



C.S. (Comm. Div.) No.97 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

C.S. (Comm. Div.) No.97 of 2024 and
O.A.Nos.372 and 373 of 2024 and
A.No.2619 of 2024

Hatsun Agro Product Ltd.

Represented by its authorized signatory, P.Vivek

Having registered office at

No.41(49), Janakiram Colony Main Road,

Janakiram Colony, Arumbakka,

Chennai - 600 106

... Plaintiff

Vs.

M/s.Ammu Ice Cream

Represented by its Proprietor,

Harikrishnan S/o. Vadamalai

No.78, Pakkumara Salai

Cuddalore HO (Near Silver Beach)

Cuddalore - 607 001

Also at:

No.40/1, Pakkumara Salai (Near Silver Beach)

Devanampattinam, Cuddalore,

Tamil Nadu - 607 001

... Defendant



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Prayer: The plaint is filed under Order VII Rule 1 Code of Civil Procedure read with Order IV Rule 1 of High Court O.S. Rules and Section 134 and 135 of the Trademarks Act, 1999 and Section 7 of the Commercial Courts Act, 2015, praying to pass judgment and decree against the defendant on the following terms:

a. For a permanent injunction restraining the defendant, by itself, its servants, agents, legal representatives, distributors or anyone claiming through it from in any manner infringing the plaintiff's registered trademark "Arun ICECREAMS"/it logo by using the mark "Ammu ICECREAMS"/its logo or any other deceptively similar mark in any manner whatsoever causing infringement to the plaintiff's registered trademarks as described in the schedule to the plaint;

b. For a permanent injunction restraining the defendant, by itself, its servants, agents, legal representatives, distributors or anyone claiming through it from in any manner whatsoever from passing off and enabling others to pass off the defendant's business as that of the plaintiff's by using the mark "Arun ICECREAMS"/it logo or the mark "Ammu ICECREAMS"/its logo or any other mark or trade name which is deceptively similar or identical to the plaintiff's trademark "Arun ICECREAMS"/ its logo in any manner whatsoever;



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c. Declare that the plaintiff's trademark "Arun ICECREAMS"/its logo is a well-known mark as recognized under the Trademarks Act, 1999;

d. Directing the defendant to surrender to the plaintiff all the products and stocks with the offending labels, together with the blocks, dies, name boards, sign boards, etc., for destruction;

e. Directing the defendant to render true and faithful accounts of the profits earned by it through the sale of the products bearing the offending trademark labels and directing payment of such profits to the plaintiff;

f. Directing the defendant to pay to the plaintiff a sum of Rs.3,00,000/- as damages for committing acts of infringement of trademark and passing off;

For Plaintiff : Mr.Surya Senthil
for M/s.Surana & Surana
For defendant : Mr.Harikrishnan (appeared in person)

JUDGMENT

The present suit is filed by the plaintiff for (a). permanent injunction restraining the defendant from in any manner infringing the plaintiff's registered trademark "Arun ICECREAMS"/it logo, (b). permanent



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injunction restraining the defendant from in any manner whatsoever from passing off and enabling others to pass off the defendant's business as that of the plaintiff, (c). to declare that the plaintiff's trademark "Arun ICECREAMS"/its logo is a well-known mark as recognized under the Trademarks Act, 1999, (d). to directing the defendant to surrender to the plaintiff all the products and stocks with the offending labels, together with the blocks, dies, name boards, sign boards, etc., for destruction, (e). to directing the defendant to render true and faithful accounts of the profits earned by it through the sale of the products bearing the offending trademark labels and directing payment of such profits to the plaintiff, (f). to directing the defendant to pay to the plaintiff a sum of Rs.3,00,000/- as damages for committing acts of infringement of trademark and passing off.

2. Today (15.07.2024), when the matter is taken up for hearing, the authorized signatory of the plaintiff and the defendant appeared before this Court and they stated that, pending suit they entered into compromise and



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the terms and conditions of the compromise have been reduced into writing in the memorandum of compromise dated 04.07.2024. Further, they both stated that they understood the terms and conditions mentioned in the memorandum of compromise and they accepted the terms and conditions mentioned therein.

3. Even though, the parties have arrived at compromise and filed a memo to that effect, it is seen that the defendant was already set ex-parte vide order of this Court dated 20.06.2024.

4. In view of the above, this suit is decreed in terms of memorandum of compromise dated 04.07.2024, on filing of application to set aside the ex-parte order dated 20.06.2024 and passing orders on the same. The said memorandum of compromise shall form part and parcel of this decree.

5. Consequently, connected applications are closed.

15.07.2024

Neutral Case Citation : Yes/No
Ksa-2



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P.VELMURUGAN. J.

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