



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.(Comm. Div.) No.353 of 2020

and

O.A. Nos. 666 to 668 of 2020

M/s.Kaleesuwari Refinery Private Limited,
Represented by its Manager (Legal),
Mr.A.Saravanan (M-42 years),
No.53, Rajasekaran Street,
Opp: Kalyani Hospital,
Dr.Radhakrishnan Salai,
Mylapore, Chennai-600 004.

.. Plaintiff / Applicant
in all the applications

/versus/

M/s.R.V. Agro Foods,
No.78, Vanigar Street,
Kanchipuram, Chennai-631 502.

.. 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 "Vasantham Gold" or any mark or word deceptively similar to the aforesaid Trade Mark of the plaintiff's for any edible oil



or any person claiming rights from the defendant.

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(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 "Vasantham 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 "Vasantham 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 "Vasantham 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 “Vasantham 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. 666 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 Applicants/Plaintiffs reputed and well known registered Trade Mark “Gold Winner” by using the offending Trade Mark “VASANTHAM GOLD” 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. 667 of 2020

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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 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 "VASANTHAM GOLD" 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. 668 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 Trademarks "Gold Winner" by substituting the Trademark "Gold Winner" with the offending Words "VASANTHAM GOLD" 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 trade mark "Gold Winner", pending disposal of the above suit.



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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. 353 of 2020 and for the applicant in O.A.Nos.666 to 668 of 2020 and Mr.A.M.Esakkiappan, Advocate for the defendant in C.S. No. 353 of 2020, and for the respondent in O.A.Nos.666 to 668 of 2020 and upon reading the plaint filed in C.S. No. 353 of 2020 and the order dated 29/03/2021 made in O.A.Nos. 666 to 668 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 interms of joint Compromise 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, “Gold Winner” or any other mark which is similar or identical to the plaintiff's Trademark.

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 attached with this memo in Annexure – A annexed hereto.

3. That the defendant herein, undertakes to use the trade dress, colour



scheme and getup for their product “Vasantham Gold” as attached with this memo in Annexure – A annexed hereto.

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 getup, 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 his 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, herein, and if violated the defendant is subjected to compensate the plaintiff for his malafide action.

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 there O.A.Nos. 666 to 668 of 2020 do stand closed.

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

(Schedule – MOC)



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C.S.(Comm. Div.) No.353 of 2020
and
O.A. Nos. 666 to 668 of 2020

DECREE

DATED : 07.04.2021

THE HON'BLE DR.JUSTICE
G.JAYACHANDRAN

FOR APPROVAL: 07/09/2021

APPROVED ON: 08/09/2021



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.04.2021

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.S.(Com.Div.) No.353 of 2020
and O.A.Nos.666 to 668 of 2019

M/s.Kaleesuwari Refinery Private Limited,
Represented by its Manager (Legal),
Mr.A.Saravanan (M-42 years),
No.53, Rajasekaran Street,
Opp: Kalyani Hospital,
Dr.Radhakrishnan Salai,
Mylapore, Chennai-600 004.

.. Plaintiff

/versus/

M/s.R.V. Agro Foods,
No.78, Vanigar Street,
Kanchipuram, Chennai-631 502.

.. 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 "Vasantham 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 "Vasantham 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 "Vasantham 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 "Vasantham 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 "Vasantham 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;

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(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.A.M.Esakkiappan

JUDGMENT

The plaintiff herein is a registered trademark holder (Gold Winner) filed a suit against the defendant for infringing the trademark using similar get up and colour combination of the product.

2. Interim injunction was granted by this Court at the time of admission. Subsequently, the parties have entered into compromise and a Joint Memo of Compromise has been filed by the the plaintiff and the defendant entered on 17.03.2021, which has been signed and produced before this Court, wherein the defendant had agreed not to use similar or identical trademark, colour combination or colour scheme.

3. 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.