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C.S(COMM DIV) No. 136 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-11-2025

CORAM

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.S(COMM DIV) No. 136 of 2024

Hatsun Agro Product Ltd.,
Represented by its Authorised Signatory Mr.P.Vivek
Having Registered office
at No.41 (49), Janakiram Colony Main Road,
Janakiram Colony, Arumbakkam,
Chennai 600 106

Plaintiff (s)

Vs

Bellam Akhil Kumar
Proprietor of M/s.Sri Aroghya Food Products,
Having office at
Bhimavarani Road, Inokullu, Prakasam,
Andhra Pradesh - 523167
Also carrying on business at
4-2/1, Near Masjid Kadavakudurru,
Inokullu, Prakasam, Andhra Pradesh - 523 167

Defendant (s)

PRAYER

Plaint filed under Order VII Rule 1 CPC r/w. Order IV Rule 1 of High Court O.S.Rules and Section 134 & 135 of the Trademarks Act, 1999 and Section 7 of the Commercial Courts Act, 2015

a) For a permanent injunction restraining the Defendant, by himself, his servants, agents, legal representatives, distributors or any one claiming through it from in any manner infringing the Plaintiff's registered trademark AROKYA by using the mark SRI AROGHYA or any other deceptively similar mark in any manner whatsoever causing infringement to the Plaintiff's registered trademark as described in the Schedule to the Plaint.

b) For a permanent injunction restraining the Defendant, by himself, his



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servants, agents, legal representatives, distributors or any one 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 SRI AROGHYA or any other mark or trade name which is deceptively similar or identical to the Plaintiff's trademark AROKYA in any manner whatsoever.

c) 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.

d) 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.

e) 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 (s): Mr.Shubham Mathew George
for M/s.Surana and Surana

For Defendant (s): Defendant set ex parte on
22.01.2025



ORDER

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The plaintiff seeks the following relief in this Suit:

“a) For a permanent injunction restraining the Defendant, by himself, his servants, agents, legal representatives, distributors or any one claiming through it from in any manner infringing the Plaintiff’s registered trademark AROKYA by using the mark SRI AROGHYA or any other deceptively similar mark in any manner whatsoever causing infringement to the Plaintiff’s registered trademark as described in the Schedule to the Plaintiff.

b) For a permanent injunction restraining the Defendant, by himself, his servants, agents, legal representatives, distributors or any one 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 SRI AROGHYA or any other mark or trade name which is deceptively similar or identical to the Plaintiff’s trademark AROKYA in any manner whatsoever.

c) 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.

d) 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.

e) 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.The learned counsel for the Plaintiff submitted that the Plaintiff owns a well known trademark AROKYA for milk and dairy products from the year 1994. The Defendant manufactures and sells food products including coffee powder. The Plaintiff owns multiple brands including AROKYA and several registrations for AROKYA and its variants across relevant classes. The



trademark has become distinctive and exclusively associated with the Plaintiff's dairy products across India.

3.He further submitted that in the year 2022, the Plaintiff came to know that the Defendant is selling coffee powder under the mark SRI AROGHYA, which is phonetically, structurally, and visually deceptively similar to that of the plaintiff's trade mark viz., AROKYA. The addition of "SRI" and minor spelling variations (GH instead of K) does not alter the deceptive similarity. The Defendant's goods fall within the same food category. The Defendant's attempt to register its trademark SRI AROGHYA was earlier refused under Section 11(1) of the Trade Marks Act. Despite receiving cease and desist notice dated 16.05.2022, the Defendant continued using the impugned mark.

4.Heard the submissions made by the learned counsel for the plaintiff and perused the materials available on record.

5.A perusal of the records reveal that, since there was no appearance on behalf of the defendant, either in person or through counsel and written statement has also not been filed, by order dated 22.01.2025, the defendant was set ex parte and the Registry was directed to list the matter before the learned Additional Master IV for recording of ex-parte evidence on 29.01.2025.

6.Pursuant to the said order, the matter was listed before the learned Additional Master No. IV on 29.01.2025 and PW1's examination was completed on 07.03.2025. On the side of the plaintiff, Mr.Syed Irfan was examined as P.W.1. Twenty two (22) documents were marked as Ex.P1 to Ex.P22, the details

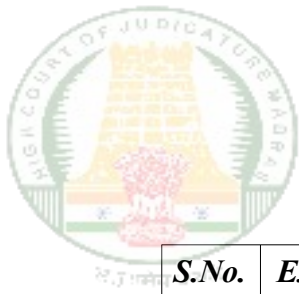


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of which are as follows:

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<i>S.No.</i>	<i>Exhibits</i>	<i>Dated</i>	<i>Details</i>
1	Ex.P.1	07.04.1998	Photocopy of the incorporation certificate of the plaintiff company
2	Ex.P.2	Nil	Printout of the plaintiff company's Master Data as available on the MCA website.
3	Ex.P.3	15.07.2024	Original board resolution of the plaintiff company authorizing Mr.Syed Irfan to represent the plaintiff company
4	Ex.P.4 (s) (33 Nos)	1995-2018	Photocopy of the trademark certificates obtained by the plaintiff for their trademark AROKYA for 1995-2018.
5	Ex.P.5	15.06.2021	Photocopy of the Chartered Accountant Certificate for Annual Sales turnover and Sales Promotion Expenses for the financial years 1994-1995 to 2020-2021.
6	Ex.P.6 (s) (8 Nos.)	17.03.2016 to 15.06.2021	Photocopy of the Chartered Accountant Certificate for Annual Sales turnover and Sales Promotion for AROKYA Brand from the financial years 2013-2014 to 2020-2021.
7	Ex.P.7	14.10.2018	Photocopy of the ISO certificates obtained by the plaintiff.
8	Ex.P.8	09.12.2018 to 05.05.2023	Printout of the FSSAI certificates obtained by the plaintiff for its various plants.
9	Ex.P.9	19.09.2019	Printout of the order of the examiner of trademarks refusing registration of the defendant's trademark application No.3666792.
10	Ex.P.10(s) (34 Nos)	2000 to 2013	Printout of the invoices for advertisement expenses incurred by the plaintiff company from 2000 to 2013.
11	Ex.P.11	Nil	Printout of the advertisements / pamphlets of the plaintiff company.



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S.No.	Exhibits	Dated	Details
12	Ex.P.12	Nil	Printout of the articles / advertisements published in newspapers and journals.
13	Ex.P.13	Nil	Photocopy of the list of distribution channel.
14	Ex.P.14	1991 to 2021	Printout of the invoices raised against orders made for the plaintiff's product AROKYA from 1991 to 2021.
15	Ex.P.15	Nil	Printout of the screen shots of the television advertisements of the plaintiff company.
16	Ex.P.16	Nil	Printout of the plaintiffs' product package.
17	Ex.P.17	Nil	Printout of the defendants' product package.
18	Ex.P.18	Nil	Printout of the details available online regarding the defendant's products.
19	Ex.P.19	Nil	Printout of the online status of the defendant's trademark application No.3666792 as per IP India website.
20	Ex.P.20	16.05.2022	Copy of the cease and desist notice issued on behalf of the plaintiff along with postal receipt.
21	Ex.P.21	27.05.2022	Photocopy of the reply notice issued on behalf of the defendant.
22	Ex.P.22	08.03.2023	Original non-starter report issued by the legal services authority.

7.A comparison of both marks would reveal the following differences in



the marks:

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Plaintiff's mark	Defendant's mark
	

8.The evidence of P.W.1, recorded before the learned Additional Master No.IV, establishes that the the Plaintiff company was incorporated under the Indian Companies Act (Ex.P.1); the Plaintiff has adopted and used the trademark AROKYA in respect of milk and milk products from the year 1994; that the Plaintiff has been vigilant and cautious to protect its rights with respect to the trademark AROKYA and has applied for registration of the trademark under the appropriate classes under the Trade Marks Act, 1999 ('the Act') and has also obtained registrations (Ex.P.4); the Plaintiff has built up its reputation and goodwill for all their products over the years under its distinctive trademarks "ARUN", "HATSUN", "AROKYA", "IBACO", "SANTOSA", "OYALO" etc., and produced the Chartered Accountant Certificate for the Annual Sales Turnover and Sales Promotion Expenses for the financial years 1994-1995 to 2019-2020 (Ex.P.5).

9.It is clear that the plaintiff is involved in the manufacture and marketing



of various foods and dairy products and obtained ISO Certificate (Ex.P.7) and FSSAI Certificates (Ex.P.8); since the Defendant's mark is deceptively and phonetically similar as to the mark of the Plaintiff TM Application of the Defendant was refused (Ex.P.9); that the Plaintiff has very huge network of distribution and marketing and because of this huge network and organized distribution and marketing, its products are available everywhere (Ex.P.13); that the plaintiff has designed its distinctive packaging for its brand AROKYA in the market for its consumers to identify its products (Ex.P.16); that the Defendant's Product has a phonetically similar mark "SRI AROGHYA" in their packaging label (Ex.P.17).

10.The evidence of PW1 and documents filed by the plaintiff establish that the Trademark Registry refused to register the Defendant's trademark "SRI AROGHYA" (Ex.P.19). That apart, the Cease and desist Notice was issued by the Plaintiff (Ex.P.20), to which a reply notice was also issued on behalf of the Defendant (Ex.P.21). In the Pre-suit Mediation before the TNSLSA Authority the Defendant has not appeared even for a single hearing and the State Legal Service Authority, closed the mediation on 08.03.2023 and issued the "Non-starter Report" as no representation for Opposite Party (Ex.P.22). The oral and documentary evidence adduced by the plaintiff makes it clear that the defendant is infringing the registered trademark of the plaintiff and the defendant's trademark is deceptively similar to that of the plaintiff's trademark.

11.In fine, the suit is decreed as prayed for in terms of prayers (a) to (e) of



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the plaint. No costs.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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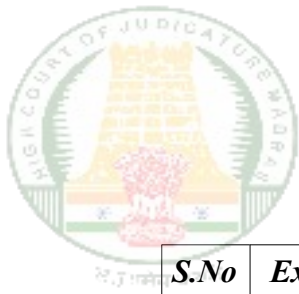


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Plaintiff's witness:
PW1. Mr.Syed Irfan

Document exhibited by the Plaintiff:

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			incurred by the plaintiff company from 2000 to 2013.
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22	Ex.P.22	08.03.2023	Original non-starter report issued by the legal services authority.

Defendant's witness & documents: Nil



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To
Bellam Akhil Kumar
Proprietor of M/s.Sri Aroghya Food Products, Having office at
Bhimavaran Road, Inokullu, Prakasam,
Andra Pradesh - 523167
Also carrying on business at
4-2/1, Near Masjid Kadavakudurru,
Inokullu, Prakasam,
Andhra Pradesh - 523 167



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N.SENTHILKUMAR J.
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