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C.S.No.(Com.Div).No.34 of 2023
and O.A.No.115 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2023

CORAM

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

C.S.(Com.Div)No.34 of 2023
and O.A.No.115 of 2023

M/s.Kaleesuwari Refinery Private Limited,
Represented by its Manager (Legal),
A.Saravanan
No.53, Rajasekaran Street,
Opp: Kalyani Hospital, Dr.Radhakrishnan Salai,
Mylapore, Chennai – 600 004.

...Plaintiff

Versus

Arulperumjothi Groups,
No.8/13, Megarali Street,
Gandhi Nagar, Vellore,
Tamil Nadu – 580 025.

...Defendant

Prayer: This Civil Suit is filed under Order IV Rule 1 of the Original Side Rules r/w Order VII Rule 1 of Civil Procedure Code, Rules r/w Sections 134 & 135 of the Trade Marks Act, 1999, praying for



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(i) 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 "AS DEEPAM OIL" or any mark or word deceptively similar to the aforesaid Trade Mark of the plaintiff's for any edible oil marketed by the defendant, their men, agents, associates and / or assignees or any person claiming rights from the defendant.

(ii) For preliminary decree directing the defendant to render true account of profits made by the defendant by using the aforesaid offending mark/label of "AS DEEPAM OIL".

(iii) For erasure, removal or obliteration from all infringing goods, materials or articles in the possession or control of the defendant with the offending mark/labels and pouches deceptively similar to the plaintiff's "DHEEPAM".

(iv) directing the defendant to pay the plaintiff the cost of the suit.



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For Plaintiff : Mr.Vijayan Subramanian

JUDGMENT

The present Civil Suit has been filed by the plaintiff, seeking for the relief, as stated in the prayer portion of this judgment.

2.Learned counsel appearing for the plaintiff would submit that the plaintiff is the market leader in various edible oil business and in April 2009, the plaintiff launched unique lamp oil with its reputed brand “DHEEPAM”, which has now become one of the well-know brand of the plaintiff. Since the trade label of the defendant's product viz., 'AS DEEPAM' is deceptively similar to the trademark 'DHEEPAM' belonging to the plaintiff, the present suit came to be filed.

3.Learned counsel appearing for the plaintiff would further submit that the defendant contacted the plaintiff through phone and informed that he removed the image of “AS DEEPAM OIL” in online free listing



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and the defendant has also sent a letter dated 14.02.2023 to the plaintiff, in this regard. Therefore, he would submit that the present Civil Suit may be closed and he has also not pressing any costs.

4.The letter dated 14.02.2023 sent by the defendant to the plaintiff is extracted hereunder:

“We received your letter regarding name similarities between “AS Deepam Oil” and your companies “Dheepam Oil”, we have request to remove the image of “AS Deepam Oil” in online free listing and it has been removed, this product we don't have a market (no enquiry) so we stoped it before launching (no sales), so no product in market.

Note: We already removed the image of “AS Deepam Oil” from the online free listing on that month itself and we sent this same letter to you on 17.08.2022 in responding to your first letter.”

5.Recording the submissions made by the learned counsel



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appearing for the plaintiff that the defendant has removed the image of
“AS Deepam Oil” in online free listing and the letter dated 14.02.2023
sent by the defendant to the plaintiff, no further order is required in the
present suit.

6.In the result, this Civil Suit stands closed. No costs.
Consequently, connected Original Application is closed.

21.02.2023

Index : Yes/No
Internet: Yes/No
Speaking Order/Non Speaking Order



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KRISHNAN RAMASAMY, J.,

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