



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 08th DAY OF DECEMBER 2021

THE HON'BLE MR. JUSTICE N.ANAND VENKATESH

C.S. No.286 of 2019

and

O.A. Nos.446 to 448 of 2019

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

...Plaintiff/Applicant

(in O.A. Nos.446, 447 and 448 of 2019)

-Versus-

M/s R.M.Traders,
131-A, Pullaikottai Road, V.N.R.,
Virudhunagar, Tamilnadu,
India – 626001.

...Defendant/Respondent

(in O.A. Nos.446, 447 and 448 of 2019)

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

i) Permanent Injunction to restrain the Defendant, their men, agents,
associates and/or assignees or any person claiming rights from them
infringing the plaintiff's reputed and well known registered trade mark
“GOLD WINNER” by using the offending Trade Mark “WINGS 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) Permanent Injunction to restrain the Defendant its men, agents, associates and/or assignees or any person claiming rights from therein from Passing-off the plaintiff's reputed and well known registered trade mark “GOLD WINNER” by using the offending Trade Mark “WINGS 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.

iii) Permanent Injunction restraining the Defendant from violating the Plaintiff's registered Copyright, A-68242/2005 dated 27.01.2005 in the artistic work used in the Plaintiff's packing material/pouches used for packing refined edible sunflower oil and bearing its reputed registered Trademark “Gold Winner” by substituting the Trademark “Gold Winner” with the offending words "WINGS 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 'WINGS GOLD'

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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 'WINGS GOLD' 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) To pay for the costs of the suit.

O.A. No.446 of 2019:-

Original application praying that this Hon'ble Court be pleased to grant an order of interim injunction restraining the Respondent, 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 "GOLD WINNER" edible refined Sunflower oil by using the offending words "WINGS GOLD" or any other words or mark and offending packing Material and pouch deceptively similar to the Applicant's trade mark "Gold Winner" and Trade dress for "Gold Winner", Pending disposal of the civil suit.

O.A. No.447 of 2019:-

Original application praying that this Hon'ble Court be pleased to



grant an order of interim injunction restraining the Respondent from violating the Applicant's registered Copyright, A-68242/2005 dated 27.01.2005 in the artistic work used in the Applicant's packing material/pouches used for packing refined edible sunflower oil and bearing its reputed registered Trademark "GOLD WINNER" by substituting the Trademark "Gold Winner" with the offending words "WINGS GOLD" bearing same trade dress, color scheme and get up deceptively similar to that of the Applicant's colour scheme and trade dress in the packing material / pouch bearing trade mark "Gold Winner", Pending disposal of the civil suit;

O.A. No.448 of 2019:-

Original application praying that this Hon'ble Court be pleased to grant an order of interim injunction restraining the Respondent, their men, agents, associates and / or assignees or any person claiming rights from them from infringing the Applicant's reputed and well known registered Trade Mark "GOLD WINNER" by using the offending Trade Mark "WINGS GOLD" or any mark or word deceptively similar to the aforesaid Trade Mark of the Applicant's for any edible oil marketed by the Respondent, their men, agents, associates and/or assignees or any person claiming rights from the Respondent, Pending disposal of the suit;



WEB COPY This civil 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.286 of 2019 and for the Applicant in O.A.Nos.446 to 448 of 2019 and Mr.G.Mariappan, Advocate for the defendant in C.S.No.286 of 2019 and for the respondent in O.A.Nos.446 to 448 of 2019 and upon reading the plaint filed in C.S.No.286 of 2019 and the order herein dated 09.11.2021 and memo of compromise 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 morefully set out in the schedule hereunder,

It is interms thereof ordered and decreed as follows:-

That the Defendant herein shall not use the Trademark of the Plaintiff, “GOLD WINNER” or any other mark which is similar or identical to the Plaintiff's Trademark, in future, as the Defendant has changed their label as “WINGS GOLD” as projected in the design of the label attached with this memo in Annexure-A.

2. That the Defendant herein shall not 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 “GOLD WINNER” and the trade dressing of the



Defendant's product will be hereafter as projected in the design of label attached with this memo in Annexure-A.

3. That the Defendant herein shall use the trade dress, colour scheme and get up for their product “WINGS GOLD” as attached with this memo in Annexure-A.

4. That the Defendant herein shall not 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 “GOLD WINNER” and its pouch/packing material.

5. That the Defendant herein having stopped his business already with the infringed label and had no stocks with impugned label, the defendant shall be entitled to use trademark “WINGS GOLD” as mentioned in Annexure-A.

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 shall compensate the Plaintiff sufficiently with damages if it violates any of the clauses of this Memo of Compromise.

8. That these O.A.Nos.446 to 448 of 2019 do stand closed.

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

(Schedule - Joint Compromise Memo)



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17.12.2021

C.S. No.286 of 2019
and
O.A. Nos.446 to 448 of 2019

DECREE :

DATED: 08.12.2021

THE HON'BLE MR. JUSTICE
N.ANAND VENKATESH

FOR APPROVAL: 11.03.2022

APPROVED ON: 24.03.2022

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

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DATED : 08.12.2021**CORAM****THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH**

C.S.No.286 of 2019
and O.A.Nos.446, 447 & 448 of 2019

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

...Plaintiff

.Vs.

M/s.R.M.Traders,
131-A, Pullaikottai Road, V.N.R.,
Virudhunagar,
Tamil Nadu, India – 626 001.

... Defendant

Plaint filed under Order IV Rule 1 of O.S. Rules read with Order VII

Rule 1 of C.P.C. Rules read with Sections 134 & 135 of the Trade Marks Act, 1999 read with Sections 61 & 62 of the Copyright Act, 1957 praying for:

- i. Permanent Injunction to restrain the Defendant, their men, agents, associates and/or assignees or any person claiming rights from them infringing the plaintiff's reputed and well known registered trade mark “GOLD WINNER” by using the offending Trade Mark

“WINGS 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. Permanent Injunction to restrain the Defendant its men, agents, associates and/or assignees or any person claiming rights from therein from Passing-off the plaintiff's reputed and well known registered trade mark "GOLD WINNER" by using the offending Trade Mark "WINGS 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.
- iii. Permanent Injunction to restraining the Defendant from violating the Plaintiff's registered Copyright, A-68242/2005 dated 27.01.2005 in the artistic work used in the Plaintiff's packing material/pouches used for packing refined edible sunflower oil and bearing its reputed registered Trademark "Gold Winner" by substituting the Trademark "Gold Winner" with the offending deceptively similar to that of the Plaintiff's colour scheme and trade dress in the packing material/puch 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 'WINGS GOLD'

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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 'WINGS GOLD' 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. To pay for the costs of the suit.

For Plaintiff : Mr. Vijayan Subramanian

For Defendant : Mr. G. Mariappan

J U D G M E N T

This suit was filed with the grievance that the defendant had infringed the registered trademark of the plaintiff and accordingly various reliefs were sought for against the defendant.

2. During the pendency of the suit, the parties have arrived at a settlement and the terms of settlement have been reduced to writing. A joint compromise memo was filed today signed by both the parties and their respective counsel. The terms of the compromise are extracted hereunder:

1. The Defendant undertakes not to use the Trademark of the Plaintiff,



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“GOLD WINNER” or any other mark which is similar or identical to the Plaintiff's Trademark, in future, and the Defendant has changed their label as “WINGS GOLD” as projected in the design of the label attached with this memo in Annexure-A.

2. The Defendant 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 “GOLD WINNER” and the trade dressing of the Defendant's product will be hereafter as projected in the design of label attached with this memo in Annexure-A.
3. The Defendant undertakes to use the trade dress, colour scheme and get up for their product “WINGS GOLD” as attached with this memo in Annexure-A.
4. The Defendant 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 “GOLD WINNER” and its pouch/packing material.
5. The Defendant had already stopped his business with the infringed label and he had no stocks with impugned label. The plaintiff hereby agrees that the defendant shall be entitled to use trademark “WINGS GOLD” as mentioned in Annexure-A.



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6. The Defendant 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. The Defendant undertakes to compensate the Plaintiff sufficiently with damages if it violates any of the clauses of this Memo of Compromise.

3. In view of the above, the suit is decreed in terms of the Memorandum of Compromise and the Memorandum of Compromise shall form part of the decree. Considering the facts and circumstances of the case, there will be no order as to costs. Consequently, connected applications are closed.

Sd./- N.A.V.J
08.12.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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