

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 10.12.2020

PRONOUNCED ON: 07.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

**C.S.(Commercial Division) No.717 of 2019
and
A.No. 9741 of 2019**

Hatsun Agro Product Ltd.,
having registered office at
No.1/20-A, Rajiv Gandhi Salai (OMR)
Karapakkam, Chennai – 600 097

And also carrying on its business at-

Old No.AD-83/New No. AD13
Anna Nagar, Opp.: IOB Towers Branch
Chennai – 600 040.

Represented by its Authorised Signatory ... Plaintiff

Vs.

1. M/s. Arogya Rahasya Private Limited
Regd. Office: 6-1-297/1
Venkatapuram Colony, Padmarao Nagar
Secunderabad – 500 025,
Telangana

2. Mr.Amrut Lal Sivanand Patel
#6-3-3/2/A, Near Gandhi Hospital
Metro Station, New Bhoiguda,
Secunderabad – 500 003
Telangana

... Defendants

PRAYER:- This Civil Suit is filed under Order VII Rule 1 of Original Side Rules read with Order IV Rule 1 of High Court O.S. Rules and Sections 134 and 135 of the Trademarks Act, 1999 and Section 7 of the Commercial Courts Act, 2015 praying for the following reliefs for:

(a) for permanent injunction restraining the defendants by themselves, their agents, servants, distributors or any one claiming through them from using in any manner infringing the plaintiff's trademark 'AROKYA' by exposing for sale or using them or copying/reproducing or causing reproduction of the same in any packaging or literature or any colourable imitation or substantial reproduction thereof in any manner whatsoever or causing infringement of the plaintiff's registered trademark as described in the schedule to the plaint;

(b) for permanent injunction restraining the defendants by themselves, their agents, servants, distributors or any one claiming through it in any manner whatsoever from passing off their products as that of the plaintiff by using the offending mark 'AROGYA RAHASYA' which is similar, deceptively similar and identical to the plaintiff's trademark 'AROKYA' or by using any other trademark which is similar, deceptively similar or identical to that of the plaintiff's trademark 'AROKYA' by manufacturing or selling or offering for sale in any manner advertising the same;

(c) directing the defendants to surrender to the plaintiff the entire products with the offending labels, stocks with offending labels together with the blocks and dies, name boards, sign boards etc., for destruction;

(d) directing the defendants to render true and faithful accounts of the profits earned by them through the sale of the offending rock salt products bearing the offending trademark label and directing payment of such profits to the plaintiff; and

(e) directing the defendants to pay to the plaintiff the cost of the suit.

For plaintiff : Mr. G.Kalyan Jhabakh

JUDGEMENT

In view of the Order passed in A.No. 2134 of 2020 dated .01.2020, the plaint in C.S.(Commercial Division) No. 717 of 2019 is decreed with costs. Consequently, connected Application is closed. Costs to be paid in accordance with the amended Section 35 of the Code of Civil Procedure.

2. The Registry is delegated and directed by this Court to determine the costs and the plaintiff is permitted to file their Bill of Costs relating to legal fees and expenses and any other expenses incurred in connection with the proceedings. On the filing of the Bill of Costs, the Registry may determine the quantum of the costs.

07.01.2021

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Index:Yes/No

Web:Yes/No

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Speaking/Non Speaking Order

List of documents marked in A.No. 9741 of 2019 in C.S.No. 717 of 2019:

- (1) Ex.A-1 = Incorporation Certificates of the plaintiff company during the year 1986 to 1998;
- (2) Ex.A-2 = Registration of branch certificate issued by the Government of Tamil Nadu, Commercial Taxes Department dated 06.08.2008;
- (3) Ex.A-3 = Board Resolution of plaintiff company authorizing Mr.B.Muthunathan to represent the plaintiff company dated 09.02.2016;

- (4) Ex.A-4 = Trademark Certificates obtained by the plaintiff for their trademark AROKYA during the year 1995-2018;
- (5) Ex.A-5 = Chartered Accountant Certificate for Annual Sales turnover and Sales Promotion Expenses for the financial years 1994-95 to 2018-19 dated 15.05.2019;
- (6) Ex.A-6 = Chartered Accountant Certificate for Annual Sales turnover and Sales Promotion for AROKYA Brand from the financial years 2013-14 to financial years 2018-19 dated 17.03.2016 to 15.05.2019;
- (7) Ex.A-7 = ISO Certificates obtained by the plaintiff dated 14.10.2018;
- (8) Ex.A-8 = FSSAI Certificates obtained by the plaintiff for its various plants dated 28.03.2017 to 21.05.2019;
- (9) Ex.A-9 = Invoices for Advertisement expenses incurred by the plaintiff company during the year 2000 to 2013;
- (10) Ex.A10 = Advertisements/Pamphlets of the plaintiff dated Nil;
- (11) Ex.A11 = Articles/Advertisements published in newspapers and journals dated Nil;
- (12) Ex.A12 = Screenshots of the television advertisements of the plaintiff company dated Nil;
- (13) Ex.A13 = Statement of Advertisements made by the plaintiff dated 07.11.2013;
- (14) Ex.A14 = List of distribution channel dated Nil;
- (15) Ex.A15 = Plaintiffs' Product package dated Nil;
- (16) Ex. A16 = Defendants' Product package dated Nil;

C.V.KARTHIKEYAN, J.

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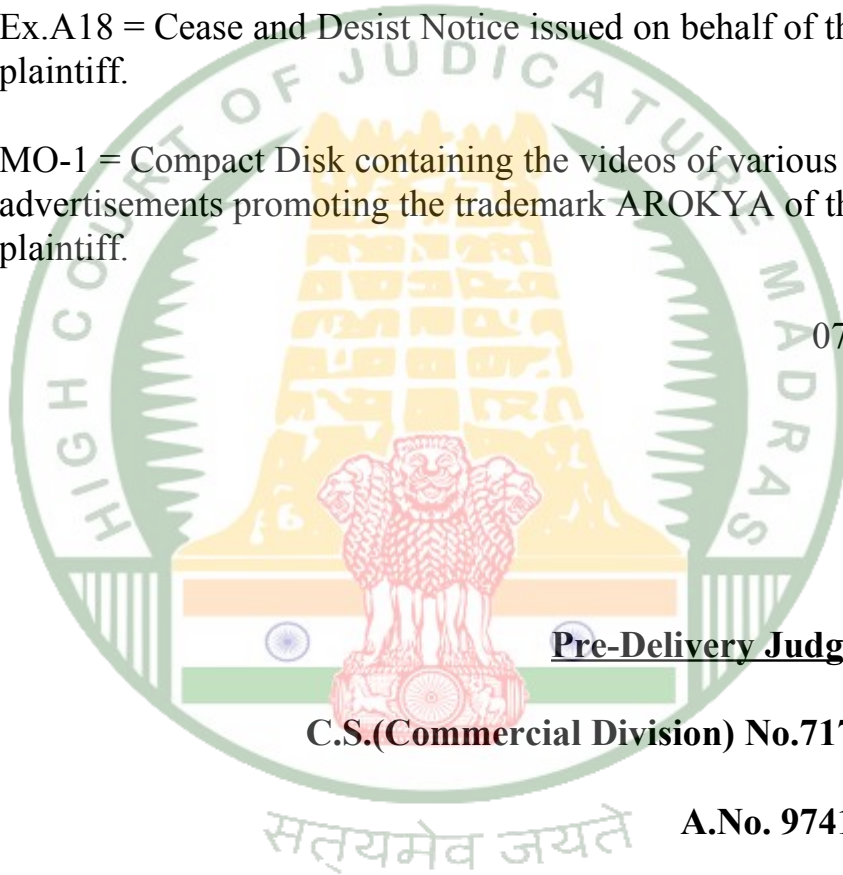
(17) Ex.A17 = Defendant's Trademark Applications dated 21.10.2010 & 17.08.2019; and

(18) Ex.A18 = Cease and Desist Notice issued on behalf of the plaintiff.

(19) MO-1 = Compact Disk containing the videos of various advertisements promoting the trademark AROKYA of the plaintiff.

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Pre-Delivery Judgement in

**C.S.(Commercial Division) No.717 of 2019
and**

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