

Application No.3347 of 2019

in

C.S.SR.No.57418 of 2019**S.VAIDYANATHAN,J.**

The present Application has been filed *inter alia* under Clause 12 of Letters Patent seeking 'Leave to Sue' the Defendants/Respondents before this Court.

2. A perusal of the proposed plaint that has been placed before this Court reveals that the entity shown as 'Plaintiff' in the proposed plaint is the 'Applicant' herein. Entity shown as 'Defendants' in the proposed plaint are 'Respondents' respectively in the instant Leave to Sue Application.

3. For the sake of convenience, parties in the instant Application are referred to by their respective ranks in the proposed plaint.

4. According to the Plaintiff, their Company was incorporated in 1964 and is one of the foremost crop protection agro-chemical Companies in India. The Plaintiff is a leading producer of Sulphur based products for application in Agriculture and one of earliest manufacturers to develop the technology for Water Dispersible Granules (WDG), Suspension Concentrates (SC) and other breakthrough inventions. The subject Patent Application No.40/MUM/2007 was filed on 08.01.2007 with the Indian Patent Office leading up to the grant of

Indian Patent No.282429 on 11.04.2017.

5. It is the case of the Plaintiff that in April 2018, they came to know through its field force that the 1st Defendant is seeking to infringe the Plaintiff's patent through agricultural composition under the brand name "Suforty 90" similar to the composition described and claimed under Indian Patent No.282429. Pursuant thereto, the Plaintiff issued legal notice dated 26.04.2018 to the 1st Defendant, that the Plaintiff is the owner of the suit patent and that the 1st Defendant is involved in infringement of suit patent of the Plaintiff. However, the 1st Defendant, in its reply dated 10.05.2018 denied the infringement of the suit patent stating that the impugned product's composition is different from that of the suit patent.

6. Learned counsel for the Plaintiff submitted that the 1st Defendant is marketing, distributing and selling its products in the city of Chennai within the jurisdiction of this Court and that the 2nd Defendant is the dealer and distributor based in the city of Chennai, selling the 1st Defendant's products on a commercial scale. Hence, he pleaded that the Plaintiff may be permitted to sue the Defendants.

7. Having perused the proposed plaint and the Affidavit filed in support of the instant Leave to Sue Application and in the light of the submissions made by the learned counsel for the Plaintiff, this Court is convinced that cause of action has arisen for invoking the territorial jurisdiction of this Court and therefore, the Plaintiff is entitled to Leave to Sue as prayed for.

In the result, this Application is ordered as prayed for.

26.04.2019

Note to Registry:

- (i) Issue copy of this order today (26.04.2019)
- (ii) Number the Suit and list the matter for admission on 27.04.2019.
(aeb)

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