



C.S.No.399 of 2020
(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.399 of 2020

(Comm.Suit)

and

**A.Nos.774, 775, 776, 777, 778, 3251 of 2021 and O.A.Nos.746, 747 &
748 of 2020**

1. Mr.S.Sudhakar,
No.84, M.C.Road,
Old Washermenpet,
Chennai-600 021.
2. Shri Lakshmi Agro Foods Pvt. Ltd.,
No.9, N.N.Garden,
10th Street, Chennai-600 021,
Rep.by its Managing Director,
Mr.S.Sudhakar.
3. Shri Lakshmi Agro Foods,
No.10, N.N.Garden,
10th Street, Chennai-600 021,
Rep.by its Partner,
Mr.S.Sudhakar.
4. Adhavan Agros,
No.84, M.C.Road,
Old Washermenpet,
Chennai 600 021,
Represented by its Partner



C.S.No.399 of 2020
(Comm.Suit)

WEB COP S.Sudhakar

.. Plaintiffs

.vs.

1. Jayapriya Food Products Private Limited,
No.37, Siva Vishnu Complex, 2nd Floor,
Natesan Street, T.Nagar, Chennai 600 017.
Represented by its Managing Director
Mr.Chinnasamy Rajagopalan Jayasankar.
2. Mr.Chinnasamy Rajagopalan Jayasankar,
Managing Director,
Jayapriya Food Products Private Limited,
No.37, Siva Vishnu Complex, 2nd Floor,
Natesan Street, T.Nagar, Chennai 600 017.
3. Ms.Rangasami Kasthuri,
Director,
Jayapriya Food Products Private Limited,
No.37, Siva Vishnu Complex, 2nd Floor,
Natesan Street, T.Nagar, Chennai 600 017.
4. Mr.Ramamoorthy Sivasubramanian,
Director,
Jayapriya Food Products Private Limited,
No.37, Siva Vishnu Complex, 2nd Floor,
Natesan Street, T.Nagar, Chennai 600 017.
5. Mr.Ramamoorthy Tamilselvan,
Director,
Jayapriya Food Products Private Limited,
No.37, Siva Vishnu Complex, 2nd Floor,
Natesan Street, T.Nagar, Chennai 600 017.

..Defendants



C.S.No.399 of 2020
(Comm.Suit)

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Prayer:

Civil Suit has been filed under Order IV Rule 1 O.S.Rules r/w Sections 27, 134 and 135 of the Trade Marks Act, 1999, pleased to grant a judgment and decree on the following terms:-

a) A perpetual injunction restraining the defendants, their distributors, stockiest, servants, agents, retailers, representatives or any other person claiming under/through them from in any manner infringing the plaintiffs' registered trademark 'ADHAVAN' and/or 'ஆதவன்' by manufacturing, selling, offering for sale, stocking, advertising, exporting, importing either directly and/ or indirectly any goods and in particular any food or allied products under the trademark 'AADHAVAN' either per-se or in combination and/or any other mark either in English or Tamil or any other language, which is identical with and/or deceptively similar to plaintiffs' registered trademark "ADHAVAN" or 'ஆதவன்' or in any other manner whatsoever;

b) A perpetual injunction restraining the defendants, their distributors, stockiest, servants, agents, retailers, representatives or any other person claiming under/through them from in any manner manufacturing, selling, offering for sale, stocking, advertising, exporting, importing, either directly and/or indirectly any goods and in particular any food or allied products using the trademark 'AADHAVAN', either per se or in combination and/or any other mark either in English or Tamil or any other language which is identical with or deceptively similar to the



C.S.No.399 of 2020
(Comm.Suit)

WEB CONTENT

plaintiffs' trademark 'ADHAVAN' or 'ஆதவன்', so as to pass off the defendants' products as and for the products of the plaintiffs or in any other manner whatsoever connected with the plaintiffs;

c) A perpetual injunction restraining the defendants, their distributors, stockiest, servants, agents, retailers, representatives or any other person claiming under them from in any manner using the trademark 'AADHAVAN', either per se or in combination and/or any other mark either in English or Tamil or any other language which is identical with or deceptively similar to the plaintiff trademark 'ADHAVAN' or 'ஆதவன்' as an ad-word or keyword or in respect of their website address or contents or trading style or name of entity or social media handle or social media name or in any other manner whatsoever;

d) The defendants be ordered to surrender to plaintiffs for destruction all packed goods, labels, dyes, blocks, moulds, screen prints, packing materials and other materials bearing the trademark 'AADHAVAN' either per se or in combination and/or any other mark either in English or Tamil or any other language which is identical with or deceptively similar to the plaintiff trademark 'ADHAVAN' or 'ஆதவன்';

e) A preliminary decree be passed in favour of the plaintiffs directing the defendants to render account of profits made by use of trademark 'AADHAVAN' either per-se or in combination and/or any other mark either in English or Tamil or any other language and a final decree be passed in favour of the plaintiffs for the amount of profits thus found to have been made by the defendants, after the latter have rendered accounts;



C.S.No.399 of 2020
(Comm.Suit)

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f) The defendants be ordered and decreed to pay to the plaintiffs a sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs Only) as special damages for acts of passing off and infringement of trademark committed by them;

g) For costs of the suit;

For Plaintiffs : Mr.Madhan Babu

For Defendants : Mr.Ramesh Ganapathy

J U D G M E N T

The present suit was filed by the plaintiffs with the grievance that the defendants are infringing the registered trademark of the plaintiffs and accordingly, various reliefs were sought for against the defendants. The first defendant is the company and defendants 2 to 5 are the directors of the first defendant-Company.

2. During the pendency of the suit, the parties were able to arrive at a settlement and the same was reduced to writing by way of a joint memorandum of compromise submitted before this Court. The memorandum of compromise has been signed by the plaintiffs and also by the first defendant represented by its directors. The memorandum of compromise has also been signed by the respective counsel. The learned counsel for the defendants submitted that a resolution was passed by the company and thereby, the memorandum of compromise signed by the first



C.S.No.399 of 2020
(Comm.Suit)

defendant was on behalf of the defendants 2 to 5 also.

3. A scanned reproduction of the joint memorandum of compromise
is as follows:



C.S.No.399 of 2020
(Comm.Suit)

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

C.S. (Commercial) No. 399 of 2020.

1. Mr. S. Sudhakar,
No.84, M.C. Road,
Old Washermenpet,
Chennai – 600021.
 2. Shri Lakshmi Agro Foods Pvt. Ltd.,
No.9, N.N. Garden,
10th Street, Chennai – 600021
Rep. by its Managing Director
Mr. S. Sudhakar
 3. Shri Lakshmi Agro Foods
No.10, N.N. Garden,
10th Street, Chennai – 600021
Rep. by its Partner
Mr. S. Sudhakar
 4. Adhavan Agros
No.84, M.C. Road,
Old Washermenpet,
Chennai – 600021
Represented by its Partner
S. Sudhakar
- Plaintiffs

Versus

1. Jayapriya Food Products Private Limited
No.37, Siva Vishnu Complex, 2nd floor,
Natesan Street, T.Nagar, Chennai – 600 017.
Represented by its Managing Director
Mr. Chinnaasamy Rajaopalan Jayasankar
2. Mr. Chinnaasamy Rajaopalan Jayasankar
Managing Director,
Jayapriya Food Products Private Limited
No.37, Siva Vishnu Complex, 2nd floor,
Natesan Street, T.Nagar, Chennai – 600 017.
3. Ms. Rangasamy Kasthuri
Director,
Jayapriya Food Products Private Limited
No.37, Siva Vishnu Complex, 2nd floor,
Natesan Street, T.Nagar, Chennai – 600 017.

For JAYAPRIYA FOOD PRODUCTS (P) LTD

R. Ranganathan

DIRECTOR

SHRI LAKSHMI AGRO FOODS

S. Sudhakar

Partner

For SHRI LAKSHMI AGRO FOODS

S. Sudhakar

S. SUDHAKAR

Director

For ADHAVAN AGROS

S. Sudhakar

Authorized Signatory



C.S.No.399 of 2020
(Comm.Suit)

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4. Mr.Ramamoorthy Sivasubramanian
Director,
Jayapriya Food Products Private Limited
No.37, Siva Vishnu Complex, 2nd floor,
Natesan Street, T.Nagar, Chennai - 600 017.
 5. Mr.Ramamoorthy Tamilselvan
Director,
Jayapriya Food Products Private Limited
No.37, Siva Vishnu Complex, 2nd floor,
Natesan Street, T.Nagar, Chennai - 600 017.
- ... Defendants

**JOINT MEMORANDUM OF COMPROMISE BETWEEN THE PLAINTIFFS
AND DEFENDANTS**

The Plaintiffs and the Defendants have agreed to compromise the matter in the following terms:

1. The terms plaintiffs and defendants shall mean and include their respective heirs, executors, administrators, successors and assigns.

2. The Defendants acknowledge to the plaintiffs' exclusive right with

regard to 'Adhavan',



and



trademarks and that the said trademarks are well known trademarks of the plaintiffs and that the plaintiffs are entitled to exclusively use the trademarks in respect of all goods, in particular any food articles including but not limited to rice, dhali, rava, maida, sunflower oil, spices, condiments etc..

For JAYAPRIYA FOOD PRODUCTS (P) LTD

R. Siva Kumar
DIRECTOR

SHRI LAKSHMI AGRO FOODS

DIRECTOR

For SHRI LAKSHMI AGRO FOODS PVT. LTD.
S.UDHAKAR
Director
For ADHAVAN AGROS
Partner
Authorized Signatory



C.S.No.399 of 2020
(Comm.Suit)

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3

3. The defendants agrees to submit to a decree as prayed for in terms of prayer (A) to (C) of para 25 of the Plaint, namely :

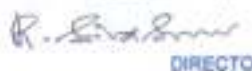
A. A perpetual injunction restraining the defendants, their distributors, stockiest, servants, agents, retailers, representatives or any other person claiming under/through them from in any manner infringing the plaintiffs' registered

trademark 'ADHAVAN' and/or  by manufacturing, selling, offering for sale, stocking, advertising, exporting, importing either directly and/or indirectly any goods and in particular any food or allied products under the trademark 'AADHAVAN' either per-se or in combination and/or any other mark either in English or Tamil or any other language, which is identical with and/ or deceptively similar to plaintiffs' registered trademark

"ADHAVAN" or  or in any other manner whatsoever;

B. A perpetual injunction restraining the defendants, their distributors, stockiest, servants, agents, retailers, representatives or any other person claiming under/through them from in any manner manufacturing, selling, offering for sale, stocking, advertising, exporting, importing either directly and/or indirectly any goods and in particular any food

For JAYAPRIMA FOOD PRODUCTS (P) LTD


DIRECTOR

SHRI LAKSHMI AGRO FOODS

Partner

For SHRI LAKSHMI AGRO FOODS PVT. LTD.


S. SATHISH KUMAR
DIRECTOR

For ADHAVAN AGRO


S. SATHISH KUMAR
Authorised Signatory



C.S.No.399 of 2020
(Comm.Suit)

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4

or allied products using the trademark 'AADHAVAN', either per se or in combination and/or any other mark either in English or Tamil or any other language which is identical with or deceptively similar to the plaintiffs trademark 'ADHAVAN'

or , so as to pass off the defendants' products as and for the products of the plaintiffs or in any other manner whatsoever connected with the plaintiffs.

- C. A perpetual injunction restraining the Defendants, their distributors, stockiest, servants, agents, retailers, representatives or any other person claiming under them from in any manner using the trademark 'AADHAVAN', either per se or in combination and/or any other mark either in English or Tamil or any other language which is identical with or deceptively similar to the plaintiff trademark 'ADHAVAN' or

 as an ad-word or keyword or in respect of their website address or contents or trading style or name of entity or social media handle or social media name or in any other manner whatsoever

4. On request, the Plaintiffs permit and allow the 1st Defendant to use the impugned mark which has been currently used by the Defendant which is annexed as Annexure-2 in respect of their products for a period of 6 months from the date of this agreement. Such use shall be limited to

For JAYAPRIMA FOOD PRODUCTS (P) LTD

R. Srinivasan
DIRECTOR

SHRI LAKSHMI AGRO FOODS

Partner

For SHRI LAKSHMI AGRO FOODS (P) LTD

S. SUDHAKAR

For ADHAVAN

Authorized signatory



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C.S.No.399 of 2020
(Comm.Suit)

5

limited purpose of exhausting the existing stock of products containing the impugned mark annexed as Annexure-2.

5. The 1st Defendant shall thereafter use the trademark which is annexed herewith as Annexure-1 in respect of the products of the Defendant, and the Plaintiffs do not have any objection for the same.

6. The Defendants after the permitted period of 6 months, shall stop using the trademark "Aadhavan", which is annexed as Annexure-2 or "Aadhavan" or Adhavan in Tamil Language or any language in respect of their products. The Defendants shall ensure that none of their products under the impugned trademark AADHAVAN is available for sale even at the retail level after the 6 months period mentioned above and shall ensure that all such unsold products at retail level is recalled from circulation. If the Defendant violates the terms of this agreement and uses the trademark "Aadhavan", or "Adhavan" or Adhavan in any Language in future, the Plaintiffs herein are at liberty to take appropriate legal action against the Defendants.

7. The Defendant shall withdraw/cancel the trademarks for "Aadhavan" or "Adhavan" or Adhavan in Tamil Language or any language which are registered/pending before the Trademarks Registry within 30 days from the date of this agreement and shall not make any further applications seeking registration of the mark "Aadhavan" or "Adhavan" or Adhavan in Tamil Language or any language.

For SHRI LAKSHMI AGRO FOODS PVT. LTD.
R. Siva Kumar
DIRECTOR
SHRI LAKSHMI AGRO FOODS
Partner
S. Sudhakar
For ADHAVAN AGRO
Authorized Signatory



C.S.No.399 of 2020
(Comm.Suit)

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6

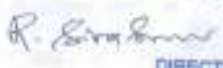
8. In view of the above, the plaintiffs hereby give up all their other claims as against the defendants as sought for in prayers 'd', 'e' and 'f' of para 25 of the plaint.

9. It is agreed that the parties shall have no further claims whatsoever against each other and the present compromise fully and finally settles all the disputes.

Dated at Chennai on this the 26th day of January, 2022.


For SHRI LAKSHMI AGRO FOODS PVT. LTD.
SHRI LAKSHMI AGRO FOODS

For ADHAVAN AGRO FOODS
PLAINTIFFS
Authorised Signatory

For JAYAPRIMA FOOD PRODUCTS (P) LTD

DIRECTOR

DEFENDANTS


Counsel for the Plaintiffs


For MISSION LEGAL
Counsel for the Defendants



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C.S.No.399 of 2020
(Comm.Suit)

7

ANNEXURE - 1

(Proposed/ Permitted New Trademark of 1st Defendant)



For SHRI LAKSHMI AGRO FOODS
R. S. Srinivasan
DIRECTOR

For SHRI LAKSHMI AGRO FOODS
S. SUDHAKAR
DIRECTOR

For ADHAVAN
S. SUDHAKAR
Authorized Signatory



C.S.No.399 of 2020
(Comm.Suit)

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ANNEXURE – 2

(Impugned Trademark of the Defendants)



For JAYAPRITHA FOOD PRODUCTS (P) LTD
R. Siva Kumar
DIRECTOR

For SHRI LAKSHMI AGRO FOODS PVT. LTD
[Signature]
SHRI LAKSHMI AGRO FOODS
For SHRI LAKSHMI AGRO FOODS PVT. LTD
[Signature]
Partner
For ADHAVAN AGROS
[Signature]
Authorized Signatory



C.S.No.399 of 2020
(Comm.Suit)

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4. In view of the above, the present 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 plaintiffs for refund of the entire Court fee paid by them. The learned counsel for the plaintiffs 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 plaintiffs 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.

31.01.2022

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



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C.S.No.399 of 2020
(Comm.Suit)

N.ANAND VENKATESH,J.
mk

Civil Suit No.399 of 2020
(Comm.Suit)

31.01.2022