



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-03-2026

CORAM

THE HON'BLE MR JUSTICE SENTHILKUMAR RAMAMOORTHY

A No. 4559 of 2025

IN

C.S(COMM DIV) NO. 154 OF 2025

Gautham Nithyanandham, Proprietor of M/s.TVS
Snuff Company,
171/70 Kodambakkam High Road,
T.Nagar ,Chennai 600 017, Tamil Nadu.

Also at Survey No.151/12 B.N.Kandigai Taluk,
Aaladu post, Ponneri Taluk, Thiruvallur District
601 204.

..Applicant(s)

Vs

1. M/s. MVS Gramany Sons
(a registered Partnership firm-Reg
No.365/2005) No. 70, Chinnambedu
Sakkarachetty Kulam, GNT Road Puduvayal
P.O 601206, Thiruvallur District, Tamil Nadu
Rep. by its Partners, Mr. J Nandakumar and
Mr. J. Vimalanathan
2. J. Nandakumar, Partner of M/s.M.V.S.Gramany
& Sons, No 70, Chinnambedu Sakkarachetty
Kulam, GNT Road, Puduvayal PO 601206,
Thiruvallur District ,Tamil Nadu.
3. J. Vimalanathan
No.70, Chinnambedu Sakkarachetty Kulam,
GNT Road Puduvayal PO 601206, Thiruvallur
District, Tamil Nadu.
4. J Nithyanandham
171/70 Kodambakkam High Road, T Nagar,
Chennai 600 017

..Respondent(s)



PRAYER: Judge's summons filed under XIV Rule 8 of Original Side Rules read with Order VII Rule 11(a) & (d) of the Code of Civil Procedure praying to reject the plaint in C.S (Comm.Div) No.154 of 2025 for want of cause of action and as barred by law.

For Applicant(s): Ms.Aanchal M.Nichani
for M/s.Eshwar Sabapathy

For Respondent(s): Mr.S.Shivathanu Mohan
For M/s.Ramesh Umapathy for R1 & R3
Mr.S.Diwakar for R4

ORDER

The present application is filed for rejection of the plaint on the ground that the plaintiffs did not resort to pre-institution mediation, as mandated by Section 12A of the Commercial Courts Act, 2015.

2. Learned counsel for the applicant / first defendant submits that the suit was instituted on or about November, 2024, after issuing lawyer's notice dated 02.12.2023. Therefore, she submits that the suit does not contemplate urgent interim relief. She submits that the judgment of the Hon'ble Supreme Court in *Novenco Building and Industry A/S v. Zero Energy Engineering Solutions Private Ltd. and Others*, MANU/SC/1449/2025, is distinguishable because the dispute therein related solely to infringement of trademark.



3. These contentions are refuted by learned counsel for the plaintiffs on the ground that in an action for infringement and passing off each act of infringement or passing off, as the case may be, gives rise to a fresh cause of action.

4. In *Novenco*, at paragraphs 23 and 26, it was held as follows:

“23. From the standpoint of the Appellant, each day of continuing infringement aggravates injury to its intellectual property and erodes its market standing. The urgency, therefore, is inherent in the nature of the wrong and does not lie in the age of the cause but in the persistence of the peril. The court cannot be unmindful of the fact that intellectual property disputes are not confined to the private realm. When imitation masquerades as innovation, it sows confusion among consumers, taints the market place and diminishes faith in the sanctity of the trade. The public interest, therefore, becomes the moral axis upon which the urgency turns. Therefore, the public interest element, need to prevent confusion in the market and to protect consumers from deception further imparts a colour of immediacy to the reliefs sought.

....



26. *For the reasons stated above, we hold that*
(i) In actions alleging continuing infringement of intellectual property rights, urgency must be assessed in the context of the ongoing injury and the public interest in preventing deception, (ii) Mere delay in institution of a suit by itself, does not negate urgency when the infringement is continuing.”

5. The present suit, as is evident from the plaint, is an action for both infringement and passing off. The first defendant does not deny that the marks continue to be applied to products sold by the first defendant. Therefore, the above principles are squarely applicable to this case. Consequently, this application is rejected.

02-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

(2/3)

KAL



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A No. 4559 of 2



SENTHILKUMAR RAMAMOORTHY, J.

KAL

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IN
C.S(COMM DIV) NO. 154 OF 2025**

**02-03-2026
(2/2)**



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C.S(COMM DIV) No. 154 of 2025

To

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2. J Nithyanandham
Partner of M/s. M.V.S. Gramany and Sons
171/70, Kodambakkam High Road, T.Nagar,
Chennai 600017