



Appeal(CAD). No.3 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2024

CORAM

**THE HONOURABLE MR.JUSTICE M.SUNDAR
AND**

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

**Appeal(CAD) No.3 of 2022
and C.M.P.No.20069 of 2022**

G.Saravanan

...Appellant/Defendant

Vs.

M/s.R.K.Ganapathy Chettiar,
Rep., by its partner S.Bhasker,
138, Muthur Raod, Kangeyam,
Tiruppur District-638 701,
Tamil Nadu.

... Respondent/Plaintiff

Appeal filed under Section 13(1A) of Commercial Courts Act, 2015
r/w Order XLI of Civil Procedure Code, against the judgment and decree
dated 18.10.2022 passed in C.O.S.No.17 of 2021 on the file of the learned
Principal District Judge, Tiruppur.

For Appellant : Mr.S.Diwakar



Appeal(CAD). No.3 of 2022

For Respondent : Mr.Ramesh Ganapathy

WEB COPY

JUDGMENT

(Judgment of the Court was made by K.GOVINDARAJAN THILAKAVADI, J.,)

The captioned Appeal is directed against the judgment and decree dated 18.10.2022 passed in C.O.S.No.17 of 2021 on the file of the Principal District Judge, Tiruppur.

2.The respondent herein as plaintiff filed a suit for Infringement of Copyright and passing off in respect of the impugned mark vide C.O.S.No.17 of 2021 before the Principal District Court, Tiruppur.

3.The above suit is decreed in favour of the respondent/plaintiff vide judgement and decree dated 18.10.2022, granting a permanent injunction restraining the appellant/defendant from using the impugned trade mark.

4.The respondent/plaintiff also filed a rectification petition vide O.P(TM)No.3 of 2023 to remove the impugned trade Mark from the Register



Appeal(CAD). No.3 of 2022

of the Trade Mark Registry.
WEB COPY

5.The appellant/defendant, aggrieved by the impugned judgment and decree has preferred the present appeal before this Court.

6. After appearance of the respondent, the learned counsel for the respective parties namely Mr.S.Diwakar, learned counsel for the appellant and Mr.Ramesh Ganapathy, learned counsel for the respondent submitted that with a view to give quietus to the matter, the parties have agreed to settle their disputes amicably and reduced the terms in writing by way of a Joint Memorandum. The scanned reproduction of the joint memorandum of compromise is as hereunder:



WEB COPY



Appeal(CAD). No.3 of 2022

TERMS OF THE MEMORANDUM OF COMPROMISE:

1. The Appellant herein agrees to stop and not to use the trade mark, that is challenged in the Rectification petition vide OP(TM) No. 3 of 2023, having Registration No. 3814752 in Class 29 as annexed along with this memo as Annexure- A.
2. The Appellant herein has changed his trade mark, "GVG" as annexed along with this memo as Annexure-B, in respect of his ghee products.
3. The Appellant herein agrees that he will take steps within 30 days of signing this Agreement, to withdraw/ cancel the impugned trade mark having Registration No. 3814752 in Class 29 with the Trade Mark Registry.
4. The Appellant agrees that he will not use any trade mark/ label/ logo/ device which is deceptively similar or identical as that of the Respondent's domestic trade mark/label,

For M/s. R.K. GANAPATHI CHETTIAR

S. I. L.

Partner

For VISHNU SRY GHEE Co.

G. S.



Proprietor



Appeal(CAD). No.3 of 2022



International Trade

marks/label,

as well as the



5. The Appellant agrees that all the terms of this agreement will be strictly followed by the Appellant and the Appellant agrees that in case of any violation by the Appellant, the Respondent herein is free to take appropriate legal action against the Appellant herein.

6. The Respondent and the Appellant herein agree to dispose-off this instant appeal hearing A.S (CAD) No. 3 of 2022 filed before the Hon'ble High Court of Madras, in terms of this Joint Compromise Memo.

For M/s. R.K. GANAPATHI CHETTIAR

[Signature]

Partner

For VISHNU SRY GHEE Co.

[Signature]

Proprietor



Appeal(CAD). No.3 of 2022

WEB COPY

It is therefore prayed that this Hon'ble Court may be pleased to receive the Memo of Compromise and pass an order in terms of the same and pass such further or other order as this Hon'ble Court may deem fit and proper in the circumstance of the case and thus render justice.

Dated at Tirupur on this the 25th day of April 2024.

For M/s. R.K. GANAPATHI CHETTIAR

S. I. L.

Partner

RESPONDENT

For VISHNU SRY GHEE Co.

G. Saravanan

Proprietor

APPELLANT

[Signature]

COUNSEL FOR THE APPELLANT COUNSEL FOR THE RESPONDENT

[Signature]

7.The said joint memorandum of compromise has been signed by both parties and counter signed by their respective counsel. The appellant namely G.Saravanan is before us in the physical Court, whereas, the respondent namely R.K.Ganapathy Chettiar, represented by its partner



Appeal(CAD). No.3 of 2022

S.Bhasker appeared through Video conferencing and the parties identified each other and also the parties were identified by their respective counsel. After interacting with the parties, we are satisfied that the parties have voluntarily entered into joint memorandum of compromise. Hence, we are inclined to accept it.

8.In view of the above, this captioned Appeal is disposed of in terms of compromise and the same will form part of the decree. Consequently, connected miscellaneous petition is closed.

[M.S.,J] [K.G.T.,J]

29.08.2024

vsn

Internet:Yes/No

Index:Yes/No

Speaking/Non-speaking order



WEB COPY



Appeal(CAD). No.3 of 2022

M.SUNDAR,J.

and

K.GOVINDARAJAN THILAKAVADI, J.

vsn

Appeal(CAD).No.3 of 2022

and C.M.P.No.20069 of 2022

29.08.2024