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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 04TH DAY OF MARCH 2021

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

C.S.No.252 of 2020

and

O.A.Nos.463 to 465 of 2020

and

A.No.2271 of 2020

M/s.Kaleesuwari Refinery Private Limited

Represented by its Manager (Legal),

Mr.A.Saravanan (M-44 years)

No.53, Rajasekaran Street,

Opp.Kalyani Hospital, Dr.Radhakrishnan Salai,

Mylapore, Chennai- 60 004

..Plaintiff/ Applicant

(in O.A.Nos.463 to 465 of 2020 and

in A.No.2271 of 2020)

vs

M/s.V.Manjunatha Agro Tech Co.,

Factory No.6, Survey No.178/2,

Thimma Reddy Industrial Estate, Hoodi,

Bangalore-560 048

..Defendant/Respondent

(in O.A.Nos.463 to 465 of 2020

and in A.No.2271 of 2020)

Civil suit praying that this Hon'ble Court be pleased to pass 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 registered Trademark "**Gold Winner**"

by using the offending Trademark "**GOLDD WONDER**" or any mark or



word deceptively similar to the aforesaid Trademark 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 the plaintiff's **"Gold Winner"** edible refined sunflower oil by using the offending words **"GOLDD WONDER"** or any other words or mark and offending packing Material and tin deceptively similar to the plaintiff's trademark "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 / tin used for packing refined edible sunflower oil and bearing the reputed and well known registered Trademarks "Gold Winner" by substituting the Trademark **"Gold Winner"** with the offending words **"GOLDD WONDER"** 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 / tin 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 **"GOLDD WONDER"**.



(v) Directing the Defendant, its men, agents, assignees, dealers and / or retailers, distributors, to surrender to the plaintiff all offending tin / packing material, label, advertising materials, hoarding, letter heads, office stationary and all other material containing / bearing offending mark / label **"GOLDD WONDER"** 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) 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 / tin deceptively similar to the plaintiff's **"Gold Winner"** refined sunflower oil.

(vii) To pay for the costs of the suit.

O.A.No.463 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 "Gold Winner" by using the offending Trade Mark "GOLDD WONDER" or any mark or word deceptively similar to the aforesaid Trade Mark of the Applicant's/Plaintiff's for any edible 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.464 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 "GOLDD WONDER" or any other words or mark and offending packing material and tin deceptively similar to the Applicant's/Plaintiff's trade mark "Gold Winner" and Trade dress for "Gold Winner" pending disposal of the above suit.

O.A.No.465 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/tin 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 "**GOLDD WONDER**" bearing



Applicant's/Plaintiff's colour scheme and trade dress in the packing material/tin bearing trade Mark "Gold Winner", pending disposal of the above suit.

A.No.2271 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 Copyrights Act, 1957 against the Respondent/Defendant against the Respondent/Defendant.

This suit along with 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.252 of 2020 and for the Applicant in O.A.Nos. 463 to 465 of 2020 and A.No. 2271 of 2020 and and Mr.Prem Chandran, Advocate for the defendant in C.S.No.252 of 2020 and for the respondent in O.A.Nos. 463 to 465 of 2020 and A.No. 2271 of 2020 and upon reading the plaint filed in C.S.No.252 of 2020 and the order herein dated 25.02.2021 made in O.A.Nos. 463 to 465 of 2020 and A.No. 2271 of 2020 and the joint compromise memo 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 memo more fully set out in the schedule hereunder, **it is interims thereof ordered and decreed**



as follows:

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That the defendant herein, undertakes not to use the trademark of the plaintiff “Gold Winner” or any other mark which is similar or identical to the plaintiff's trademark and the defendant has changed their mark as

“”

as projected in the design of the label attached with this memo in 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 “Gold Winner” and the trade dressing of the defendant's product shall be hereafter as projected in the design of label



3. That the defendant herein, undertakes to use the trade dress, colour scheme and get up for their product “cooking oil, Sunflower oil, Edible Oil, Nut oil, ghee, butter, milk and milk products, milk beverages, milk predominating, as attached with this memo in 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 “Gold Winner” and its pouch/packing material.

5. That the defendant herein, shall erase, remove, or obliterate from all infringing goods, materials or articles in its possession or control with the offending mark labels and pouches claimed to be deceptively similar to the plaintiff's “Gold Winner”.

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. 463 to 465 of 2020 and A.No. 2271 of 2020 , do stand closed.

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



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20.04.2021

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C.S.No.252 of 2020
AND
O.A.Nos.463 to 465 of 2020
AND
A.No.2271 of 2020

DECREE:-
DATED : 04.03.2021

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

FOR APPROVAL: 8.11.2021

APPROVED ON: 16.11.2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2021

CORAM:

THE HON'BLE JUSTICE C.V.KARTHIKEYAN

C.S.No.252 of 2020
and O.A.Nos.463, 464, 465 of 2020
and A.No.2271 of 2020

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

..Vs..

M/s.V.Manjunatha Agro Tech Co.,
Factory No.6, Survey No.178/2,
Thimma Reddy Industrial Estate, Hoodi,
Bangalore - 560 048. ... Defendant

PRAYER : Complaint filed under and Order IV Rule 1 of the O.S.Rules read with Order VII Rule 1 of C.P.C Rules read with Sections 134 and 135 of Trademarks Act, 1999 read with Sections 61 and 62 of the Copyright Act, 1957, 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 registered Trademark "**Gold Winner**" by using the offending Trademark "**GOLDD WONDER**" or any mark or word deceptively similar to the aforesaid Trademark 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 the plaintiff's "**Gold Winner**" edible refined sunflower oil by using the offending words "**GOLDD WONDER**" or any other words or mark and offending packing Material and tin deceptively similar to the plaintiff's trademark "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 / tin used for packing refined edible sunflower oil and bearing the reputed and well known registered Trademarks "Gold Winner" by substituting the Trademark "**Gold Winner**" with the offending words "**GOLDD WONDER**" 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 / tin bearing trade Mark "**Gold Winner**".

(iv) For preliminary decree directing the Defendant to render true



24.11.2020 had been presented before the Registry on 01.03.2021. It has been signed by the Authorized Signatory of the plaintiff and by the Proprietor of the defendant. It has also been signed by the learned counsels.

2. According to the terms of the memo, the defendant had undertaken not to use the Trademark of the plaintiff GOLD WINNER or any mark similar or identical to the plaintiff's trademark. The defendant had also changed their mark and the colour scheme has also been given in the Compromise Memo. The defendant had also undertaken not to use the trade dress or the colour scheme complained in the case.

3. In view of these facts, the suit is decreed in terms of the Joint Compromise Memo. No order as to costs. Connected Applications are closed. The Memo of Compromise is to form part of the decree.

Sd./-(C.V.K.J.)
04.03.202

//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.