



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 17TH DAY OF MARCH 2022

THE HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

A.No.4935 of 2021

in

C.S.(Comm Div)No.317 of 2020

South India Krishna Oil and Fats Private Limited,
Unit No.101, 102A, First Floor,
RealtechCopia Corporate Suites,
Plot No.9, Jasola District Centre,
New Delhi-110 025

represented by its Authorized Signatory,
Mr.Ramneesh Kumar Aggarwal

...Applicant/Plaintiff

-Versus-

Sovereign Agrotech Refinery Private Limited,
Old-3A, New-8, Second Street,
Srinivasa Nagar, Koyembedu,
Chennai-600 107

and also at

New No.6/1, Old No.22/1,
Balaji Avenue, 2nd Street,
T.Nagar, Chennai-600 017.

... Respondent/Defendant

This application coming on this day before this court for hearing,

the court made the following order:



The suit is filed in respect of alleged infringement of trademark and copyright. The remedy of passing off and other ancillary remedies are also prayed for. By order dated 16.11.2021, this Court had framed four issues. The present application is filed for framing three additional issues. The three additional issues relate to a recasting of the first issue and the inclusion of issues in respect of passing off and copyright infringement.

2. The respondent / defendant has filed a counter affidavit. The main objection is that the plaintiff is not entitled to any protection in respect of the word "SURYA", whether used separately or in combination.

3. Upon examining the pleadings and the above submissions, the applicant is entitled to succeed because the applicant has prayed for the relief of passing off and copyright infringement, whereas issues have not been framed in respect thereof. In addition, even as regards the remedy of infringement of trademark, the issue does not cover the trademark "SURYA GOLD SUPER OLEIN". Consequently, the application is allowed and the following is the complete list of issues after recasting, including the additional issues, and re-numbering:

1. Whether the plaintiff's trademarks are distinctive and entitled to protection?

2. Whether the defendant has infringed the registered trademark



"GOLD SURYA" and "SURYA GOLD SUPER OLEIN" issued in favour of the plaintiff?

3. *Whether the defendant is passing off its goods as that of the plaintiff?*
4. *Whether the defendant has infringed the copyright in the original artistic work comprised in the packaging of the plaintiff's products?*
5. *Whether the plaintiff is entitled to the reliefs prayed for?*
6. *Whether the parties are entitled to any other relief?*

4. Both parties are directed to agree upon and submit a common proposed case management schedule. List the matter on 31.03.2022.

Sd/.S.K.R.J.
17.03.2022

//Certified to be a true copy//

//Certified to be a true copy//

Dated at Madras this the day of 2022.

SU/23.03.2022

COURT OFFICER(O.S.)

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