



C.S.(Comm. Div.)No.179 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 17.11.2022

CORAM

THE HON'BLE MR.JUSTICE M.SUNDAR

C.S.(Comm. Div.)No.179 of 2022

and

O.A.Nos.542 to 544 of 2022 & A.No.3761 of 2022

in

C.S.(Comm. Div.)No.179 of 2022

Aasife Biriyani (P) Ltd.,
Glr No.35, D.No.11/3Q,
Railway Station Road
Alandur, Chennai-600 016
Tamil Nadu, India.

.. Plaintiff

Vs.

ALIF FOODS
Old No.51/7, 51/3f, 51/3b
New Survey No.86/4 and 86/7
Poonamalle High Road
NoombalMadula Velapanchavadi
Chennai-600 077
Tamil Nadu, India.
Defendant

..

This Civil Suit is preferred, under Order VII Rule 1 of CPC read with Order IV Rule 1 of O.S. Rules read with Sections 27, 29, 134 and 135 of Trademark Act, 1999, Sections 51, 55 and 62 of the Copy Right Act, 1957, praying



C.S.(Comm. Div.)No.179 of 2022

(i) Permanent injunction restraining the defendant, all his principal officers, staff, men, agent, servants, successors, assigns in business, representatives and any other person from infringing the registered trademark "AASIFE" of the plaintiff having registration Number 3768877, or any other word / words / logo / artistic work / design / device that are identical or deceptively similar to the said registered trademark of the plaintiff in Class 43, and thereby restraining the defendant from infringing the registered trademark of the plaintiff, in any manner;

(ii) Permanent injunction restraining the defendant, all his principal officers, staff, men, agent, servants, successors, assigns in business, representative and any other person passing off his / their services by using the word mark "Aasifaa Biriyani" or label work "AASIFE", artistic work or any other word / words / logo / artistic work / design / device that are identical or deceptively similar to the said mark of the plaintiff in respect of providing food and drinks, temporary accommodation, and thereby restraining the defendant in any manner from passing off;

(iii) Permanent injunction restraining the defendant, all his principal officers, staff, men, agent, servants, successors, assigns in business, representatives and any other person from violating the copyright of the plaintiff by using the artistic work or any other logo / artistic work / design / device that are identical or deceptively similar to the said copyright of the plaintiff, and thereby restraining the defendant from in any manner violating the copyright of the plaintiff;



C.S.(Comm. Div.)No.179 of 2022

(iv) A preliminary decree be passed in favour of the plaintiffs directing the defendant to render a true and faithful accounts of all profit made by them, using the plaintiff's said Trademark & Copyright and a final decree be passed in favour of the plaintiff for the amount of profit thus found to have been made by the defendant, together with interest, after the defendant has rendered accounts;

(b) and costs of suits;

For Plaintiff	:	Mr.Ramesh Ganapathy M/s.Mission Legal (Law Firm)
For Defendant	:	Mr.R.Sathish Kumar

J U D G M E N T

This consent judgment and common order will now dispose of the captioned main suit and captioned four applications.

2. In this judgment / order, parties shall be referred to by their respective ranks in the main suit for the sake of convenience and clarity.

3. Today, captioned matter is listed under the cause list caption 'FOR REPORTING SETTLEMENT'.



C.S.(Comm. Div.)No.179 of 2022

4. Mr.Ramesh Ganapathy along with Ms.Hansika .N, learned counsel of M/s.Mission Legal (Law Firm) for plaintiff company and Mr.R.Sathish Kumar, learned counsel on record for lone defendant are before this Commercial Division.

5. Learned counsel on both sides submit in one voice that *lis* has since been settled between the plaintiff company and defendant. It is further submitted by both sides in unison that the parties have reduced the terms of settlement to writing by way of an agreement captioned 'JOINT COMPROMISE MEMO FILED BY THE PARTIES' and dated 14.11.2022 [hereinafter 'said JMOC' for the sake of convenience and clarity].

6. Aforementioned both learned counsel make a further joint request that the captioned suit may please be disposed of by way of a compromise decree in terms of said JMOC.

7. To be noted, a scanned reproduction of said JMOC (together with annexures and docket) is as follows:



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(ORDINARY ORIGINAL JURISDICTION)

C.S. (Comm. Div) No. 179 of 2022

Aasife Biryani (P) Ltd,
Gls No. 325, D: No. 11/3Q,
Railway Station Road,
Alandur, Chennai- 600 016,
Tamil Nadu, India.

.... Plaintiff

Vs

ALIF FOODS,
Old No. 51/7, 51/3f, 51/3b,
New Survey No 86/4 and 86/7
Poonamalle High Road,
NoombalMadula Velapanchavadi,
Chennai- 600 077,
Tamil Nadu, India.

.... Defendant

JOINT COMPROMISE MEMO FILED BY THE PARTIES

The Parties herein respectfully submit as follows:

- A. The Parties herein submit the above suit is filed by the Plaintiff for Permanent Injunction for Infringement of Trade Mark, Infringement of Copyright and for Passing off against the Defendant and for directions.
- B. The Plaintiff and the Defendant respectfully submit that with a view to give quietus to the matter, they have agreed to settle the dispute amicably on the following terms:-

TERMS OF MEMORANDUM OF COMPROMISE:

1. The Defendant undertakes not to use the registered trade mark of the Plaintiff, "

aasife

For AASIFE BIRIYANI PVT. LTD.

Ajay Arul

Managing Director

" or any other trade mark which is similar or identical to the

For ALIF FOODS

[Signature]
Partner



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C.S.(Comm. Div.)No.179 of 2022

Plaintiff's trade mark and the Defendant has changed their trade mark as "Yas- Alif Biryani" label attached with this memo in Annexure-A.

2. The Defendant undertakes not to use the artistic work, colour combination, similar design of the Plaintiff's trade mark, "Aasife Biryani" or any other colour scheme which is similar or identical to the overall look of the plaintiff's trade dress in respect of Restaurant services, and the Defendant has stopped using the logo of "Aasife Biryani" as projected in the label attached with this memo in Annexure-B.
3. The Defendant undertakes not to Pass-off the goods and services as and for those of the Plaintiff's by adopting the similar or identical get-up, colour scheme, arrangement of the colour, get up and logo of Plaintiff's trade mark, "Aasife Biryani".
4. The Defendant 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 packages claimed to be deceptively similar to the Plaintiff's "Aasife Biryani" and the Plaintiff agrees that the Defendant shall be entitled to the colour scheme and the trade mark for "Yas-Alif Biryani", as mentioned in Annexure- A.
5. The Defendant shall not further violate the Plaintiff's Trade Mark and Copyright in the artistic work of the Plaintiff from the date of signing this Joint Memo of Compromise.
6. The Defendant undertakes to compensate the Plaintiff sufficiently with damages if it violates any of the clauses of this memo of compromise.

It is therefore prayed that this Hon'ble Court may be pleased to receive the Memo of Compromise and pass a decree in terms of the same and pass such further or other order as this Hon'ble Court may deem fit and proper in the circumstance of the case and thus render justice.

For AASIFE BIRYANI, PVT. LTD.

Aay Paul

Managing Director

2

For ALIF FOODS

[Signature]
Partner



C.S.(Comm. Div.)No.179 of 2022

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Dated at Chennai on this the 14th day of November, 2022

For AASIFE BIRIYANI PVT. LTD.

Asif Asif

Managing Director

PLAINTIFF

For ALIF FOODS

Ali

Partner

DEFENDANT

G. Ramesh

For MISSION LEGAL

COUNSEL FOR THE PLAINTIFF

Ali

COUNSEL FOR THE DEFENDANT



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C.S.(Comm. Div.)No.179 of 2022

ANNEXURE- A

CHANGED LABEL OF THE DEFENDANT



For AASIFE BIRIYANI PVT. LTD.

Acy Hall
Managing Director

PLAINTIFF

For ALIF FOODS

Parti
For ALIF F

DEFENDANT

For MISSION LEGAL

COUNSEL FOR THE PLAINTIFF

COUNSEL FOR THE DEFENDANT



C.S.(Comm. Div.)No.179 of 2022

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ANNEXURE- B

OLD INFRINGING LABEL OF THE DEFENDANT



For AASIFE BIRIYANI PVT. LTD.

Ali Asif

Managing Director

PLAINTIFF

For ALIF FOODS

Subramanian

Partner

DEFENDANT

G. Ramani
For **MISSION LEGAL**
COUNSEL FOR THE PLAINTIFF

Subramanian
COUNSEL FOR THE DEFENDANT



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Tamil Nadu, India.

.... Defendant

**JOINT MEMO OF
COMPROMISE FILED BY
THE PARTIES**



MR. MISSION LEGAL
10, Poonamallee, CHENNAI 600 077
COUNSEL FOR THE
PLAINTIFF

MS. SATHISH KUMAR
COUNSEL FOR THE
DEFENDANT



C.S.(Comm. Div.)No.179 of 2022

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8. Both learned counsel also submit that the captioned applications can be closed as a sequitur. As regards the presence of parties, both sides make a request for dispensing with presence of parties and make the following submissions in this regard:

(a) parties have difficulty in being present before this Commercial Division today owing to personal reasons;

(b) said JMOC was signed by both sides in the presence of one another;

(c) Mr.C.Y.Aasifie, Managing Director of plaintiff company who has signed / verified the pleadings i.e., plaint and Mr.A.Noor Ali, who has signed the defendant's Vakalatnama in his capacity as partner of defendant firm has signed said JMOC also.

9. This Court has perused the signatures in the plaint, vakalatnama and said JMOC.



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10. Considering the nature of the suit, the trajectory the matter has taken besides the nature of said JMOC i.e., terms of compromise that have been arrived at, in this case prayer for dispensing with the presence of parties is acceded to.

11. The sequitur is, captioned main suit will stand decreed in terms of said JMOC which shall now form part of judgment / decree. Consequently, captioned four applications are closed. There shall be no order as to costs.

17.11.2022

Index : Yes/No
Speaking/Non-speaking order

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M.SUNDAR, J.

mk

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