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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 02nd DAY OF MARCH 2022

THE HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

C.S.No.229 of 2019

and

A.No.2540 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
Rep.by its Authorised Signatory

..Plaintiff/Applicant

-Versus-

A R Dairy Foods Private Limited
Having its Registered office at
10/5C, Madurai Road,
Begampur Post,
Dindigul – 624 002

....Defendant/Respondent

C.S.(Comm.Div.)No.229 of 2019

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

(a) For permanent injunction restraining the defendant by itself, its agents, servants, distributors or any one claiming through it from using in any manner whatsoever upon and in relation to their business the



reproducing or causing reproduction of the same in any packaging or literature or any colourable imitation or substantial reproduction thereof in any manner whatsoever so as to infringing or causing infringement of the plaintiff's trademark as described in Schedule-II of the Plaintiff.

(b) For permanent injunction restraining the defendant by itself, its agents, servants, distributors or any one claiming through it from using in any manner whatsoever upon and in relation to their business the "AROKYA" trademark, artwork, colour schemes and trade dress and / or deceptive variations thereof so as to passing off or enable others to indulge in the act of passing off its goods or business as that of the plaintiff's or in some way convey a connection with the plaintiff as described in Schedule-II to the Plaintiff.

(c) Directing the Defendant 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 Defendant to render true and faithful accounts of the profits earned by them through the sale of the offending milk products bearing the offending trademark label and directing payment of such profits to the plaintiff.

(e) Directing the defendant to pay to the plaintiff the cost of the suit.



A.No.2540 of 2019:

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Application praying that this Hon'ble Court be pleased to permit the Applicant/Plaintiff to combine the cause of action for infringement of Trade Mark and passing off and file a combined suit before this Hon'ble Court.

This suit along with this application coming on this day before this court for hearing in the presence of Mr.Prashant Ali for M/s.Surana & Surana, Advocates for the plaintiff in C.S.(Comm.Div.)No.229 of 2019 and for the Applicant in A.No.2540 of 2019 and Mr.R.Sathish Kumar, Advocates for the Defendant in C.S.(Comm.Div.)No.229 of 2019 and for the respondent in A.No.2540 of 2019 and upon reading the plaint filed in C.S.(Comm.Div.)No.229 of 2019 and the judges summons and the affidavit of P.Sivasakthivel filed in A.No.2540 of 2019, and the memorandum of Compromise signed by the plaintiff and the defendant herein and their respective advocates and the said advocate for the parties hereto praying this Court to pass a decree in terms of the memorandum of compromise morefully setout in the schedule hereunder,

it is interms thereof ordered and decreed as follows:

That the defendant herein acknowledges and accepts the Plaintiff's right to exclusively use the trademark "AROKYA" and the Plaintiff acknowledges and accepts the defendant's right to exclusively use the



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4. That the plaintiff herein also agrees to the Defendant's right to retain its labels used for buttermilk, butter, curd and ghee products in their present form and the said labels have been extracted herein below:

5. That any new product that is launched by the Defendant herein in the market shall be subject to clause 2 above.

6. That the defendant herein agrees to immediately withdraw all the opposition proceedings initiated by it against the plaintiff's pending trademark applications including TM Application No.4026601 (Opposition No.986494), TM Application No.4026602 (Opposition No.986495), TM Application No.4026603 (Opposition No.986496), TM Application No.4026604 (Opposition No.986497), TM Application No.3989206 (Opposition No.984178), TM Application No.3989207 (Opposition No.984179) and TM Application No.3989208 (Opposition No.984180).



7. That the defendant herein undertakes to not initiate fresh proceedings against any of the Plaintiff's pending trademark applications before the Trade Mark Registry.

8. That the plaintiff herein also agrees that they shall not file any opposition or objections to the defendant's trademark labels as mentioned in clause 3 & 4 supra.

9. That the plaintiff herein shall not file any rectifications proceedings against the defendant's registered trademark " Raaj Milk" for the trademark registrations obtained by latter till date.

10. That however, if the defendant depicts or adopts a packaging or label containing features that are similar/identical to the plaintiff's product packaging either through pictorial representations or through colour combinations adopted therein, the plaintiff shall have the right to take the legal recourse against the defendant as shall be necessary and the said right shall be available to the defendant as well.

11. That the subject to the compliance with the terms of this



one another in the future from the date of entering into the compromise memo.

12. That the connected application in A.No.2540 of 2019 do stand closed.

13. That there shall be no order as to costs.

Schedule- Memo of Compromise



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C.S.No.229 of 2019
and
A.No.2540 of 2019

DECREE:-

DATED : 02.03.2022

THE HON'BLE MR.JUSTICE
SENTHILKUMAR RAMAMOORTHY

FOR APPROVAL: 30.4.2022

APPROVED ON: 04.5.2022



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **02.03.2022**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR
RAMAMOORTHY**

C.S.(Comm.Div.) No.229 of 2019
and A.No.2540 of 2019

Hatsun Agro Product Ltd.,
Having registered Office at
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And also carrying on its business at
Old No.AD-83/New No.AD13,
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Rep. by its Authorized Signatory.

... Plaintiff

vs.

A R Dairy Foods Private Limited
Having its Registered Office at
10/5C, Madurai Road,
Begampur Post
Dindigul - 624 002.

... Defendant

PRAYER: Complaint filed under and Order VII Rule 1 CPC 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
prayed for Judgment and Decree:-



(a) For permanent injunction restraining the defendant by itself, its agents, servants, distributors or any one claiming through it from using in any manner whatsoever upon and in relation to their business the "AROKYA" trademark 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 so as to infringing or causing infringement of the plaintiff's trademark as described in Schedule-II of the Plaintiff.

(b) For permanent injunction restraining the defendant by itself, its agents, servants, distributors or any one claiming through it from using in any manner whatsoever upon and in relation to their business the "AROKYA" trademark, artwork, colour schemes and trade dress and / or deceptive variations thereof so as to passing off or enable others to indulge in the act of parring off its goods or business as that of the plaintiff's or in some way convey a connection with the plaintiff as described in Schedule-II to the Plaintiff.

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(e) Directing the defendant to pay to the plaintiff the cost of the suit.

For Plaintiff : Mr.Prashant Ali for
M/s.Surana & Surana
For Defendant : Mr.R.Sathish Kumar

J U D G M E N T

The plaintiff and defendant have executed a Memorandum of Compromise dated 28.02.2022. On perusal of the said Memorandum of Compromise, it is evident that the same was executed by the authorized signatories of the plaintiff and defendant as also by the respective counsel.

2. By such Memorandum of Compromise, broadly, the plaintiff has agreed to the defendant's right to retain the specific labels which are set out at paragraphs 3 and 4 of the Memorandum of Compromise. Parties have also arrived at an understanding with regard to new products. In addition,



parties have agreed to the manner in which pending proceedings against each other would be dealt with. Thus, there is no impediment to the disposal of the suit in terms of the Memorandum of Compromise.

3. Accordingly, C.S.(Comm.Div.) No.229 of 2019 is decreed in terms of the Memorandum of Compromise dated 28.02.2022, which shall form an integral part thereof. There shall be no order as to costs. Consequently, the connected A.No.2540 of 2019 is closed

Sd./-S.K.R.J

02.03.2022

//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.