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C.S.(Comm. Div) No.127 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.09.2022

Coram

THE HONOURABLE MR. JUSTICE M.SUNDAR

C.S.(Comm. Div) No.127 of 2022

&

O.A.Nos.371 and 372 of 2022

&

A.No.2592 and 3354 of 2022

M/s.Kaleesuwari Refinery Private Limited

Represented by its Manager (Legal)

Mr.A.Saravanan (M-45 years)

No.53, Rajasekaran Street

Opp.Kalyani Hospital Dr.Radhakrishnan Salai

Mylapore, Chennai – 600 004

... Plaintiff

vs.

Gramiyum Nature Fresh

No.1/66E Thiruvalluvar Nagar

6th Street, Alandur

Chennai – 600 016

... Defendant

Civil Suit filed under Order IV Rule 1 of O.S.Rules read with Order VII Rule 1 CPC read with Sections 134 and 135 of Trade Marks Act, 1999 for a permanent injunction restraining the Defendant, their men, agents, associates and /or assignees or any person claiming rights from them from infringing the plaintiff's reputed and well known registered Trade Mark “DHEEPAM” by using the offending Trade Mark “DEEPAM OIL” or any mark or word deceptively similar to the aforesaid Trade Mark of the

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Plaintiff's for any edible oil marketed by the Defendant, their men, agents, associate and/or assignees or any person claiming rights from the Defendant; For a permanent injunction to restrain the Defendant, its men, agents, associates and /or assignees or any person claiming rights from them from passing off their inferior product as that of the plaintiff's "DHEEPAM" lamp oil by using the offending Trade Mark "DEEPAM OIL" or any other words or mark and offending packing Material /Pouch/Bottles deceptively similar to the plaintiff's trade mark "DHEEPAM" and Trade Dress for "DHEEPAM"; to direct the defendants, their men, agents, assignees, dealers and/or retailers, distributor to surrender to the plaintiff all offending "DHEEPAM OIL" bottle/container/packing materials label advertising materials hoarding, letter heads office stationery and all other goods containing /bearing offending mark/label "DEEPAM OIL" with distinct color scheme, get up or any other mark visually or phonetically similar to the plaintiff's well known trademark "DHEEPAM" label and bottle/container for destruction by an order of this Court and direct the defendants to pay costs.

For Plaintiff : Mr.Vijayan Subramanian

For Defendant : Ms.R.Anila
for Mr.K.Moorthy



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ORDER

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Captioned matters are listed under the cause list caption 'FOR REPORTING SETTLEMENT'.

2. Mr.Vijayan Subramanian, learned counsel of plaintiff-company and Ms.R.Anila, learned counsel for sole defendant are before this Court.

3. Both the aforementioned learned counsel submit that captioned main suit has been settled out of Court. Plaintiff and defendant have reduced the terms of settlement to a 'Joint Memo of Compromise dated 15.09.2022' [hereinafter 'said MOC' for the sake of convenience and clarity].

4. Both learned counsel have placed before this Court said MOC together with three annexures thereat and a scanned reproduction of the same is as follows:



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IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Ordinary Original Civil Jurisdiction)
C.S. (Com. Div.) No.127 of 2022

M/S. KALEESUWARI REFINERY PRIVATE LIMITED,

Represented by its Manager (Legal),
Mr. A. Saravanan(M-45 years),
No.53, Rajasekaran Street,
Opp: Kalyani Hospital, Dr.Radhakrishnan Salai,
Mylapore, Chennai – 600004

...Plaintiff

- VERSUS -

Gramiyum Nature Fresh,
No. 1/66E, Thiruvalluvar Nagar,
6th Street, Alandur,
Chennai – 600 016

... Defendant

JOINT COMPROMISE MEMO FILED BY THE PARTIES

The Parties herein respectfully submit as follows:-

- A. The Parties herein submit that the above suit was filed by the Plaintiff against the Defendant for permanent injunction 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 their disputes amicably, on the following terms:-

TERMS OF THE MEMORANDUM OF COMPROMISE: -

1. The Plaintiff has registered trade mark for its product "Deepam Oil" the label of the same is attached herewith as Annexure-C.

For Kaleesuware Refinery Private Limited

Authorized Signatory

For GRAMIYUM Nature Fresh

Authorized Signatory



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2. The Defendant has changed their trademark from GRAMIYUM DEEPAM OIL to **"GRAMIYUM LAMP OIL"** on 10th June 2022 i.e. immediately upon receipt of desist notice dated 10th June 2022 from the plaintiff and had already removed all the products of **"Gramiyum Deepam Oil"** and the Defendant undertakes not to use the Trademark of the Plaintiff, **"DHEEPAM"** or any other mark which is similar or identical to the Plaintiff's registered Trademark and the Defendant has also changed their mark as **"GRAMIYUM LAMP OIL"** in the label with a colour combination as projected in the design of the label attached with this memo in **Annexure-A**.

3. The Defendant undertakes not to use the get up, colour scheme, arrangement of the colour which are closely similar to the get up and logo of the Plaintiff's product **"DHEEPAM OIL"**.

4. The Defendant undertakes to use the trade dress, colour scheme and get up for their product **"GRAMIYUM LAMP OIL"** and/or any other trade dress, colour scheme and get up for their product which will not be similar to that of the Plaintiff's product **"DHEEPAM OIL"**.

5. The Defendant undertakes not to Pass-off the goods 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 the plaintiff's product **"DHEEPAM OIL"** and its Pouch / Packing material.

6. The Defendant has already erased/removed all the products under the **"GRAMIYUM DEEPAM OIL"** in its possession or control with the mark labels, as described in Annexure Band pouches claimed to be deceptively similar to the Plaintiff's **"DHEEPAM OIL"**.

For Kalesuvari Refinery Private Limited

For GRAMIYUM Nature Fresh
Authorized Signatory



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7. The Plaintiff is entitled to take appropriate legal action including damages in the event of any violation of this Joint Compromise on the part of the Defendant.

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.

Dated at Chennai on this the 15th day of September, 2022.

Seewani Refinery Private Limited

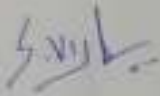

Authorized Signatory

PLAINTIFF

For GRAMINCO Industrial Park


Authorized Signatory

DEFENDANT



COUNSEL FOR PLAINTIFF



COUNSEL FOR DEFENDANT



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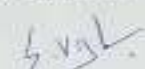
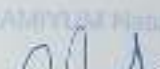
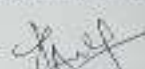




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ANNEXURE -B
OLD INFRINGING TRADEMARK OF THE DEFENDANT



For Kaleeswari Refinery Private Limited  Authorized Signatory PLAINTIFF  COUNSEL FOR PLAINTIFF	For GRAMYUM Natural Fresh  Authorized Signatory DEFENDANT  COUNSEL FOR DEFENDANT
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AT MADRAS
(Ordinary Original Civil Jurisdiction)
C.S. (Com. Div.) No. 127 of 2022

M/s. Kaleesuwari Refinery Private Limited
- Plaintiff

Vs
Gramiyum Nature Fresh
- Defendant

JOINT COMPROMISE MEMO FILED BY THE
PARTIES

26784

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21 SEP 2022
SECTION
ORDINARY CIVIL JURISDICTION

Vijayan Subramanian (1215/2007)
COUNSEL FOR PLAINTIFF
9840669573, 9841320723

K. Moorthy, S.R. Sundar
COUNSEL FOR DEFENDANT



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5. Both learned counsel submit that said MOC has been signed by Mr.A.Saravanan, son of Mr.K.M.Arumugam, Manager (Legal) on behalf of the plaintiff-company and the defendant is represented by Mr.C.Prakash, son of M.Chandran. To be noted, these are the individuals (natural persons) who have represented /signed for the plaintiff and defendant qua pleadings in the main suit. Both learned counsel submit that both parties have signed said MOC in the presence of each other and seek to dispense with the presence of the parties for recording the said MOC.

6. Be that as it may, both learned counsel request for a compromise decree in terms of said MOC.

7. In the light of nature of the matter and the submissions made, considering the terms of said MOC, request for dispensing with the presence of the parties is acceded to.

Captioned suit decreed in terms of said MOC, which shall form part of the judgment and decree. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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M.SUNDAR.J.,

gpa

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& A.No.2592 and 3354 of 2022**

22.09.2022