



WEB COPY

C.S.(Comm.Div.)No.161 of 2020



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2023

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.S.(Comm.Div.)No.161 of 2020

M/s.Kallesuwari Refinery Pvt. Ltd.

Rep. By its Manger (legal)

Mr.A.Saravanan

No.53, Rajasekaran Street,

Opp: Kalyani Hospital, Dr.Radhakrishnan Salai,

Mylapore, Chennai – 600004

...Plaintiff

Vs.

M/s. RVK Oil Industries Staar Corporation,

No.36, KGF Main Road,

Bangarpet – 563114,

Karnataka

...Defendant

PRAYER: **Plaint** is filed under under Order IV Rule 1 of the O.S Rules. read with Order VII Rule 1 of CPC Rules read with Sections 134 & 135 of the Trademarks Act, 1999, read with Section 61 & 62 of the Copyright Act, 1957, praying to pass the judgment and decree:-

i. For a permanent injunction to restrain the Defendant, their men, agents, associates and /or assignees or any person claiming rights from them



from infringing the Plaintiff's registered Trade Mark "**Gold Winner**" by using the offending Trade Mark "**GOLD RUNNER**" 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 a permanent injunction to restrain the Defendant its men, agents, associates and /or assignees or any person claiming rights from therein from passing-off their inferior product, as that of the Plaintiff's "**Gold Winner**" edible refined sunflower oil by using the offending words "**GOLD RUNNER**" or any other words or mark and offending packing Material and pouch deceptively similar to the Plaintiff's trade mark "Gold Winner" and Trade dress for "Gold Winner".

iii. Permanent injunction restraining the Defendant from violating the Plaintiff's Copyright in the artistic work used in the Plaintiff's packing material/ pouches used for packing refined edible sunflower oil and bearing its reputed and well known registered Trademarks "Gold Winner" by substituting the Trademark "**Gold Winner**" with the offending words



WEB COPY

"GOLD RUNNER" bearing same trade dress, color scheme and get up deceptively similar to that of the Plaintiff's colour scheme and trade dress in the packing material / pouch bearing trade Mark **"Gold Winner"**

iv. For preliminary decree directing the Defendant to render true account of profits made by the Defendant by using the aforesaid offending label of **"GOLD RUNNER"**.

v. Directing the Defendant, its men, agents, assignees, dealers and/or retailers, distributors, to surrender to the plaintiff all offending pouch / packing material, label, advertising materials, hoarding, letter heads, office stationary and all other material containing/ bearing offending mark/label **"GOLD RUNNER"** with distinct color scheme, get up or any other mark visually or phonetically similar to the Plaintiff's trademark **"Gold Winner"** label for destruction by an order of this Court;

vi. 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 **"Gold Winner"** refined sunflower oil;



vii. To pay for the costs of the suit:

viii. and pass such further or other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and thus render justice.

For Plaintiff : M/s.Vijayan Subramanian

For Defendant : M/s.R.Satish Kumar

JUDGMENT

The plaintiff and the defendant have entered into a compromise which has been reduced into writing in a Joint Compromise Memo dated 09.06.2023. The Joint Compromise Memo is signed by the plaintiff and the defendant and also by their respective counsels. The said Joint Compromise Memo dated 09.06.2023 is taken on file.



C.S.(Comm.Div.)No.161 of 2023

WEB COPY

2. Accordingly this Civil Suit is decreed in terms of the Joint Compromise Memo dated 09.06.2023. The terms of Joint Compromise Memo signed by the plaintiff and the defendant shall form part and parcel of this judgment and decree. No Costs.

12.07.2023

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
shr



WEB COPY



C.S.(Comm.Div.)No.161 of 2020

P.T. ASHA, J,

shr

C.S.(Comm.Div.)No.161 of 2020

12.07.2023