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C.S. (COMM. DIV.) No.201 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2024

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.S. (COMM. DIV.) No.201 of 2024

M/s.Kaleesuwari Refinery Private Ltd.,
Rep. by its Authorised Signatory,
A. Saravanan

.... Plaintiff

VS

AI-Shiek Oil Traders,
4/2B, Rajavayal,
9A, Nathampanna,
Pudukottai – 622 005,
Tamil Nadu.

.... Defendant

Prayer : Complaint filed under Order VII Rule 1 of CPC read with Order IV Rule 1 of High Court O.S. Rules and Section 134 and Section 135 of the Trade Marks Act, 1999 prays for the following reliefs :-

i) Granting 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 trademark "KARTHIKAI DEEPAM LAMP OIL" or any mark or word deceptively similar to the aforesaid Trade Mark of the plaintiff's for lamp oil marketed by the defendant, their men, agents, associates and / or assignees or any person claiming rights from the defendant, pending



disposal of the above suit.

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ii) Granting a permanent injunction restraining 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 "DHEEPAM" Lamp oil by using the offending words "KARTHIKAI DEEPAM LAMP OIL" or any other words or mark and offending packing material and pouch deceptively similar to the plaintiff's trade mark "DHEEPAM", pending disposal of the above suit and thus render justice.

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

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

v) To pass an order of declaration, declaring the plaintiff registered trade mark "DHEEPAM" as "well known mark" within the meaning of section 2(1)(zg) read with section 11(6) of the trademarks Act, 1999 along with a direction to the registrar of Trademarks to notify the mark "DHEEPAM" on the register of well-known marks;

vi) To pay the plaintiff the costs of the suit.

vii) Pass such further or other orders as this Court may deem fit and proper in the circumstances of the case.

For Plaintiff

: Mr.Vijayan Subramanian



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JUDGMENT

The learned counsel for the plaintiff has placed before this Court the additional typed set of papers. As seen from the same, the defendant has changed the label. The tradename of the defendant has also been changed as “KARTHIKAI LAMP OIL”. Earlier the defendant was using “KARTHIKAI DEEPAM LAMP OIL”. The learned counsel for the plaintiff has also made an endorsement in the Court bundle with regard to the aforesaid fact. Since the parties have resolved the matter amicably out of the Court and since the defendant has changed the label, nothing survives for further adjudication in this suit. After recording the said endorsement this suit is closed. No costs.

04.12.2024

Index: Yes/ No
Speaking order / Non speaking order
Neutral citation : Yes / No
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ABDUL QUDDHOSE, J.



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