



C.S.No.142 of 2021
(Comm.Suit)

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.01.2022

Coram:

THE HONOURABLE MR JUSTICE N.ANAND VEKATESH

Civil Suit No.142 of 2021
(Comm.Suit)

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,
Mr.Rajesh D.R.

.. Plaintiff

.VS.

S.Jakir Hussain,
Sole Propreitor, Gold Ruby Garments
No.28/28, KNP Colony 1st Street,
Kangayam Cross Roads, Tirupur-641 60,
Tirupur Dist., Tamil Nadu.

..Defendant

Prayer:

Civil Suit has been filed under Order VII Rule 1 CPC read with
Order IV Rule 1 O.S.Rules and Sections 134 and 135 of the Trade Marks
Act, 1999 and Section 7 of the Commercial Courts Act, 2015, pleased to



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grant a judgment and decree on the following terms:-

a) For a permanent injunction restraining the defendant, by himself, his heirs, legal representatives, successors-in-business, agents, servants, distributors or any one claiming through him from in any manner infringing the plaintiff's registered trademark OYALO by using the mark OYALO, OYALO, OYALO, or any other identical or deceptively similar mark in any manner whatsoever causing infringement to the plaintiff's registered trademark as described in the Schedule to the plaint;

b) For a permanent injunction restraining the defendant, by himself, his heirs, legal representatives, successors-in-business, agents, servants, distributors or any one claiming through him in any manner whatsoever from passing off and enabling others to pass off the defendant's business as that of the plaintiff's by using the mark OYALO, O!YALO, OYALO, or any other mark which is identical or deceptively similar to the plaintiff's trademark OYALO in any manner whatsoever;

c) Directing the defendants to surrender to the plaintiff all the products and stocks with the offending labels, together with the blocks, 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 products bearing the offending marks and labels; and further directing payment of such profits to the plaintiff;



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e) Directing the defendants to pay the plaintiff a sum of Rs.10,00,000/- as damages for committing acts of infringement of trademark and passing off;

f) Directing the defendants to pay to the plaintiff the cost of the suit;

G) Grant such further or other reliefs;

For Plaintiff : Mr.Prashant Alai

for M/s. Surana & Surana (law firm)

For Defendant : Mr.R.Sathish Kumar

J U D G M E N T

The present suit was filed by the plaintiff with the grievance that the defendant is infringing upon the registered trademark of the plaintiff and accordingly, various reliefs were sought for against the defendant.

2. During pendency of the suit, the parties were able to reach a settlement and accordingly, a memo of compromise has been filed before this Court.



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WEB COPY 3. A scanned reproduction of the memo of compromise is as follows:

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Ordinary Original Civil Jurisdiction – Commercial Division)
C.S. (Com. Div.) No. 142 of 2021

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. : ICR Towers Branch,
Chennai – 600 040
Represented by its authorized signatory
Mr. Rajesh D R,

...Plaintiff

Vs.

S. Jakir Hussain,
Sole Proprietor, Gold Ruby Garments
No. 28/28, KNP Colony 1st Street,
Kangayam Cross Roads, Tirupur – 641 601
Tirupur Dist., Tamil Nadu,

...Defendant

MEMO OF COMPROMISE

The parties to the suit have amicably settled the dispute on the following terms

1. The Defendant submits that he has changed the branding of his products that were earlier carrying the infringing mark "OYALO" to the brand mark "SILFA". The Defendant undertakes to not infringe the Plaintiff's mark OYALO in the future.
2. The Defendant has through his Written Statement dated 24.09.2021 submitted that he has discarded the packaging materials/stocks carrying the infringing mark OYALO and is no longer in use of the said mark.
3. The Defendant acknowledges and accepts the Plaintiff's rights to exclusively use the trademark OYALO and the suit may be decreed as prayed for in

For HATSUN AGRO PRODUCT LTD

Authorized Signatory

For GOLD RUBY GARMENTS

S. Jakir Hussain
Proprietor



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paragraph no. 42 (A) and paragraph no. 42 (B) of the Plaint. The decree will come into effect from the date of this Compromise Memo.

4. The Plaintiff gives up its claims prayed in paragraph no. 42 (C), paragraph no. 42 (D), paragraph no. 42 (E), paragraph no. 42 (F) & paragraph no. 42 (G) contingent to the Defendant complying with the terms of this Memo of Compromise.

5. The Defendant agrees to not infringe the Plaintiff's trademark OYALO

 & , by using the offending trademark "OYALO"

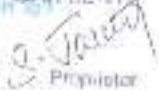
 &  or any other mark which is identical or similar to the Plaintiff's registered trademark OYALO or any trademark which is a colorable imitation of the Plaintiff's registered trademarks OYALO as detailed below:-

Sr. No.	Trademark	Number	Class	Status	Type of Mark
1.		2851340	29	Registered	DEVICE
2.	OYALO	2831346	29	Registered	WORD
3.		3578841	29	Registered	DEVICE
4.		4339040	29	Registered	DEVICE

For HATSUN AGRO PRODUCT LTD


Authorised Signatory

For GOLD RUBY GARMENTS


Proprietor



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5.		4339046	29	Registered	DEVICE
6.		2831341	30	Registered	DEVICE
7.	OYALO	2831347	30	Registered	WORD
8.		3578842	30	Registered	DEVICE
9.		4339041	30	Registered	DEVICE
10.		4339047	30	Registered	DEVICE
11.		2831342	31	Registered	DEVICE
12.	OYALO	2831348	31	Registered	WORD
13.		3578843	31	Registered	DEVICE
14.		4339042	31	Registered	DEVICE
15.		4339048	31	Registered	DEVICE
16.		2831343	32	Registered	DEVICE
17.	OYALO	2831349	32	Registered	WORD
18.		3578844	32	Registered	DEVICE

For HATSUN AGRO PRODUCT LTD

Authorized Signatory

For GOLD SUBBAGARILLI

S. Jagan
Proprietor



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19.		4339043	32	Registered	DEVICE
20.		4339049	32	Registered	DEVICE
21.		2831344	35	Registered	DEVICE
22.	OYALO	2831350	35	Registered	WORD
23.		3578845	35	Opposed	DEVICE
24.		4339045	35	Registered	DEVICE
25.		4339050	35	Registered	DEVICE
26.		2831345	43	Registered	DEVICE
27.	OYALO	2831351	43	Registered	WORD
28.		3578846	43	Registered	DEVICE
29.		4339044	43	Registered	DEVICE
30.		4339051	43	Registered	DEVICE

16. The Defendant submits that he has withdrawn the trademark application no.

4462232 for the mark  from the Trademark Registry vide letter

For HATSUN AGRO PRODUCT LTD

Authorized Signatory

For GOLD RUBY GARDENS

Proprietor



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dated 24.09.2021. The Defendant also submits that he has withdrawn the

trademark application no. 4462215 for the mark  vide letter dated 25.11.2021.

7. The Defendant will not attempt to register any trademark containing the Plaintiff's trademark OYALO or any trademark which is identical or similar to the Plaintiff's trademark OYALO or any trademark which is a colourable imitation of the Plaintiff's registered trademark in any class for any of his products/ services.
8. The suit may be decreed in terms of this Compromise Memo. The Compromise Memo to form a part of the Decree.
9. The parties herein shall bear their own costs.

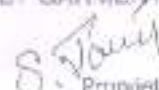
Dated at Chennai, on this the 28th day of January ~~December~~ 2021.

For HATSUN AGRO PRODUCT LTD


Authorized Signatory

PLAINTIFF

For GOLD RUBY GARMENTS


Proprietor

Defendant


E.no 823/1990.
COUNSEL FOR PLAINTIFF


N.R. Srinivasan
COUNSEL FOR DEFENDANT



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List Case on: 31-1-2022
NAVJ

IN THE HIGH COURT OF
JUDICATURE AT MADRAS
(Ordinary Original Jurisdiction
- Commercial Division)

C.S. (Com. Div.) No. 142 of 2021

Hatsun Agro Product Ltd.

... Plaintiff

Vs.

S. Jukir Hussain

... Defendant

MEMO OF COMPROMISE



M/A. SURANA & SURANA,
G. KALYAN JHABAKH
Advocates,
Counsel for Plaintiff
E.No. 823/1990
99623 90000

P.C.N. RAGHUPATHY
R. SATHISH KUMAR
N.R. SRINATH
COUNSEL FOR DEFENDANT
9884458388



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WEB COPY 4. In view of the above, the Civil Suit is decreed in terms of memorandum of compromise and the memorandum of compromise shall form part of the decree.

5. Since the compromise has been arrived at by the parties even before framing of issues, this Court is inclined to permit the plaintiff for refund of the entire Court fee paid by them. The learned counsel for the plaintiff fairly submitted that the Court fee that is refunded can be directly sent to the State Legal Services Authority, High Court, Chennai. The learned counsel for the plaintiff shall file an appropriate memo and the entire Court fee shall be refunded and it can be directly paid to the State Legal Services Authority, High Court, Chennai. Considering the facts and circumstances of the case, there shall be no order as to costs. Consequently, connected applications are closed, if any.

31.01.2022

mk
Internet: Yes
Index : Yes/No
To
The Sub-Assistant Registrar,
Original Side,



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High Court, Madras.

N.ANAND VENKATESH,J.
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