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C.S.(Comm.Div.) No.215 of 2024

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED: 20.12.2024

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THE HONOURABLE **MR. JUSTICE ABDUL QUDDHOSE**

C.S.(Comm.Div.) No.215 of 2024

M/s.Kaleesuwari Refinery Pvt. Ltd.,
Rep. By its Authorized signatory,
A.Saravanan.
Chennai.

.. Plaintiff

Vs

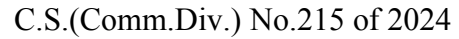
Kamatchy Refineries,
Salem.

.. Defendant

Prayer: This suit is filed under Order IV Rule 1 of the Original Side Rules read with Order VII Rule 1 of CPC read with Sections 134 and 135 of the Trade Marks Act, 1999, read with Sections 61 and 62 of the Copyright Act, 1957, seeking for

a) granting a permanent injunction restraining the Defendant, their men, agents, associates and / or assignees or any person claiming rights from them from infringing the Plaintiffs registered Trade Mark "GOLD WINNER" by using the offending Trade Mark "V GOLD" or any mark or for word deceptively similar to the aforesaid Trade Mark of the Plaintiff's any edible oil marketed by the Defendant, their men, agents, associates and/or assignees or any person claiming rights from the Defendant;

b) 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



c) granting a 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 registered Trademark "GOLD WINNER" by substituting the Trademark "GOLD WINNER" with the offending words "V GOLD" bearing same trade dress, colour 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";

d) for preliminary decree directing the Defendant to render true account of profits made by the Defendant by using the aforesaid offending label of "V GOLD";

e) to pass an order of declaration, declaring the Plaintiff's registered trademark "GOLD WINNER" 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 "GOLD WINNER" on the register of well-known marks; and

f) to pay for the costs of the suit;

For Plaintiff : Mr.Vijayan Subramanian

For Defendant : Ms.N.Devi



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JUDGMENT

Both the counsels on instructions would submit that the parties have settled their disputes and they have also filed a joint compromise memo dated 18.12.2024 as per the draft placed before this Court in the open court today.

2. The following terms have been agreed upon between the plaintiff and the defendant for the purpose of arriving at an amicable settlement and the same is reproduced hereunder:-

1. The Plaintiff has filed the above suit against the defendant for the infringement of the Trade Mark and passing off of its registered Trade Mark "GOLD WINNER" and by an order dated 29/10/2024 obtained an exparte interim injunction against the defendant.

2. Pursuant to the order dated 25/11/2024 of the Hon'ble Court, the Plaintiff and the Defendant respectfully submits that with a view to give quietus to the matter and without prejudice to the rights of the parties, they have agreed to settle their disputes amicably on the following terms:



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1. The Defendant undertakes not to use the pouch which is similar to that of the Plaintiff, which is the subject matter of the suit. The Defendant also undertakes that they will henceforth stop the production of the goods bearing the impugned pouch herein and has already taken steps for the same.

2. The Defendant shall exhaust the existing stocks /pouch of the refined sunflower oil, which is the subject matter of the suit within a period of three months from the date of the judgment and decree in the suit.

3. The Defendant agrees to modify the present pouch / label which is the subject matter of the suit to a getup which is not in resemblance to the pouch getup of the Plaintiff's "GOLD WINNER". The changed pouch is annexed herewith as Annexure - A.

4. The Plaintiff shall have No Objection to the use of the trade mark V-GOLD by the Defendant, which is the subject matter of Registration No. 1533947 and the defendant shall withdraw the Registration No. 3691988 in class - 29.



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3. In terms of the aforesaid settlement terms agreed between the plaintiff and the defendant, the suit is decreed. Connected applications are closed. No Costs.

20.12.2024

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ABDUL QUDDHOSE,J.

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