

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29-02-2016

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

CIVIL SUIT No.131 of 2008

1.Agrigold Foods and Farm Products
Limited
Having it's Registered Office at
No.40-1-21, 4th Floor
Catholic Complex, M.G.Road
Vijayawada 520 010,
Andhra Pradesh
Represented by it's Chairman &
Managing Director
Venkata Rama Rao Avvas
2.Venkatarama Rao Avvas .. Plaintiffs

vs

Agri Gold Commodities Ltd.,
269, M.G. Road
Gorakund, Indore 452 002 .. Defendant

Civil suit filed under Order IV Rule 1 of O.S.

Rules and Order VII Rule 1 of the Code of Civil Procedure
read with Sections 27, 134 and 135 of the Trade Marks Act,
1999, praying for a judgment and decree granting a permanent
injunction, restraining the defendant, by themselves, their
servants, agents or anyone claiming through them from
passing off their goods including Water Tanks, Containers,
Dustbins & Pallets or their business as the business of the
plaintiffs by using the expression AGRIGOLD or any other
expression visually, phonetically or deceptively similar to
it either as or part of its business/trading name, or
otherwise in the course of their business, in their sign

boards, correspondence, letterheads, trade literature, advertisement in the print or electronic media including as e-mail ID or web address and in such other business literature and or enable others to pass off; granting a permanent injunction restraining the defendant, by themselves, their servants, agents, distributors, or anyone claiming through them from manufacturing, selling, offering and advertising for sale using the Trade Mark AGRIGOLD with respect to commodities exchange or in any media and use the same in invoices, letterheads and visiting cards or any other trade literature or by using any other trade mark which is in any way visually, phonetically or deceptively similar to the plaintiffs' registered trademark nos.935848, 935849, 1051706, 1051758, 1051769, 1174585, 1174586, 1174587, 1174588, 1174589, 1174590, 1174592, 1174594, 1174595, 1174599, 1174600, 1174602, 1174603, 1174605, 1174607, 1174608, 1296901, 1176229 or in any manner infringing the plaintiffs' aforesaid registered trade marks by using the mark AGRIGOLD either as prefix or suffix in the course of business; directing the defendant to surrender to the plaintiffs all the packing material, cartons, advertisement materials and hoardings, letterheads, visiting cards, office stationery and all other materials containing/bearing the trademark AGRIGOLD or other deceptively similar trade mark and for a preliminary decree in favour of the plaintiffs directing the defendant to

render an account of profits made by them by the use of the trading style AGRIGOLD on the goods referred and for a final decree in favour of the plaintiffs for the amount of the profits found to have been made by the defendants, after the defendants have rendered accounts and for costs.

For Plaintiffs : Mrs.Gladys Daniel
 For Defendant : Mrs.Abitha Banu
 for M/s.Surana and Surana

JUDGMENT

The learned Counsel appearing for the plaintiffs, as well as the learned Counsel appearing for the defendant, have jointly filed a Memorandum of Compromise dated 16.2.2016, vide Diary No.6385 dated 18.2.2016, and would submit that in the light of the compromise memo, the suit may be decreed in the terms mentioned in it.

2.It is relevant to extract the terms of the compromise memo dated 16.2.2016, as under:-

"1. The terms Plaintiffs and Defendant shall mean and include the heirs, executors, administrators, successors and assigns of each party.

2. Subject to the terms of this Memo of Compromise, the Defendant shall be entitled to use and to seek/continue

registration of the trademark AGRIGOLD only in respect of Brokerage on Commodity exchange, shares and securities included in Class 36.

3. The Defendant shall not use the trademark AGRIGOLD in respect of any other goods or services except as set out in para 2 above namely Brokerage on Commodity exchange, shares & securities included in Class 36. Similarly Plaintiff shall not use and/or seek registration of the trademark AGRIGOLD in respect of commodity exchange, shares & securities.

4. The Defendant shall not use the trademark AGRIGOLD in the style of writing set out here below, which is being used by the Plaintiffs in the suit.

5. The Defendant shall not file any application for registration of the trademark AGRIGOLD either in word or device in respect of any other goods or services, except for Brokerage on Commodity exchanges, shares & securities included in Class 36.

6. Subject to para 3 above, the Defendant shall not file any opposition to the applications filed by the Plaintiffs for registration of the Trademark AGRIGOLD. Similarly Plaintiffs shall not file any opposition to the applications filed by the Defendant for registration of the Trademark AGRIGOLD in respect of services mentioned in para 2 above. Plaintiffs agree to withdraw their opposition filed against Defendant's TM application no.1576492 (subject to Defendant amending the description of services to the services mentioned in para 2 above).

7. In view of the above, the Plaintiffs undertake to withdraw the ORA No.231/2008/TM/MUM pending on the file of the Intellectual Property Appellate Board at Chennai.

8. C.S. No.131 of 2008 shall be decreed in terms of the present compromise. In view of the decree in terms of the Memo of Compromise the Plaintiffs have given up the relief contained in prayer a, b,

c, d & e in para 24 of the suit including cost of the suit.

9. It is therefore prayed that this Hon'ble Court may be pleased to decree the above suit in terms of the Memo of Compromise and pass such further or other order, as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice."

3. Therefore, the suit is decreed in terms of the Memorandum of Compromise, which shall form part of the decree. No costs.

sd/.M.S.N.J

29.02.2016

//Certified to be a true copy//
Dated this the day of 2016.

S.s/16.06.2016

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COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.

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