

**A.Nos.799 and 800 of 2017
in
C.S.No.302 of 2010**

P.KALAIYARASAN, J

These two applications have been filed by the plaintiffs (1) to receive additional documents pertaining to the Trademark and (2) to amend the short and long cause title of the plaint and

2. It is averred in the applications that the three plaintiffs who were joint owners of the Trademark Idhayam Gingely Oil trading as M/s. V.V.Vannia Perumal and sons filed the suit for permanent injunction as to the infringement of the Trademark and copyrights of the plaintiffs by the defendant. The partnership firm was constituted during the year 1943 and amended from time to time. Due to the business needs, the partnership firm was converted into a Limited Company namely "V.V.V & Sons Edible Oils Limited". The rights and ownership in trademark bearing No.746974 which is the subject matter of the suit has consequently been transferred to the Company V.V.V & Sons Edible Oils Limited.

3. The Trademark Registry was informed about the change in constitution of the partnership firm into a Limited Company vide TM Form 24, dated 29.03.2010 with a request to show that V.V.V & Sons Edible Oils Limited is the owner and

proprietor of the above said Trademark. Regarding the change in ownership of the Trademark, certain documents mentioned in the applications have to be filed to bring forth the facts. No prejudice would be caused to the respondent by allowing these two applications.

4. The respondent in his common counter contends that the transfer of business has taken place as early as in the year 2008 and the suit itself has been filed in the year 2010. The applicant has not explained why the suit itself was not filed in the name of the company. Further the applicant has not filed any document to show the transfer. Many of the documents now sought to be received are prior to the date of the suit and there were no references in the plaint. There is also no explanation for non-filing of those documents along with the plaint. The applications are purely to fill in the lacuna cited by the defendant in their written statement. Therefore both the applications are to be dismissed.

5. The three plaintiffs jointly filed the suit as to the infringement of their trademark and copyright by the defendant. They have been trading in the name and style M/s.V.V.Vannia Perumal & Sons. Initially they have been trading by constituting the partnership firm and subsequently it was converted into a

limited company namely V.V.V & Sons Edible Oils Limited. The plaintiffs were the joint owners of the Trademark Idhayam Gingely Oil and the same was not transferred to in the company's name on the date of filing of the suit. The plaintiffs submitted the TM Form 24 dated 29.03.2010 to the Trademark Registry requesting that V.V.V & Sons Edible Oils Limited is shown as the proprietor and owner of the Trademark. The Trademark Registry confirmed that V.V.V & Sons Edible Oils Limited is the owner of the Trademark bearing No.746794 vide its letter dated 03.03.2016. Consequent to such confirmation, the applicants / plaintiffs have come forward with these applications (1) to receive additional documents pertaining to the Trademark and (2) to amend the short and long cause title of the plaint.

6. Considering the above facts this Court rejects the contention of the learned counsel appearing for the respondent. The reasons given by the applicants are acceptable and further in order to give an opportunity to the applicants, this Court is of the view that these applications are to be allowed.

In fine both these applications are allowed. The documents are ordered to be received subject to relevancy and proof.

21-06-2017

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