



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 11TH DAY OF AUGUST 2021

THE HON'BLE DR. JUSTICE G.JAYACHANDRAN

C.S.(Comm Div) No.354 of 2020

And

O.A.Nos.669 to 671 of 2020

And

A. No.2930 of 2020

C.S.(Comm Div)No.354 &O.A.No.669 TO 671 & A.No.2930 of 2020:-

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

...Plaintiff/Applicant in O.A.No.669
to 671 & A.No.2930 of 2020

Versus

M/s.Subhalakshmi Agro Foods,
No.349, Paalimedu, Poondurai Main Road,
Kasapettai, Erode 638 115.

... Defendant/Respondent in O.A.No.
669 to 671 & A.No.2930 of 2020

C.S.(Comm.Div).No.354 of 2020:-

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



iv. For preliminary decree directing the Defendant to render true account of profits made by the Defendant by using the aforesaid offending label of “MAHA 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 “MAHA 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. 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.669 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 “MAHA 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.670 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 "Gold Winner" edible refined sunflower oil by using the offending words "MAHA 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.671 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 "MAHA 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.

A.No.2930 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.

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.354 of 2020 and for the applicant in all the applications and Mr.S.Anandakumar, advocate for the defendant in C.S.(Comm.Div)No.354 of 2020 and for the respondent in all the applications and upon reading the plaint and joint compromise memo dated 02.08.2021 filed in C.S.No.354 of 2020 and the order dated 13.07.2021 made in O.A.Nos.669 to 671 of 2020 and A.No.2930 of 2020 and the said joint compromise memo signed by the plaintiff and the defendant 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 this court doth recording the said joint compromise memo and **it is interims 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, 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 attached with this memo in Annexure-A.

3. That the Defendant herein undertakes to use the trade dress, colour scheme and get up for their product “MAHA GOLD” 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 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, as described in Annexure-B and pouches claimed to be deceptively similar to the Plaintiff's “Gold Winner”.



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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 or 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.669 to 671 of 2020 and A.No.2930 of 2020 do stand closed.

9. That there shall be no costs of this suit.

Schedule – Joint Compromise Memo



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VSP
26/11/2021

C.S.(Comm Div)No.354of2020

And

O.A.Nos.669 to 671of 2020

And

A. No.2930 of 2020

DECREE

DATED :11/08/2021

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: 11.08.2021

CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.S.(Comm.Div.) No.354 of 2020

and O.A.Nos.669 to 671 of 2020,

A.No.2930 of 2020

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

...Plaintiff

VS

M/s.Subhalakshmi Agro Foods,
No.349, Paalimedu, Poondurai Main Road,
Kasapettai, Erode 638 115.

...Defendant

Prayer:Civil Suit filed under Order IV Rule I of the O.S.Rules Read with Order VII Rule I of C.P.C., Section 134 and 135 of the Trademarks Act, 1999 and Sections 61 and 62 of the Copyright Act, praying for the following:



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a) For 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 "MAHA GOLD" 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.

b) For a permanent injunction to restrain the defendant its men, agents, associates and/or assignees or any person claiming rights from their from passing-off their inferior product, as that of the plaintiff's "Gold Winner" edible refined sunflower oil by using the offending words "MAHA GOLD" or any other words or mark and offending packing material and pouch deceptively similar to the plaintiff's trademark "Gold Winner" and Trade dress for "Gold Winner".

c) 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 "MAHA GOLD" bearing the 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 trademark "Gold Winner".

d) For preliminary decree directing the defendant to render true account of profits made by the defendant by using the aforesaid offending label of "MAHA GOLD".

E) 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 "MAHA 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.

f) 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;

g) To pay for the costs of the suit.



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For Plaintiff : Mr.Vijayan Subramanian

For Defendant : Mr.S.Anandakumar

J U D G M E N T

The suit is filed for permanent injunction restraining the defendant from using the registered trademark of the plaintiff either identically/similar/deceptively similar.

2.On receipt of the suit summon, the parties entered into a compromise and a Joint Memo of Compromise dated 02.08.2021 signed by the parties and their respective counsel is filed. Recording the same, the suit is decreed as per the terms of the compromise. The said compromise memo shall form part of the decree. No costs. The connected applications are closed.

Sd./-G.J.J
11.08.2021

//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.