

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 14TH DAY OF FEBRUARY 2019

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

A.No.1236 of 2019

in

C.S.NO.135 OF 2019

M/s. MRF Limited
Having regd. office at
No.114, Greams Road,
Chennai - 600 006, rep.by its
DGM - Marketing Development
Mr.P.Charles Pravin Kumar

:Applicant/Plaintiff

Vs.

M/s. Sarna Auto Electric Works
Shop No.111, 114, Ring Road Market,
Sarojini Nagar (Opp Naurauji Nagar)
New Delhi-23.

:Respondent/Defendant

This application praying that this Hon'ble Court be
pleased to permit Joinder of causes of action in respect of
infringement of trademark, passing off and infringement of
copyright in a single suit.

This applicaiton coming on this day before this Court
for hearing the court made the following order:

The present Application has been filed seeking to
permit joinder of causes of action in respect of
infringement of Trade Mark, passing off and infringement of
copyright in a single suit.

2. Learned counsel for the Applicant / Plaintiff

submitted that the Defendant has been actively carrying on
their business outside the jurisdiction of this Court by

infringing upon the intellectual property of the Plaintiff and under Section 134 of the Trademarks Act, 1999, this Court confers jurisdiction with respect to infringement of a registered Trademark. In support of his case, learned counsel has relied on a decision of this Court rendered in the case of **Brooke Bond India Limited, Calcutta vs. Balaji Tea (India) Pvt. Ltd., Raipur** in O.S.A.Nos.278 and 279 of 1989, decided on 25.11.1992, wherein, in paragraph 21, it is held as under:

"21. We have no reasons to think that if the law permits a person to institute a suit at a forum of his choice and that person exercises his discretion and chooses a particular Court for action, he abuses the process of the Court. Learned Single Judge has noticed and rightly said that Section 62 of the Copyright Act permits a deviation from the general law. But then, that gives a discretion to the litigant to decide the forum. It is his choice and not the choice of the Court. No exception can be taken if his discretion is not to the liking of the Court. Learned single Judge has in this behalf said at quite few places in his judgment that the Court may not in such cases be in a position to dismiss the suit as not maintainable or is one filed in a Court without jurisdiction, yet has said, 'but the Court will certainly refuse to grant relief to him'. We are recording our disagreement. No Judge can afford to deny a relief if in law and in equity such relief is available to a party, evidently not for the reason that he does not like the choice of the forum and the action in Court by a litigant. Since we have taken the view that the copyright action emerges from the same bundle of facts from which the trade mark and passing off actions emerge and copyright action is maintainable in this Court (learned Single Judge has also so found), we are of the opinion that it will not serve the ends of justice, if leave is refused for joinder of causes of action falling under the Copyright Act and the Trade and Merchandise Marks Act."

3. On a perusal of the plaint, it is seen that there appears to be an infringement of the Plaintiff's Copyright and Trademark by the Defendant herein. In view of clause 14 of the Letters Patent Act and in view of the above decision of this Court, this **Application is ordered, as prayed for.**

Sd/.S.V.N.J.

14.02.2019

//Certified to be a true copy//

Dated this the day of 2019.

SU/27.11.2019

COURT OFFICER

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

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