

Application No.5866 of 2019
in C.S.Diary No.104144 of 2019

KRISHNAN RAMASAMY, J.,

The above Application has been filed seeking to grant leave to sue the respondent.

2.1. Mr.P.Giridharan, learned counsel for applicant submitted that the applicant received a Legal Notice dated 01.08.2019, from the respondent, asking the applicant to cease and desist from using the name "THEOBROMA". He further submitted that the said notice is unjustified and groundless. He would also submit that the cause of action of the present suit arose in the month of June 2012, when the applicant started using the name "THEOBROMA" for soft textured chilled chocolate mousse cake at Mylapore, Chennai, however, the respondent has remained silent for a period of 7 years. He also submitted that the word "THEOBROMA" is a Botanical name for Cocoa over which the defendant cannot claim any monopoly.

2.2. The learned counsel would submit that the applicant has filed the present suit against the respondent since the applicant is carrying on its business at Chennai which is within the jurisdiction of this Court and therefore, a substantial part of the cause of action of the suit has also arisen at Chennai which is well within the jurisdiction of this Court.

KRISHNAN RAMASAMY, J.,

mrr

3. Heard the learned counsel for applicant.

4. After a perusal of the affidavit filed in support of the Application, this Court found that the substantial cause of action of the suit has arisen at Chennai. Therefore, taking into consideration of the above facts and circumstances of the case and also having been convinced with the reasons stated in the affidavit filed in support of the Application, this Application is ordered as prayed for.

5. Registry is directed to number the suit, if it is otherwise in order and post the same for hearing on 14.08.2019 at 02:15 p.m in the Afternoon Session.

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14.08.2019

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Note : Issue Order Copy on 14.08.2019

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