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C.S.(Comm.Div) No.216 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2024

CORAM

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

C.S.(Comm.Div) No.216 of 2024

M/s.Kaleesuwari Refinery Private Limited,
represented by its Authorised Signatory,
Mr.A.Saravanan
No.53, Rajasekaran Street,
Opp. Kalyani Hospital,
Dr.Radhakrishnan Salai, Mylapore,
Chennai - 600 004.

... Plaintiff

Vs

M/s.Subhalakshmi Agro Foods,
No.349, Paalimedu,
Poondurai Main Road,
Kespapettai, Erode - 638 115.

... Defendant

Civil Suit filed under Order IV Rule 1 of the O.S.Rules r/w
Order VII Rule 1 of the Code of Civil Procedure Rules r/w Sections 134 &
135 of the Trade Marks Act, 1999 r/w Sections 61 & 62 of the Copyright
Act, 1957.

- 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 plaintiff's registered Trade Mark "GOLD WINNER" by using the offending Trade Mark "MAHA 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,



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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 Plaintiff's "GOLD WINNER" edible refined sunflower oil by using the offending words "MAHA GOLD" 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".
- 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 "MAHA 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 "MAHA 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.
- f) To pay for the costs of the suit.

For Plaintiff : Mr.Vijayan Subramanian

For Defendant: Mr.S.Suresh Kumar



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ORDER

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An affidavit of undertaking dated 13.12.2024 has been filed by the defendant undertaking as follows:

- (a) the defendant has closed down their business of trading edible oils as of now and undertakes not to use any other mark or package, which is similar or identical to plaintiff's registered trademark at any time in the future.
- (b) the defendant undertakes not to use the get up, colour scheme, arrangement of the colour, which are closely similar to the plaintiff's get up and logo in respect of their trademark "Gold Winner" at any time in the future.
- (c) the defendant undertakes not to pass-off the goods as and for those of the plaintiff's by adopting a similar or identical get up, colour scheme, get up and logo of the plaintiff's product "Gold Winner" and its pouch/packing material at any time in the future.
- (d) the defendant hereby agrees for the grant of reliefs in favour of the plaintiff in respect of the suit prayers found in paragraph No.54(a)(b)(c)(e).



(e) the plaintiff has confirmed that they will not press the suit prayer found in paragraph 54(d) and 54(f).

(f) the defendant undertakes to compensate the plaintiff sufficiently with damages if it violates any of the undertaking as referred to supra.

2. Learned counsel for the plaintiff, on instructions, is agreeable to the undertaking given by the defendant as recorded by this Court supra. Learned counsel, on instructions, would submit that the plaintiff is not pressing the suit prayers found in paragraph 54(d) and 54(f) and will be satisfied if a decree is passed in favour of the plaintiff insofar as paragraph No.54(a)(b)(c) and (e) are concerned.

3. The affidavit of undertaking dated 13.12.2024 filed by the defendant is taken on record and in terms of the settlement agreed upon between the plaintiff and the defendant as recorded supra by this Court, this suit is decreed in favour of the plaintiff by granting the following reliefs in favour of the plaintiff against the defendant:

(a) the defendant shall close down their business of trading edible oils as of



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now and they shall not use any other mark or package, which is similar or identical to the plaintiff's registered trademark any time in the future.

- (b) the defendant shall not use the get up, colour scheme, arrangement of the colour, which are closely similar to the plaintiff's get up and logo of the plaintiff's product "Gold Winner" any time in future.
- (c) the defendant shall not pass off their goods and for those of the plaintiff by adopting a similar or identical get up, colour scheme, arrangement of the colour and logo of the plaintiff's product "Gold Winner" and its pouch/packing material any time in the future. The defendant shall compensate the plaintiff sufficiently with damages if it violates any of the undertaking given to the plaintiff as referred to supra.

No costs.

16.12.2024

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ABDUL QUDDHOSE, J

gm

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