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C.S.(Comm.Div.) No.149 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2025

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

**C.S.(Comm.Div.) No.149 of 2024**  
**and O.A.Nos.577 & 578 of 2024**  
**and A.Nos.4196 & 4197 of 2024**

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

... Plaintiff

-VS-

M/s.Pohieer Dairy Private Limited,  
Having registered office at  
Plot No.3, Rajam Nagar, 1<sup>st</sup> Street,  
Sunnambu Kolathur Village,  
Chennai 600 117.

And also having office at  
No.5, Janani Nagar,  
Kundrathur,  
Chennai 600 069.

... Defendant

**PRAYER:** Civil Suit (Commercial Division) filed under Order VII Rule 1

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CPC Read With Order IV Rule 1 of High Court O.S.Rules and Section 134 and 135 of the Trade Marks Act, 1999 and Section 7 of the Commercial Courts Act, 2015, praying to grant a judgment and decree on the following terms:-

(A) For a permanent injunction restraining the defendant, by itself, its servants, agents, legal representatives, distributors or any one claiming through it from in any manner infringing the Plaintiff's registered trade dress ARUN ICECREAM CASATTA SLICE by using the impugned trade dress or any label or device or any other deceptively similar trade dress in any manner whatsoever causing infringement to the plaintiff's registered trade mark/dress as described in the schedule to the plaint.

(B) For a permanent injunction restraining the defendant, by itself, its servants, 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 impugned trade dress or any label or device which is deceptively similar or identical to the plaintiff's trade mark/dress in any manner whatsoever.

(C) For a declaration that the plaintiff's trademark "ARUN" is a well-



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known mark as recognized under the Trade Marks Act 1999.

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(D) Directing the defendant to surrender to the plaintiff all the products and stocks with the offending trade dress, labels, together with the blocks, name boards, sign boards, etc., for destruction.

(E) Directing the defendant to render true and faithful accounts of the profits earned by it through the sale of the products bearing the offending trade dress, labels and directing payment of such profits to the plaintiff.

(F) Directing the defendant to pay to the plaintiff a sum of Rs.3,00,000 as damages for committing acts of infringement of trade dress and passing off.

For Plaintiff : Mr.Surya Senthil  
for M/s.Surana and Surana

For Defendant : M/s.P.Muthamizh Selvakumar, R.Manimaran

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### **JUDGMENT**

In a suit seeking relief in respect of alleged infringement of the plaintiff's registered trade dress and alleged passing off, the parties have reached a settlement. The terms of settlement have been recorded in Memorandum of Compromise dated 05.01.2025 signed by an authorized



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signatory of the plaintiff and a Director of the defendant. The terms of compromise include an agreement that the suit be decreed as prayed for in paragraph 44(A) and 44(B) of the plaint. The plaintiff has agreed to give up the claims made in paragraph 44(C) to 44(G). I see no legal impediment in decreeing the suit in terms of the said Memorandum of Compromise.

2. Therefore, C.S.(Comm.Div.) No.149 of 2024 is partly decreed in terms of prayers in paragraph 44(A) and 44(B) of the plaint. The Memorandum of Compromise shall form an integral part of the decree. In view of the settlement, the parties shall bear their own costs. Consequently, O.A.Nos.577 and 578 of 2024 and A.Nos.4196 and 4197 of 2024 are closed.

**19.02.2025**

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Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No



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**SENTHILKUMAR RAMAMOORTHY,J**

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**19.02.2025**