



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 31ST DAY OF AUGUST 2021

THE HON'BLE DR. JUSTICE G.JAYACHANDRAN

C.S.(Comm.Div)No.351 of 2020

And

O.A. Nos.661 to 663 of 2020

And

A. No.2922 of 2020

C.S.No.351 & O.A.Nos.661 to 663 & A.No.2922 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/Applicant in O.A.Nos.
661 to 663 & A.No.2922 of 2020

/versus/

M/s.Sai Sathya Siri Eximm.,
No.116/117, 7th Main Road,
3rd Phase, Peenya Industrial Area,
Bengaluru-560 058.

...Defendant/Respondent in O.A.Nos.
661 to 663 & A.No.2922 of 2020

**C.S.No.351 of 2020:-**

WEB COPY

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 "GOLD AROMA" 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 "GOLD AROMA" 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 Trade mark "Gold Winner" with the offending words "GOLD AROMA" 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 “GOLD AROMA”.

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 “GOLD AROMA” 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 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.661 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 “GOLD AROMA” 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.662 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 “GOLD AROMA” or any other words or mark and offending packing Material and pouch 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.663 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 know registered Trademarks “Gold Winner” by substituting the



Trademark “Gold Winner” with the offending words “GOLD AROMA” bearing same trade dress, colour scheme and get up deceptively similar to that of the Applicant's/Plaintiff's colour scheme and trade dress in the packing material/pouch bearing trademark “Gold Winner”, pending disposal of the above suit.

A.No.2922of 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.

This Civil 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.(Comm.Div) No.351 of 2020 and for the applicant in O.A.Nos.661 to 663 of 2020 and A.No.2922 of 2020 and Mr.R.Raghavan, advocate for the defendant in C.S.(Comm.Div) No.351 of 2020 and for the respondent in O.A.Nos.661 to 663 of 2020 and A.No.2922 of 2020 and upon reading the plaint and joint compromise memo filed in C.S.(Comm Div).No.351 of 2020 and the order dated 19.07.2021 made in O.A.Nos.661 to 663 of 2020 and A.No.2922 of 2020 and the said joint compromise memo signed by the plaintiff and the defendant herein and their respective advocates and the said advocates for the parties hereto praying this court to pass a decree in terms of joint compromise memo morefully setout in the schedule hereunder and **it is in terms thereof ordered and decreed as follows:-**



That the defendant herein has stopped using the trademark “Gold Aroma” immediately upon coming to know of the interim injunction passed by this Hon'ble Court in O.A.Nos.661,662 and 663 of 2020 in the above C.S.No.351 of 2020.

2)That the defendant herein undertakes not to use, for edible sunflower oil, the trademark of the plaintiff “Gold Winner” or any other mark which is deceptively similar or identical to the plaintiff's trademark.

3)That the defendant herein undertakes not to use, for edible sunflower oil, the getup, colour scheme, which are deceptively similar to the get up and logo of the plaintiff's product “Gold Winner”.

4)That the defendant herein undertakes not to pass off as and for those of the plaintiff's by adopting deceptively similar or identical get up, colour scheme and logo of the plaintiff's product “Gold Winner” and its pouch / packing material.

5)That the defendant herein shall erase, remove, or obliterate the offending marks/labels from all packing material /pouches of infringing goods, materials or articles in their possession or control as described in Annexure-A.

6)That the defendant herein shall not 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 in view of the above, the plaintiff herein is not pressing the other reliefs claimed in the plaint.



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

9)That these O.A.Nos.661 to 663 of 2020 and A.No.2922 of 2020 do stand closed.

10)That there shall be no costs of this suit.

Schedule

Joint Compromise Memo



VSP
25/11/2021

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C.S.(Comm.Div)No.351of2020
And
O.A. Nos.661 to 663 of 2020
And
A. No.2922 of 2020

DECREE

DATED :31/08/2021

THE HON'BLE DR.JUSTICE
G.JAYACHANDRAN

FOR APPROVAL:28/02/2022

APPROVED ON:28/02/2022

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

DATED : 31.08.2021

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THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.S(Comm.Div.).No.351 of 2020
and O.A.Nos.661 to 663 of 2020
and A.No.2922 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

/versus/

M/s.Sai Sathya Siri Eximm.,
No.116/117, 7th Main Road,
3rd Phase, Peenya Industrial Area,
Bengaluru-560 058.

.. 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 "GOLD AROMA" 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 "GOLD AROMA" 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 "GOLD AROMA" 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 "GOLD AROMA".



(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 “GOLD AROMA” 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 : Mr.R.Raghavan

JUDGMENT

(This case has been heard through video conference)

The suit is filed for injunction restraining the defendant from infringing the plaintiff's registered trademark, goodwill rendered for the refined sunflower oil marketed by the defendant in the name of “GOLD AROMA”. The relief of permanent injunction restraining the defendant from passing off and permanent injunction



restraining from violating the plaintiff's copyright and other exceptional relief were sought in this suit.

2. After receipt of the suit summons, the defendant has entered into compromise with the plaintiff and has agreed to withdraw the objectionable label for its product and come out with the new label, get up and logo which are not identical, similar or deceptively similar to that of the plaintiff.

3. A Joint Memo of Compromise entered into between the parties has been filed before this Court, in which, the plaintiff has signed on 30.08.2021 and the defendant has signed on 24.08.2021 at Bangalore. The learned counsels seek disposal of the suit in terms of the compromise.

4. Accordingly, the suit is decreed in terms of compromise. The terms of memo of compromise shall form part of the decree. Consequently, connected applications are also closed. No costs.

Sd./-G.J.J
31.08.2021

//Certified to be true copy//
Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.