



C.S.(Comm.Div.) No.205 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 24.03.2025

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

C.S.(Comm.Div.) No.205 of 2024

M/s.Kaleesuwari Refinery Private Limited,
Represented by its Authorized Signatory,
Mr.A.Saravanan (M – 45 years),
Having Registered Office at
No.53, Rajasekaran Street,
Opp: Kalyani Hospital, Dr.Radhakrishnan Salai,
Mylapore, Chennai 600 004.

... Plaintiff

-VS-

Selvamatha Oil Trading Company,
Ground Floor,
No.898, Pachapalayam,
Coimbatore – 641 107, Tamil Nadu.

... Defendant

PRAYER: Civil Suit (Commercial Division) filed under Order VII Rule 1
of Code of Civil Procedure Read With Order IV Rule 1 of High Court
Original Side Rules and Sections 134 and 135 of the Trade Marks Act, 1999,
praying to grant a judgment and decree on the following terms:-



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(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 Trade Mark "**DURGA 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.

(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 "**DURGA DEEPAM LAMP OIL**" or any other words or mark and offending packing Material and pouch deceptively similar to the plaintiff's trade mark "**DHEEPAM**".

(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 "**DURGA DEEPAM LAMP OIL**".

(iv). For ensure, removal or obliteration from all infringing goods,



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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 Trade Marks Act, 1999 along with a direction to the Registrar of Trade Marks to notify the mark **“DHEEPAM”** on the register of well-known marks.

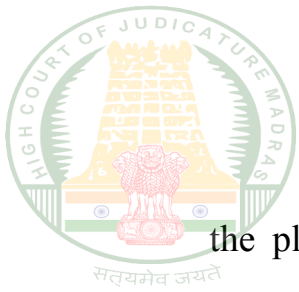
(vi). To pay the plaintiff the costs of the suit.

For Plaintiff : Mr.Dhanush
for M/s.Vijayan Subramanian

For Defendant : Ms.S.R.Gerthanna Sri
for Mr.S.Sathya Chandran

JUDGMENT

The suit was filed seeking relief in respect of alleged infringement of



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the plaintiff's registered trade mark DHEEPAM by use of the impugned trade mark "DURGA DEEPAM LAMP OIL" or any mark deceptively similar thereto or by passing off the defendant's products bearing the impugned mark as those of the plaintiff. Orders of ad interim injunction as prayed for were issued on 23.10.2024.

2. Upon entering appearance, the defendant has filed memo dated 24.03.2025. In the memo, it is stated as under:

*"1. The Defendant has stopped the business of manufacturing and selling "Lamp Oil" under the name **"DURGA DEEPAM LAMP OIL"**.*

2. The Defendant undertook not to engage in any business, marketing, branding, or promotional activities using the disputed name or any other deceptively similar variations thereof.

*3. The Defendant has removed and discontinued the use of all infringing materials relating to **"DHEEPAM"**, including but not limited to signage, packaging, advertisements, and online content.*

*4. The Defendant acknowledges the exclusive ownership rights of **DHEEPAM** held by M/s.KALEESUWARI REFINERY PRIVATE LIMITED and will not challenge or dispute the same in the future.*

5. The Defendant undertakes that in case of any future breach of this undertaking, the Defendant shall be liable for legal action, including but not limited to penalties, damages, and injunctions, as deemed appropriate by law."



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WEB COPY 3. In view of the above memo, on instructions, learned counsel for the plaintiff submits that the plaintiff is relinquishing the claim for rendition on accounts followed by a decree of profits and for the relief of destruction of the infringing materials. Therefore, it is submitted that the suit may be disposed of by granting the plaintiff leave to apply for appropriate relief if the defendant commits breach of the undertaking recorded in the memo.

4. In view of the above facts and circumstances, C.S.(Comm.Div.) No.205 of 2024 is disposed of in view of the undertaking in memo dated 24.03.2025. The plaintiff is also granted leave as prayed for. There shall be no order as to costs.

24.03.2025

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Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

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