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C.S.(Comm.Div.)No.156 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2022

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.S.(Comm.Div.)No.156 of 2022 and
O.A.Nos.476 and 477 of 2022

M/s.Paulsons Beauty & Fashion Private Limited,
Rep by its Authorised Signatory,
Shabnam Kamil
Having Office at No.12, Halls Road,
Kilpauk, Chennai – 600 010.

... Plaintiff

Vs.

Sulthan Vaniyambadi Biryani,
No.16, Medavakkam Main Road,
Ganesh Nagar, Bharat Nagar,
Keelkattalai, Chennai – 600 117.

... Defendant

Prayer: This Civil Suit is filed under Order VII Rule 1 of the Code of Civil Procedure read with Order IV Rule 1 of High Court O.S. Rules and Section 134 and Section 135 of the Trade Marks Act, 1999, prayed for a Judgment and Decree:-

a) Granting a mandatory injunction restraining the defendant, their men, servants, agents or anyone claiming through or under them from in any manner infringing the plaintiff Trade Mark and Trading style “SULTHAN'S BIRIYANI” by using the offending Trade Mark and Trading Style “SULTHAN VANIYAMBADI BIRIYANI” or any other



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mark or marks which are similar or in any way deceptively similar to or a colourable imitation of the plaintiffs Trade Mark “Sulthan's Biriyanī”.

b) Granting a permanent injunction restraining the defendant, their men, servants, agents or anyone claiming through or under them from in any manner Passing-off the plaintiff Trade Mark and Trading Style “SULTHAN'S BIRIYANI” by using the offending Trade Mark and Trading style “SULTHAN VANIYAMBADI BIRIYANI” or any other mark or marks which are similar or in any way deceptively similar to or a colourable imitation of the plaintiffs Trade Mark “Sulthan's Biriyanī”.

c) Directing the defendant to render a true and faithful account of the profits earned by them through the sale of food products bearing the offending trade mark “SULTHAN” and directing payment of such profits to the plaintiff by way of damages for infringement committed by the defendant.

d) Directing the defendant to surrender to plaintiff the entire stock of unused offending goods with Trade Mark “SULTHAN” with name boards, labels, wrappers, boxes, covers, bags, packets, carons, bills, advertisements, materials, reports, envelopes, brochures, printing blocks etc., bearing the offending Trademark for destruction.

e) Directing to the defendant to pay the plaintiff the costs of the suit.

For Plaintiff	: M/s. Preetha Natarajan
For Defendant	: Ms.Dharshini for M/s.G.Mohammed Aseef



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JUDGMENT

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Today when the matter is taken up for hearing, the learned Counsel for the plaintiff and the defendants have filed a Joint Memo of Compromise recording the satisfaction of the suit claim and the settlement of *inter se* suit between the plaintiffs and the defendants. The learned counsel for the plaintiff and the defendant are present. They have filed a Joint Compromise Memo on 27.10.2022.

2.The Joint Compromise of Memo dated 27.10.2022, signed by the plaintiff and the defendant and also by their respective counsels. Both the learned counsel for the plaintiff and the defendant affirmed that they signed the Joint Compromise Memo and they are aware of the terms of the Joint Compromise Memo. The terms of Joint Compromise Memo are as follows:-

"1.The defendant undertakes not to use the Trademark of the plaintiff, "SULTHAN'S BIRIYANI" or any other mark which is similar or identical to the plaintiff's registered Trademark and the defendant has changed their trade mark as "RAFEEQ VANIYAMBADI BIRIYANI".

2.The defendant undertakes not to use the name and get up, which are closely similar to get up of the plaintiff's Hotel "SULTHAN'S



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BIRIYANI” and the trade dressing of the defendant's Hotel.

3.The defendant undertakes to use the trade name, and get up for their hotel “RAFEEQ VANIYAMBADI BIRIYANI”.

4.The defendant undertakes not to pass-off the Trademark as and for those of the plaintiff's by adopting the similar or identical name, getup, logo of the plaintiff's Hotel “SULTHANS BIRIYANI”.

5.The defendant shall erase, remove or obliterate from all the infringing materials in his possession or control which has the offending trade mark.

6.The defendant undertakes to compromise the plaintiff sufficiently with damages if it violates any of the clauses of this memo of compromise."

3.Since both the parties have agreed to the terms of the Joint Memo of Compromise, the same is recorded and accordingly this Civil Suit is decreed. No costs. The Joint Memo of Compromise dated 27.10.2022 shall form part and parcel of this judgment and decree. Consequently, connected original applications are closed.

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Internet : Yes/No

Index : Yes/No

Speaking Order/Non-Speaking Order

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