

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY THE 15th DAY OF SEPTEMBER 2021

THE HON'BLE MR. SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

C.S.No.503 of 2019
and
O.A. Nos.784 & 785 of 2019
and
A.Nos.221, 222 & 438 of 2020

C.S.No.503 of 2019
and
O.A.Nos.784 & 785 of 2019
and
A.Nos.221 & 222 of 2020

New Pattukottai Kamatchi Mess-Nunpahal Unavgam LLP,
Represented by its Designated Partner, Mr.K.Selvakumar,
No.119, 3rd Avenue, Bharathipuram,
Anna Nagar, Chennai - 600 102. .

... Plaintiff/Applicant/Applicant

-Vs-

New Pattukottai Kamatchi Mess,
Represented by its Proprietor, G.Suthakar,
No.22, Govindan Street,
T.Nagar, Chennai - 600 017.

... Defendant/Respondent/Contemnor

Appln.No.438 of 2020

New Pattukottai Kamatchi Mess,
 Represented by its Proprietor, G.Suthakar,
 No.22, Govindan Street,
 T.Nagar, Chennai - 600 017.

... Applicant

-Vs-

New Pattukottai Kamatchi Mess - Nunpahal Unavgam LLP,
 Represented by its Designated Partner, Mr.K.Selvakumar,
 No.119, 3rd Avenue, Bharathipuram,
 Anna Nagar, Chennai - 600 102.

... Respondent

C.S.No.503 of 2019 :-

Civil Suit praying that this Hon'ble Court be pleased to a judgment and decree against the defendant:

a) For a permanent injunction restraining the defendant from in any way using the mark/words-'New Pattukottai Kamatchi Mess', or any other mark which is identical or deceptively similar to the registered trademark of the plaintiff – 'New Pattukottai Kamatchi Mess-Nunpahal Unavagam LLP';

b) For a permanent injunction restraining the defendant from passing off their food products as that of the plaintiff;

c) To direct the defendant to pay a sum of Rs.10,00,000/- (Rupees Ten Lakh only) at 18% p.a for harming the plaintiff's reputation in the

existing market, along with delivery-up of all infringing labels and marks for destruction or erasure;

d) Costs of the suit.

O.A.No.784 of 2019 :-

Original Application praying that this Hon'ble Court be pleased to pass an order of ad-interim injunction restraining the respondent/defendant from passing off their food product as that of the plaintiff pending disposal of the suit.

O.A. No.785 of 2019:-

Original Application praying that this Hon'ble Court be pleased to pass an order of ad-interim injunction restraining the respondent/defendant from in any manner using the mark/words-'New Pattukottai Kamatchi Mess' or any other mark which is identical or deceptively similar to the registered trademark of the plaintiff-'New Pattukottai Kamatchi Mess-Nunpahal Unavagam LLP'.

A.No.221 of 2020 :-

Application praying that this Hon'ble Court be pleased to punish

the respondent/defendant for committing grave contempt and gross disobedience of the orders passed by this Hon'ble Court in O.A.No.784 of 2019 in C.S.No.503 of 2019 dated 19.09.2019 and impose exemplary costs on the respondent/respondent/defendant.

A.No.222 of 2020 :-

Application praying that this Hon'ble Court be pleased to punish the respondent/defendant for committing grave contempt and gross disobedience of the orders passed by this Hon'ble Court in O.A.No.785 of 2019 in C.S.No.503 of 2019 dated 19.09.2019 and impose exemplary costs on the respondent/respondent/defendant.

Appln.No.438 of 2020 :-

Application praying that this Hon'ble Court be pleased to to condone the delay of 55 days in filing the Written Statement in the above Suit.

This Civil Suit with these applications along with O.S.A.No.135 of 2021 coming on this day before this court for hearing in the presence of Ms.N.Kavitha Rameshwar, advocate for the plaintiff in C.S.no.503 of 2019 and for the applicant in O.A.Nos.784 & 785 of 2019 and A.Nos.221, 222 of

2020 and for the respondent in A.No.438 of 2020 and Mr.T.S.Baskaran, advocate for the defendnt in C.S.No.503 of 2019 and for the respondent in O.A.Nos.784 & 785 of 2019 and for the applicant in A.No.438 of 2020 and upon reading the plaint and joint memo dated 14/09/2021 filed in O.S.No.503 of 2019 and the Judges Summons and the affidavit of K.Selvakumar filed in A.Nos.221 & 222 of 2020 and the Judges Summons and the affidavit of G.Suthakar filed in A.No.438 of 2020 and the order dated 19/09/2019 made in O.A.Nos.784 & 785 of 2019 and this court having observed that as per such memorandum the parties agree that all disputes and differences which have arisen between them in respect of the LLP agreements dated September 28, 2018 and October 12, 2018, including the subject matter of the proceedings in C.S.No.503 of 2019 and O.S.A.No.135 of 2021, may be resolved by arbitration by appointing the arbitrator as named therein and **it is ordered as follows:-**

That Mr.K.V.Babu, Advocate, having office at F-101, First Floor, Subiksha Trinity, 14/9, 4th Street, Bakthavatsalam Nagar, Adyar, Chennai – 600 020. Mobile No.9840075917. E-mail:advocatekvbabuyahoo.com be and is hereby appointed as Arbitrator by consent of the parties and all disputes and differences as referred to, in the memorandum are referred to the arbitrator appointed herein and it is hoped that the reference would be concluded as expeditiously as possible.

2) That the fees of the Arbitrator appointed herein, shall be in accordance with law, subject to the consensus in such regard between the parties.

3) That the order of interim injunction granted in pursuance of the order dated 19/09/2019 made in O.A.Nos.784 & 785 of 2019, restraining the respondent therein, from in any way using the trade mark/words 'New Pattukkottai Kamatchi Mess-Nunpahal Unavagam LLP' or any other mark which is identical or deceptively similar to the registered trade mark of the plaintiff, shall continue unless expressly modified in course of the arbitral reference.

4) That these A.Nos.221, 222 & 438 of 2020 do stand closed.

5) That there shall be no order as to costs.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
15TH DAY OF SEPTEMBER 2021.

Sd/-

ASSISTANT REGISTRAR (O.S-I)

//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.

ED
27/10/2021

C.S.No.503 of 2019
and
O.A.Nos.784 & 785 of 2019
and
A.Nos.221, 222 & 438 of 2020

ORDER

DATED : 15.09.2021

THE HON'BLE MR. SANJIB BANERJEE,
CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE
P.D.AUDIKESSAVALU

FOR APPROVAL: 01/11/2021

APPROVED ON : 18/11/2021

Copy To :
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