by the the plaintiff and the defendant entered on 14.03.2021, which has been signed and produced before this Court.

4. In view of the compromise memo, the suit is decreed as prayed for.



The terms of memo of compromise shall form part of the decree.

Consequently, all other connected applications are closed. There shall be no order as to costs.

Sd./-G.J.J.

07/04/2021

//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.