

Application No.7331 of 2019
in C.S.Dairy No.31008 of 2019

N.SATHISH KUMAR, J.,

The above Application has been filed seeking to grant leave to the applicant herein to sue the first respondent before this Court.

2.1. It is the case of the applicant that one Mr.Mohammed Nassre Mohammed Nazme, Managing Director of the applicant, coined, conceived and adopted the distinctive trade name and trademark "COOL PLANET" in the year 2006 and he had also obtained the trademark registration in respect of the said mark before the National Intellectual Property Office of Sri Lanka under Registration No.144945 in Class 35. The said trademark has been duly renewed and is presently in force.

2.2. While so, the respondents have copied the applicant's registered trademark "COOL PLANET" and the artistic work in the mark "COOL PLANET" and also attempted to pass off their store as that of the applicant.

3.1. The learned counsel for applicant fairly submitted that the respondents had adopted and using the trademark which is absolutely identical to the applicant's registered trademark leading to confusion and deception in the market. He further submitted that when it came to the knowledge of the applicant that the respondents are opening their stores in Chennai, immediately, the applicant issued a Legal Notice dated 23.09.2019, to the respondents seeking them to cease and desist from any and all forms of use of the mark, "COOL PLANET".

N.SATHISH KUMAR, J.,

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3.2. The learned counsel for applicant would contend that the entire cause of action of the suit arose within the jurisdiction of this Court since the respondents having their retail store and carrying on their business in Chennai. He would further contend that the first respondent alone is situated outside the jurisdiction of this Court and that the applicant has filed the present application for the relief stated *supra*. He therefore prayed that the present Application may be allowed.

4. Taking into consideration of the above facts and also having been satisfied with the reasons stated in the affidavit filed in support of the Application, this Court is inclined to allow the present Application. Accordingly, 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 27.09.2019, at 02:15 p.m, in the Afternoon Session.

27.09.2019

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Note: Issue Order Copy on 27.09.2019

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