

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 28TH DAY OF JUNE 2019

THE HON'BLE MR. JUSTICE S.VAIDYANATHAN

O.A. Nos.618 to 620 of 2018

and

A. Nos.8172 & 8173 of 2018

in

C.S. No.433 of 2018

M/s.Apex Laboratories Pvt.Ltd.,
29, III Floor, SIDCO Garment Complex,
Guindy, Chennai 600 032
rep.by its Authorised Signatory
D.Judge F.L.S.Durai Pandian ...Applicant/Plaintiff
(in O.A. Nos.618 to 620 of 2018)

-Versus-

1. Growmax Medicare Private Limited,
495, Narayan Peth, Pune 411 030
and also at B-159, 2nd Floor, DDA Shed,
Okhala Industrial Area, Phase -I,
New Delhi 110 020
2. Samson Laboratories Private Limited,
152, Sansiwala, Barotiwala,
Distt. Solan, Himachal Pradesh 174 103
... Respondents/Defendants
(in O.A. Nos.618 to 620 of 2018)

O.A. No.618 of 2018:-

Original Application praying that this Hon'ble Court be pleased to grant an ad interim, temporary injunction restraining the Defendants, by itself, its partners, men, servants, agents distributors stockiest, representatives or any one claiming through or under them from in any manner committing acts of copyright infringement by using, in the course of trade, labels/artistic works which are a substantial reproduction of Plaintiffs registered copyright under Nos.A-54243/1997 and A-91339/2011 and A. No.108878/2014 and A-115854/2017 in colour scheme, get up

and layout for their ZINKOACT for any syrup, tablets etc., or in any other manner whatsoever pending disposal of the suit.

O.A. No.619 of 2018:-

Original Application praying that this Hon'ble Court be pleased to grant an ad interim, temporary injunction restraining the Defendants, by itself, its partners, men, servants, agents distributors stockiest, representatives or any one claiming through or under them from in any manner passing off and/or enabling others to pass off the Defendants products under the trademark ZINKOACT as and for the plaintiffs products by manufacturing, selling, or offering to sell, distributing, displaying, printing, stocking, using advertising their products with a trademark and /or label or artistic work that is identical in colour scheme, get up and layout with that of the plaintiffs ZINCOVIT trademark or artistic work or in any other manner whatsoever pending disposal of the suit.

O.A. No.620 of 2018:-

Original Application praying that this Hon'ble Court be pleased to grant an ad interim, temporary injunction restraining the Defendants, by itself, its partners, men, servants, agents distributors stockiest, representatives or any one claiming through or under them from in any manner infringing the plaintiffs registered trademark ZINCOVIT by using a deceptively similar trademark ZINKOACT or any other trademark deceptively similar to the plaintiffs registered trademark or in any other manner whatsoever pending disposal of the suit.

A. Nos.8172 & 8173 of 2018:-

Growmax Medicare Private Limited,
495, Narayan Peth, Pune 411 030
and also at B-159, 2nd Floor, DDA Shed,
Okhala Industrial Area, Phase -I,

<https://hcservices.eco.nv.gov.in/hcservices/> 110 020.

... Applicant/1st Defendant

-Versus-

1. M/s.Apex Laboratories Pvt.Ltd.,
29, III Floor, SIDCO Garment Complex,
Guindy, Chennai 600 032
rep.by its Authorised Signatory
D.Judge F.L.S.Durai Pandian ... Respondent/Plaintiff
2. Samson Laboratories Private Limited,
152, Sansiwala, Barotiwala, Distt. Solan,
Himachal Pradesh 174 103 ... 2nd Respondent/2nd Defendant

A. No.8172 of 2018:-

Application praying that this Hon'ble Court be pleased to frame a preliminary issue regarding invalidity of the plaintiff's registration under No.487453 for the mark ZINCOVIT in C.S. No.433 of 2018.

A. No.8173 of 2018:-

Application praying that this Hon'ble Court be pleased to grant leave to the defendant No.1 to institute Rectification proceedings before the Hon'ble Intellectual Property Appellate Board against the registration No.487453 in class 5 for the trade mark ZINCOVIT in the name of the plaintiff by imposing a condition or limitation regarding exclusive right to the word ZINC as held by the Division Bench of this Hon'ble Court in the case titled as APEX LABORATORIES LTD., -VS- ZUVENTUS HEALTH CARE LTD., reported in MANU/TN/9346/2006 and Section 13 of the Trademarks Act, 1999.

These Applications coming on this day before this Court for hearing, the Court made the following order:-

Reserved on	Pronounced on
11.04.2019	28.06.2019

<https://hcservices.ecourts.gov.in/hcservices> The Applicant / (1st Defendant in the suit) has come forward with these Applications, seeking for the following

relief:

Application Number	Relief
A.No.8172 of 2018	To frame a preliminary issue regarding invalidity of the plaintiff's Registration under No.487453 for the mark ZINCOVIT in C.S.No.433 of 2018
A.No.8173 of 2018	To grant leave to the Defendant No.1 to institute Rectification proceedings before the Hon'ble Intellectual Property Appellate Board against the registration No.487453 in Class 5 for the trade mark ZINCOVIT in the name of the plaintiff by imposing a condition or limitation regarding exclusive right to the word Zinc as held by the Division bench of this Honble Court in the case titled as APEX LABORATORIES LTD VS ZUVENTUS HEALTH CARE LTD., reported in MANU/TN/9346/2006 and Section 13 of the Trade marks Act 1999.

2. In the plaint, the Plaintiff has sought for a) a permanent injunction restraining the defendants, by itself, its partners, men, servants, agents, distributors, stockiest, representatives or any one claiming through or under them from in any manner infringing the plaintiff's registered trademarks ZINCOVIT by using a deceptively similar trademark ZINKOACT or any other trademark deceptively similar to the plaintiff's registered trademark or in any other manner whatsoever; b) a permanent injunction restraining the Defendants, by itself, its partners, men, servants, agents, distributors, stockiest, representatives or any one claiming through or under them from in any manner committing acts of copyright

infringement by using, in the course of trade, labels/artistic works which are a substantial reproduction of Plaintiff's registered copyright under Nos.A54243/1997 and A-91339/2011 and A-108878/2014 and A-115854/2017 in colour scheme, get up a layout for their ZINKOACT for any syrup, tablets, etc., or in any other manner whatsoever; c) a permanent injunction restraining the Defendants, by itself, its partners, men, servants, agents, distributors, stockiest, representatives or any one claiming through or under them from in any manner passing off and/or enabling others to pass off the Defendants' products under the trademark ZINKOACT as and for the plaintiff's products by manufacturing, selling or offering to sell, distributing, displaying, printing, stocking, using, advertising their products with a trademark and/or label or artistic work that is identical in colour scheme, get up and layout with that of the plaintiff's ZINCOVIT trademark or artistic work or in any other manner whatsoever; d) the Defendants be ordered to surrender to Plaintiff for destruction of all products, labels, cartons, dyes, blocks, moulds, screen prints, packing materials and other materials and other materials bearing the trademark ZINKOACT label or any mark deceptively similar to plaintiff's trademark and artistic work ZINCOVIT label; and e) a preliminary decree be passed in favour of the Plaintiff's directing the Defendants to render account of profits made by use of trademark and

copyright in the artistic work ZINKOACT label and a final decree be passed in favour of the Plaintiff for the amount of profits thus found to have been made by the Defendants after the latter have rendered accounts. Along with the plaint, the Plaintiff has also filed Original Application Nos.618 to 620 of 2018 for interim injunction, in which, this Court had granted the relief as sought by the Plaintiff on 04.07.2018.

3. It was the case of the Plaintiff that it is a Company incorporated under the Companies Act in the year 1978 to carry on business of pharmaceutical and other allied products and out of several products that got registration of Trademarks, ZINCOVIT is one such trademark registered in the year 1988 being used from 1990. The Plaintiff had applied for registration of the trademark ZINCOVIT under No.487453 in Class 5 and was granted registration of the trademark with effect from 16.03.1988 and the same is valid till 2019.

4. It was the further case of the Plaintiff that they had adopted a unique packaging for its products with distinctive features and has been registered by the Copyright Office under No.A-54243/1997 for ZINCOVIT Syrup.

The Plaintiff had been using the device of fruits and vegetables as their artistic work for its ZINCOVIT SYRUP

and ZINCOVIT DROPS and the said artistic work was duly registered under Nos.A-91339/2011 and A.108878/2014 respectively. It was stated by the Plaintiff that while so, it came to know that the Defendants started selling the products bearing the trademark ZINKOACT Syrup in the market and the 1st Defendant commenced the sale of products manufactured by the 2nd Defendant under the trademark ZINKOACT Syrup with the identical fruits and vegetable label as that of the Plaintiff.

5. In the interim applications filed by the Plaintiff, this Court, finding prima facie case in favour of the plaintiff and also observing that the trademark of the 2nd Defendant ZINCOACT is bound to cause confusion in the minds of the customers not only by the names but also by the nature of packaging, had granted an order of interim injunction that is in force as on date.

6. According to the Plaintiff, since the trademark of the 2nd Defendant ZINCOACT is phonetically and visually similar to that of the Plaintiff, the Defendants have conveniently changed the spelling of ZINC as ZINK and their trademark ZINCOVIT, which was coined in the year 1988 and used since 1990 has an unparalleled reputation and that for the last 30 years, their product is in the market and since the Defendants are not unable to register their trademark

ZINCOACT, they started marketing their products illegally.

7. It was submitted by the Plaintiff that the defence taken by the 1st Defendant that the trademark ZINCOVIT is hit by Section 13 of the Trademarks Act, 1999 may not be correct, as the prohibition applies only to a single chemical compound as a trademark and therefore, the application filed by the 1st Defendant for institution of Rectification proceedings before the Hon'ble Intellectual Property Appellate Board need not be entertained and is to be dismissed *in limine*. It was further submitted that their product is a unique one being manufactured in a sophisticated manner and the act of the Defendants not only creates confusion in the minds of the public, but also spoils the reputation and goodwill of the plaintiff's product. The use of deceptive trademark and identical adoption of copyright is not a mere coincidence, but a deliberate attempt adopted by the Defendants and the same was correctly restrained by this Court.

8. Learned counsel for the Plaintiff has vehemently submitted that there is an infringement of the plaintiff's trademarks 'ZINCOVIT' and the 2nd Defendant, without mentioning the exact date of usage of their trademark 'ZINKOACT', had simply copied both the labels of the plaintiff being the fruits and vegetables device and upon notice, the appearance of the label was altered, the

trademark 'ZINKOACT' had been retained for use. The comparison, resemblance and the similarity of the trademark of the plaintiff with that of the Defendant will definitely drive a person of an average intelligence and poor recollection to believe that both are same pharmaceutical products and therefore, it will give rise to a confusion to a layman. It was urged by the learned counsel for the Plaintiff that the defence taken by the 1st Defendant that the prefix of the trademark 'ZINC/ZINCO is common element and has become publici juris, has no legs to stand, as it is a well-established principle of trademark law that the use of similar mark by other manufacturers cannot be taken as a defence by the infringer for continuing the same act. It was further pleaded that the list of marks with the same prefix extracted from the Trademark Register by the 1st Defendant is still pending for registration and the fate of its registration and usage cannot be ascertained. The details of usage of those trademarks in the list has not been adduced by the 1st Defendant and moreover, the trademark 'ZINCOVIT' is being used much prior to other marks in the list. Since this Court, being satisfied with the argument and finding balance of convenience in favour of the plaintiff at the threshold, had granted interim orders, no question of vacating the same arises at this stage.

9. Learned counsel for the Plaintiff has referred to the following judgments of the Hon'ble Supreme Court as well as various High Courts in support of his argument:

i) Corn Products Refining Co. vs. Shangrila Food Products Ltd., reported in AIR 1960 SC 142;

"10. But apart from this, there is other evidence on the record to support the conclusion that the appellant's mark had acquired a reputation among the public. The appellant had in its opposition categorically stated that its mark had acquired a reputation among the Indian buying public. There is no clear denial of this in the counter-statement filed by the respondent. There is further ample evidence to show that the appellant's goods under its mark 'Glucovita' were sold in very large quantities in small containers of one pound and four ounces capacities. The small sizes of the containers would indicate that the goods were sold to the public for if those sales had been to tradespeople for industrial purposes, they would have been made in bulk or in much larger containers. It appears that the appellant spent considerable sums for the advertisement of its mark 'Glucovita' in ordinary popular journals and this would indicate that it had a large sale for its goods among the general public. But the most conclusive evidence of the sale of the appellant's goods under the mark 'Glucovita' to the general public comes from the affidavits filed by the respondents itself. From the affidavit of K. M. Jamal, a partner in a firm of Pawar and Co., filed by the respondent, it appears that "a number of customers come to buy the products 'Gluovita' and the products 'Glucovita'." Similar statements appear in eight other such affidavits. The evidence provided by these affidavits make it perfectly clear that the appellant's mark had acquired a reputation among the general buying public. We think it right in this connection also to refer to the respondent's grounds of appeal against the judgment of Desai, J. In these the respondent does not dispute, and in fact it does not, that the appellant's mark had acquired a reputation among the public. We are, therefore, fully satisfied that the appellant has established

that its mark has acquired a reputation among the buying public.

11. In connection with the question of reputation, the learned appellate Judges seem to have fallen into another curious error. They said "A commodity may acquire reputation by its being made by a particular manufacturer and the consumers may require not a particular commodity but the commodity made by a particular manufacturer. It is only in the latter case that it could be said that the commodity manufactured by a particular manufacturer has acquired a reputation among the public. On those affidavits there is not even a suggestion that the public wanted the 'Glucovita' powder mixed with vitamins manufactured by the respondent and not by anybody else." The respondent referred to by the learned Judge is the appellant before us. We are unable to agree with the view expressed by them. It seems clear to us that what is necessary is that the reputation should attach to the trade mark; it should appear that the public associated that trade mark with certain goods. The reputation with which we are concerned in the present case is the reputation of the trade mark and not that of the maker of the goods bearing that trade mark. A trade mark may acquire a reputation in connection with the goods in respect of which it is used though a buyer may not know who the manufacturer of the goods is.

12. In our view, therefore, it would be wrong in this case to say that the appellant's trade mark had not acquired any reputation among the general public and that hence there is no reasonable apprehension of their being confused or deceived by the use of the respondent's proposed mark.

13. The second point on which the learned appellate Judges based themselves in arriving at the conclusion that there was no reasonable apprehension of confusion or deception was, as we have earlier stated, that there were various trade marks with a prefix or suffix 'Gluco' or 'Vita' and that made it impossible to say that the common features 'Glu' and 'Vita' were only associated with the appellant's products. This view was founded on a passage which the learned appellate Judges quoted from Kerly on Trademarks, 7th Edn.

p. 624. That passage may be summarised thus : Where there are a "series" of marks, registered or unregistered, having a common feature or a common

syllable, if the marks in the series are owned by different persons, this tends to assist the applicant for mark containing the common feature. This statement of the law in Kerly's book is based on *In re : an application by Beck, Kollar and company (England) Limited* [64 R.P.C. 76]. It is clear however from that case, as we shall presently show, that before the applicant can seek to derive assistance for the success of his application from the presence of a number of marks having one or more common features which occur in his mark also, he has to prove that those marks had acquired a reputation by user in the market. We will read a portion of the judgment at pp. 82 & 83 in *Beck, Kollar & Co's case* [64 R.P.C. 76] from which what we have stated earlier, appears :

"I am disposed to agree with Mr. Burrell's submission that the "series" objections is primarily founded upon user, because the inference which the Registrar is asked to draw is that traders and the public have gained such a knowledge of the common element or characteristic of the "series" that when they meet another mark having the same characteristic they will immediately associate the later mark with the "series" of the marks with which they are already familiar. But I do not think that this statement necessarily implies that the whole issue must be determined solely under the provisions of [section 11](#), as I will now endeavour to explain.

"When an application for registration is before the Registrar it frequently happens that the search for conflicting marks reveals several marks having some characteristic feature in common with the mark of the application, which marks may stand on the Register in the name of one proprietor only, or in the name of several different proprietors. At this stage, when the matter is one between the applicant and the Registrar, the latter generally has before him no evidence as to whether the registered marks are in actual use or not, but in forming an opinion under [Section 12](#) as to whether or not confusion or deception is likely to arise, he is bound, I think, in the absence of evidence to presume that, prima facie some at least of the registrations have been effected bona fide by persons who at the date of their respective applications were using or proposed in the near future to use their marks. If, therefore, all the marks were owned by one proprietor, the Registrar would presume that the latter was using

a "series" of marks and judge the conflict between the applicants' mark and each of the proprietor's marks with this consideration in mind. Of course, if the registrations merely consisted of one and the same word registered separately in respect of several articles to be found in a single class of the Trade Marks Schedules, the Registrar would in general regard all these registrations as but the equivalent of a single registration covering all the items, for they would not constitute a "series" as now under discussion. On the other hand, if the registered marks found were owned by several different proprietors, this would be a circumstance which might considerably assist the applicant, who would be in a position to submit that the common characteristic was one well recognised in marks in use in the particular trade. In short, when the Registrar comes to compare the applicant's mark with the registered marks, using the principles laid down in the "Pionotist" case the presence of marks on the Register other than the one with which the comparison is being made is regarded as one of the surrounding circumstances which he is required to take into account.

"But when the same question comes before the Registrar in opposition proceedings, it appears to me that he is no longer in a position to make any presumption as regards the surrounding circumstances, but that before he can draw the suggested inference based upon the user of other marks either in the applicant's or the opponent's favour, any such user must be established by evidence (see, e.g. Harrods Ltd.'Application, 52 R.P.C., p. 70, 1. 39-p. 71, 1. 15, where the Registrar refused to draw the necessary inference in favour of the applicants in the proceedings)."

We have no reason to think that Kerly in stating the law on the subject intended to depart from the principle stated in the passage that we have just now read, from Beck, Kollar & Co's case.

14. We may also refer to In re : Harrods' application [52 R.P.C. 65], mentioned in the quotation from Beck, Kollar & Co's case [64 R.P.C. 76], set out in the preceding paragraph. It was there said at p. 70,

"Now it is a well recognised principle, that has to be taken into account in considering the possibility of confusion arising between any two trademarks, that, where those two marks contain a

common element which is also contained in a number of other marks in use in the same market such a common occurrence in the market tends to cause purchasers to pay more attention to the other features of the respective marks and to distinguish between them by those features. This principle clearly requires that the marks comprising the common element shall be in fairly extensive use and, as I have mentioned, in use in the market in which the marks under consideration are being or will be used."

15. The series of marks containing the common element or elements therefore only assist the applicant when those marks are in extensive use in the market. The onus of proving such user is of course on the applicant, who wants to rely on those marks. Now in the present case the applicant, the respondent before us, led no evidence as to the user of marks with the common element. What had happened was that Deputy Registrar looked into his register and found there a large number of marks which had either 'Gluko' or 'Vita' as prefix or suffix in it. Now of course the presence of a mark in the register does not prove its user all. It is possible that the mark may have been registered but not used. It is not permissible to draw any inference as to their user from the presence of the marks on the register. If any authority on this question is considered necessary, reference may be made to Kerly p. 507 and Willesden Varnish Co. Ltd. v. Young & Marten Ltd. [39 R.P.C. 285 p. 289]. It also appears that the appellant itself stated in one of the affidavits used on its behalf that there were biscuits in the market bearing the marks 'Glucose Biscuits', 'Gluko biscuits' and 'Glucosa Lactine biscuits'. But these marks do not help the respondent in the present case. They are ordinary dictionary words in which no one has any right. They are really not marks with a common element or elements. We, therefore, think that the learned appellate Judges were in error in deciding in favour of the respondent basing themselves on the series marks, having 'Gluko' or 'Vita' as a prefix or a suffix."

ii) Cadila Health Care Ltd vs. Cadila Pharmaceuticals

Ltd,. Reported in Air 2001 SC 1952;

<https://hcservices.ecourts.gov.in/hcservices/>

"35. Broadly stated in an action for passing

off on the basis of unregistered trade mark generally for deciding the question of deceptive similarity the following factors to be considered:

- a) The nature of the marks i.e. whether the marks are word marks or label marks or composite marks, i.e. both words and label works.
- b) The degree of resemblance between the marks, phonetically similar and hence similar in idea.
- c) The nature of the goods in respect of which they are used as trade marks.
- d) The similarity in the nature, character and performance of the goods of the rival traders.
- e) The class of purchasers who are likely to buy the goods bearing the marks they require, on their education and intelligence and a degree of care they are likely to exercise in purchasing and/or using the goods.
- f) The mode of purchasing the goods or placing orders for the goods and
- g) Any other surrounding circumstances which may be relevant in the extent of dissimilarity between the competing marks.

Weightage to be given to each of the aforesaid factors depends upon facts of each case and the same weightage cannot be given to each factor in every case.

The trial court will now decide the suit keeping in view the observations made in this judgment. No order as to costs.

Appeal is disposed of."

iii) Neon Laboratories Ltd. vs. Medical Technologies Ltd. and others, reported in 2015 (64) PTC 225 (SC);

"4. Before granting an ad interim injunction, the Court in seisen of the litigation has to address its attention to the existence or otherwise of three aspects - (a) whether a prima facie case in favour of the applicant has been established; (b) whether the balance of convenience lies in favour of the applicant; and (c) whether irreparable loss or damage will visit the applicant in the event injunctory relief is declined. We shall cogitate on the first factor first - is the law favourable to the applicant."

iv) Wockhardt Limited vs. Torrent Pharmaceuticals Ltd.
and another, reported in 2018 (76) PTC 225 (SC);

"12. We may also state, that this trade name was registered in the name of the Appellant way back on 14.11.2009 with effect from a date in 2008, but had not been utilized till the Division Bench judgment was passed against the Appellant. We are also told that the remaining stock of material has been disposed of under the trade name "CHYMTRAL", and that material manufactured after the Division Bench judgment is not being sold under the said trade name despite the stay granted in favour of the Appellant. Seeing the sales figures of 'Chymowok' from December, 2017 till August, 2018 and the fact that the Appellant's sales under the "new" trade name are substantial, we do not think that we should exercise our discretionary jurisdiction under Article 136 of the Constitution of India in favour of the Appellant, seeing that the balance of convenience is well served by the judgment under appeal. The Appeal is, therefore, rejected."

v) R.Gopalakrishnan vs. M/s.Venkateshwara Camphor Works, Coimbatore, 2000 (IV) CTC 22;

25. This is identical to the instant case. The defendant's choice of the words "r{hpaidg; nghy; gpufhrpf;Fk;;; ghpRj;jkhd KUfh fw;g{uk;; Mz;ltd; mUisa[k; Mrpiaa[k; bgwyhk; etc., or "you have in them the lustre of the sun with the grace divinity", and the get-up and the collocation of the words and colour are not purely accidental. In fact as in Enamel case the sequence in which these words occur and the placement are identical. As Lindlev.J observes, why should this Court not say he has succeeded in doing what he is straining every nerve to do. I think the dishonesty speaks for itself. Perhaps, this is why the defendant did not chose to get on to the box. The learned Judge erred in dismissing the suit."

vi) Wyeth Holdings Corporation and another vs. Burnet Pharmaceuticals (Pvt.) Ltd., reported in AIR 2008 Bombay

the mark FOLVITE is a combination of FOL which stands for folic acid and VIT which is an abbreviation for Vitamin. The theory propounded by the Defendant is that the Plaintiffs cannot assert a monopoly over folic acid on the one hand and Vitamin on the other by adding an "e" to an abbreviation of the two words. This argument of the Defendant clearly misses the point and there are several reasons why it cannot be accepted. First and foremost, the word FOLVITE has absolutely no meaning in the English language. It is an invented word. As the Supreme Court observed in Cadila, it is not right to take a part of a word and compare it with a part of another. Each word must be taken as a whole and compared as a whole with the other: "It is not right to take a portion of the word and say that because that portion of the word differs from the corresponding portion of the word in the other case, there is no sufficient similarity to cause confusion."

vii) Sun Pharma Laboratories Ltd., vs. Lupin Ltd. and another, reported in 2018 (74) PTC 103 (Del);

"24. I may now see as to whether it can be prima facie held that the action of the defendant tenatamounts to passing off its trade mark as that of the plaintiff. It is undoubtedly true that the plaintiff is a prior user of the trade mark TRIVOLIB. It commenced use of the trade mark in October 2011. In the very first year, it had a turnover of Rs.2.86 crores. The plaintiff has placed on record a certificate by Valia and TimBadia Chartered Accountants certifying the sales figures for TRIVOLIB from October 2011 to March 2012 and for the subsequent years.

25. The admitted position as per the written statement is that the defendants have commenced use of its trade mark TRI-VOBIT only in October 2012 and have sold over 15 lakhs strips. No further details are given. However, a statement of Chartered Accountant is filed stating that from April 2012 to March 2013, the defendant claims to have recorded a sale of Rs.1.28 croes for the medicines TRI-VOBIT 1 and TRI-VOBIT2 and has vested rights in the said trade mark.

26. It is manifest from the above facts and documents that the plaintiff has made out a prima facie case of having built substantial goodwill and reputation in the market. Prima facie,

admittedly, the plaintiff is a much prior user of the brand TRI VOLIB and has vested rights in the said trade mark.

28. Similarly, the learned Single Judge of this court in [Stiefel Laboratories, Inc. & Anr. vs. Ajanta Pharma Ltd.](#), 2014 (59) PTC 24 (Del.) held as follows:-

"29. In the case of Indian Hotels Company Limited versus Ashwajeet Garg & Others (CS (OS) 394 of 2012 Order dated 01.05.2014), I had the occasion of considering various judicial pronouncements and culling out the following legal principles for determining the deceptive similarity of marks:

i. Action for infringement is a statutory remedy conferred on the registered proprietor of a registered trademark. [Kaviraj Pandit Durga Dutt Sharma v. Navaratna Pharmaceutical Laboratories](#): AIR 1965 SC 980 ii. Registration of trademark gives the proprietor the exclusive right to the use of the trademark in connection with the goods in respect of which it is registered. [American Home Products v. Mac Laboratories](#) : AIR 1986 SC 137 iii. If the essential features of the trademark of the Plaintiff have been adopted by the Defendant, the fact that the get-up, packing and other writing or marks on the goods or on the packets shows marked differences, or indicate clearly a trade origin different from that of the registered proprietor of the mark would be immaterial. [American Home Products v. Mac Laboratories](#) : AIR 1986 SC 137 iv. Mere delay in filing of a suit for infringement is not fatal.

[Tata Oil Mills Co. Ltd. v. Wipro Ltd.](#), MANU/DE/0614/1985 : AIR 1986 Delhi 345, [Midas Hygiene v. Sudhir Bhatia](#) and Ors. : 2004(28) PTC 121 (SC) v. Phonetic similarity constitutes an important index of whether a mark bears a deceptive or misleading similarity to another. [Encore Electronics Ltd. v. Anchor Electronics and Electricals Pvt. Ltd.](#) : 2007(35) PTC 714.

vi. The Court must consider the usage of words in India, the manner in which a word would be written in Indian languages and the similarity of pronunciation if the rival marks are used [K.R. Chinna Krishna Chettiar v. Sri. Ambal & Co. and Anr.](#): AIR 1970 SC 146 vii. Resemblance between the

two marks must be considered with reference to the ear as well as the eye. [K.R. Chinna Krishna Chettiar v. Sri. Ambal & Co. and Anr.](#): AIR 1970 SC 146.

viii. The rival marks have to be compared as a whole. The two competing marks must be judged both by their look and by their sound. All the surrounding circumstances must be considered. [Amritdhara Pharmacy versus Satyadeo Gupta](#) : AIR 1963 SC 449.

ix. Where the similarity between the Plaintiffs and the Defendant's mark is so close either visually, phonetically or otherwise and the court reaches the conclusion that there is an imitation, no further evidence is required to establish that the Plaintiffs rights are violated. [Kehsav Kumar Aggarwal Versus M/s. NUT Ltd.](#) 2013 (199) DLT 242

x. Competing marks have to be compared keeping in mind an unwary purchaser of average intelligence and imperfect recollection. [Amritdhara Pharmacy versus Satyadeo Gupta](#) : AIR 1963 SC 449.

xi. Broad and essential features of the two are to be considered. They should not be placed side by side to find out if there are any marked differences in the design and get up.

xii. A single actual use with intent to continue such use eo instanti confers a right to such mark as a trademark. [Century Traders v. Roshan Lal Duggar Co.](#), : AIR 1978 (Del) 250.

xiii. The applicant has to establish user of the aforesaid mark prior in point of time than the impugned user by the non-applicant. [Clinique Laboratories LLC and Anr. Versus Gufic Limited and Anr.](#) : 2009(41) PTC 41(Del), [Siyaram Silk Mills Ltd. v. Shree Siyaram Fab Pvt. Ltd.](#), : (2012) 2 Mah LJ 49, [The Singer Company Limited & Anr. Versus Ms. Chetan Machine Tools & Ors](#) ILR : (2009) 3 Del 802 : (2009) 159 DLT 135, [Chorion Rights Limited Versus Ishan Apparel](#), : ILR (2010) 5 Del 481

xiv. A suit for infringement is maintainable by a registered proprietor against another registered proprietor. [Clinique Laboratories LLC and Anr. Versus Gufic Limited and Anr.](#): 2009(41) PTC 41

(Del), *Siyaram Silk Mills Ltd. v. Shree Siyaram Fab Pvt. Ltd.* : (2012) 2 Mah LJ 49, *The Singer Company Limited & Anr. Versus Ms. Chetan Machine Tools & Ors* : ILR (2009) 3 Del 802: (2009) 159 DLT 135, *Chorion Rights Limited Versus Ishan Apparel,* : ILR (2010) 5 Del 481.

xv. While staying the further proceedings pending decision of the registrar on rectification, an interim order including of injunction restraining the use of the registered trademark by the Defendant can be made by the court. *Rajnish Aggarwal Versus Anantam* : 2010(43) PTC 442 (Del).

xvi. A trademark shall not be registered if it is identical or similar to an earlier trademark in respect of goods or services covered by the trademark and is likely to cause confusion amongst the public. Section 11 of the Trademarks Act, 1999.

xvii. Registration of an identical or a similar trademark shall also be refused for goods and services not covered by the earlier trademark if it is shown that the earlier trademark is a well known trademark. Section 11 of the Trademarks Act/

xviii. The mere fact that the Plaintiff has not chosen to take any action against other parties cannot disentitle the Plaintiff from taking the present action *Prakash Roadline Ltd. Vs. Prakash Parcel Service (P) Ltd.* : 48(1992) DLT 390: 1992 (22) DRJ 489"

10. Per contra, the learned counsel appearing for the 1st Defendant has contended that the word ZINC is common to the trade, as there are several registered owners of trademark containing the word 'Zinco', which is *publici juris* and nobody, including the Plaintiff and the Defendants can claim sole proprietorship of the word 'ZINC' and the word cannot be truncated. The stand of the Plaintiff that the pronunciation of the words 'ZINC' and 'ZINK' are phonetically similar, cannot be accepted, as

both are quite distinct and distinguishable. It was further contended that in the event of the interim order being made absolute, the business of the Defendants will be in peril and in case the Defendants succeed in the suit, they will not be in a position to make the loss good and the loss cannot be compensated.

11. Learned counsel for the 1st Defendant has relied upon the following judgments to substantiate her submission:

i) Apex Laboratories Ltd. vs. Zuventus Health Care, reported in MANU/TN/9346/2006;

"1. Apex Laboratories Limited, the appellant herein are the manufacturers of pharmaceutical products and have adopted the trademark "Zincovit" on 16.03.1988 for their product viz., syrup and tablets and have also applied for its registration as a proposed mark and obtained registration of the Trade mark, which has been renewed and is in force. It is claimed that they have filed a number of suits against infringement of their trademark "Zincovit" and have also obtained injunction orders. Sometime during February, 2006, it came to the knowledge of the appellants that the respondents are manufacturing and selling pharmaceutical products under the trade mark "Zinconia". The appellant's claim is that the respondents are guilty of infringement of the trademark and also of passing off. Therefore, they filed C.S. No. 216 of 2006 and applied for injunction in O.A. Nos. 244 and 245 of 2006.

2. The respondents resisted the application claiming that there are several registered owners of trade mark containing the word "Zinco" and the appellant is not the exclusive proprietor of the word "Zinco". It is also claimed that the marks are visually and phonetically dissimilar and there are no oral, visual or conceptions] similarities and the essential features in both the marks i.e., colour combination, scheme of writing are entirely different. Interim injunction granted ex parte was

vacated by the learned Single Judge holding that there is no likelihood of causing confusion in the mind of the purchaser and there is no similarity and deceptiveness in the names "Zincovit" and "Zinconia" and further that "Zinc" is the common name in trade. Against this order, the appeal has been filed.

5. In the case on hand, both the medicine preparations contain 'Zinc' and, therefore, the word 'Zinc' is common to the trade and is publici juris. The appellant cannot claim ownership over the said word. Further, it would be dangerous to split the word into two and grant injunction merely because both the trade names contain the word 'Zinc'. In *William Bailey (Birmingham) Ltd's* application 1935 (52) RPC 136 Farwell, J. said,

I do not think it is right to take a part of the word and compare it with a part of the other word; one word must be considered as a whole and compared with the other word as a whole.... I think it is a dangerous method to adopt to divide the word up and seek to distinguish a portion of it from a portion of the other word.

It is no doubt, true, when prescriptions are telephonic or handwriting, the chances of confusion or mistake cannot be ruled out if the marks appear too much alike when handwritten or sound too much alike when pronounced."

ii) *Patel Field Marshal Agencies and Others vs.*

P.M.Diesels Ltd. and Others, reported in (2018) 2 SCC 112;

"34. The first question posed is how an approach to the superior Court i.e. the High Court, under [Section 111](#) of the 1958 Act, can be contingent on a permission or grant of leave by a court of subordinate jurisdiction. The above is also contended to be plainly contrary to the provisions of [Section 41 \(b\)](#) of [Specific Relief Act, 1963](#). It is also urged that [Section 32](#) of the 1958 Act provides a defence to a claim of infringement which is open to be taken both in a proceeding for rectification as well as in a suit. The said defence statutorily available to a contesting party cannot be foreclosed by a deemed abandonment of the issue of invalidity, it has been contended.

35. Section 111 of the 1958 Act and the corresponding Section 124 of the 1999 Act nowhere contemplates grant of permission by the civil court to move the High Court or the IPAB, as may be, for rectification. The true purport and effect of Sections 111/124 (of the old and new Act) has been dealt within detail and would not require any further discussion or enumeration. The requirement of satisfaction of the civil Court regarding the existence of a prima facie case of invalidity and the framing of an issue to that effect before the law operates to vest jurisdiction in the statutory authority to deal with the issue of invalidity by no means, tantamount to permission or leave of the civil court, as has been contended. It is a basic requirement to further the cause of justice by elimination of false, frivolous and untenable claims of invalidity that may be raised in the suit.

36. While Section 32 of the 1958 Act, undoubtedly, provides a defence with regard to the finality of a registration by efflux of time, we do not see how the provisions of aforesaid section can be construed to understand that the proceedings under Sections 46 and 56 on the one hand and those under Sections 107 and 111 on the other of the 1958 Act and the pari materia provisions of the 1999 Act would run parallelly. As already held by us, the jurisdiction of rectification conferred by Sections 46 and 56 of the 1958 Act is the very same jurisdiction that is to be exercised under Sections 107 and 111 of the 1958 Act when the issue of invalidity is raised in the suit but by observance of two different procedural regimes.

37. In the light of the above while answering the question arising in the manner indicated above, we dismiss all the appeals under consideration and affirm the order passed by the High Courts."

iii) Astrazeneca UK Ltd. and Others vs. Orchid Chemicals and Pharmaceuticals Ltd., reported in MANU/DE/8684/2006;

"58. Considering the averments made by the parties, it is difficult to infer at this stage that the adoption of the trademark 'Meromer' by the defendant is with the intention to pass off

his product as that of plaintiffs. The defendant has spent considerable amount in setting up the plant. The plaintiff was not the first to adopt and use the prefix ' MERO ' as trademark MEROCEL was registered in favor of M/s Merrel Dow Pharmaceuticals Inc. No. 2110 East Galiraith Raod, Cincinnati, Ohio, U.S.A which fact can not be denied by the plaintiffs. There are other companies marketing the same drug, Meropenem, with the trade names having prefix 'Mero'. Perusal of the plaint also reveals that the plaintiffs did not make any averment regarding trans border reputation. No material as has been relied on or produced by the plaintiffs to show its trans border reputation which were noticed by the Apex Court in [N.R. Dongre v. Whirlpool Corporation](#).

59. Defendant is one of the companies in India which is marketing the drug 'Meropenem' which is essentially the same as that marketed by plaintiff but at a cheaper price. The defendant had launched his drug in November, 2004 after investing considerable amount in setting up its unit for the manufacture of the said drug. The trademark of the defendant was advertised in the trademark journal but no opposition to it was filed by the plaintiffs. After the institution of the suit, the rectification proceedings were initiated first before the Registrar and thereafter before the Appellate Board without seeking prima facie satisfaction of this Court regarding invalidity of the registration of the defendant's mark. In the plaint and the application for interim injunction, correct particular and facts about the assignment of trade mark in favor of the plaintiffs were not given. The plaintiffs though have admitted that other companies are also marketing the same medicine with different trade marks having common prefix 'Mero' and no action has been initiated by the plaintiffs against such other companies. In the entirety of the facts and circumstances, if the defendant shall be restrained from selling, marketing or in any manner dealing with the pharmaceutical drug Meropenem under the trade name 'MEROMER ' the of the inconvenience caused to the defendant shall be much more. Public interest will also support availability of same drug at a cheaper price. So prima facie, in my opinion the balance of convenience is in favor of the defendant. Any interim injunction in the facts and circumstances may also cause irreparable loss to

the plaintiffs. The loss of the plaintiffs seems more to be financial which can be safeguarded by directing the defendant to maintain accounts of sale of the drug Meropenem under the trade name 'Meromer' and submit the accounts regularly to this Court every half yearly."

iv) USV Limited and Others vs. Systopic Laboratories

Limited and Others, reported in 2004 (1) CTC 418;

"40. It is no doubt true that the alphabet "Z" is a soft consonant, but it is difficult to hold that the brand name "PIOZ" is similar to the brand name "PIO". Anyone pronouncing the word "PIOZ" and "PIO" will be easily able to distinguish "PIOZ" as different from "PIO", since the alphabet "Z" is distinctly heard when the word "PIOZ" is pronounced. If the alphabet "Z" is silent in a word when pronounced, then it could be said that there is likelihood of confusion among the unwary purchasers. For instance "RENDEZVOUS", a French word, which is spelt as "RON-DHE-VOO", shows that while pronouncing the said word "RON-DHE-VOO", the word "Z" is silent. Similarly, two other words "ALCORZA" and "ALCORRAZA", which are spelt as "AL-KOR-THA" and "AL-KA-RA-THA" respectively and in both words the alphabet "Z" is silent while they are being pronounced. The word "SHAA" is spelt as "CHEZ" wherein also the alphabet "Z" is silent while it is pronounced.

41. When we pronounce "PIOZ", it cannot be said that though the letter "Z" is added to the word "PIO", the alphabet "Z" is silent while pronouncing leading to a confusion among the unwary purchasers. In our view, "PIO" is distinctive and dissimilar to the word "PIOZ" since the alphabet "Z" in the name "PIOZ" is distinct and shows the difference between the two brands."

v) Indo-Pharma Pharmaceutical Works Ltd. vs. Citadel

Fine Pharmaceuticals Ltd., reported in MANU/TN/1178/1998;

"36. We have perused the above decisions. We do not think that any of the cited cases would be helpful to the appellant for two reasons:

(1) The conclusion was arrived at in these

decisions only after the trial is over; and

(2) It has been held in these cases, that the products are same and the offending trade mark was deceptively, visually and phonetically similar to each other.

37. Moreover, the defendant's trade name was found to be offending by the courts concerned on the facts and circumstances of each case.

38. But in this case, the products 'ENERJEX' and 'ENERJASE' are different and the containers are also different. However, it is argued that there is clear phonetic similarity which would certainly give rise to the infringement and passing off action. In view of the emphatic assertion made by the learned Counsel for the appellant, let us now consider the question, whether the word 'ENERJASE', the defendant mark, would be at least phonetically similar to the word 'ENERJEX', the plaintiff's mark.

39. Admittedly, the form, shape and get-up of these two products are entirely different. 'ENERJEX' is allopathic medicinal preparation. 'ENERJASE' is Ayurvedic medicinal preparation. 'ENERJEX' is syrup kept in bottle for pregnant women and convalescing patients and children. 'ENERJASE' is capsules packed in cardboard boxes for stress relief and for energy. As admitted by the plaintiff in the Cease and Desist Notice sent to the defendant, the product 'ENERJASE' was being sold in cardboard boxes along with the product literature. Therefore, visual impression of these products is totally different. It cannot also be stated in the light of the above materials that the product manufactured by the defendant were being passed off as the goods of the appellant.

40. Both the parties have adopted their respective trade mark after applying for the same. Before applying for the trade mark 'ENERJASE', the defendant conducted a continuous search through a specialised agency which revealed that there are totally 16 marks by the prefix 'ENERGY/J'. Therefore, according to the defendant, he coined the new word with general prefix and adopted the trade mark 'ENERJASE'. As held by the Apex Court, we cannot take the two words and judge of them, both by their look and by their sound and it is also necessary to have both visual and phonetic test.

41. According to defendant, 'ENERJ/G' is an appreciation of 'ENERGY'. This abbreviation has been used in over 16 registration in the field of medicinal and pharmaceutical preparations. The word 'ENERGY/J' is therefore generic and common to the trade, as describing the product meant for giving energy. A generic name of a product can never function as a trade mark to indicate the origin. It has become a public juris, on which not one can claim proprietary right for the exclusive use. In this context, it will be relevant to refer the sentence contained in Mc.Carthy on Trademarks and Unfair Competition.

abbreviation of a generic name which still conveys to the buyer the original generic connotation of the abbreviated name, is still, 'generic'.

42. Phonetically, the words 'JEX' and 'JASE' being totally dissimilar, are not going to create any confusion in the mind of the users, especially, in this case, when the visual impression of the said two trade names, as explained earlier, is completely different. Therefore, the submission made by the defendant that there cannot be any chance of buyers and users being misguided or confused by the two trade names, cannot be brushed aside. Therefore, there is no difficulty in coming to the conclusion that there is no phonetic and visual resemblance. Moreover, nobody can claim exclusive right to use any abbreviation, which has become public/juris."

vi) Aviat Chemicals Pvt. Ltd. and Others vs. Intas

Pharmaceuticals Ltd., reported in MANU/DE/1563/2001;

"11. There is another reason to deny the injunction to the plaintiffs. Having regard to more than 20-25 products of the same nature with prefix LIPI already in the market, there is a practice in the trade of drugs in naming the drug by name of ailments which it treats and that the word prefix LIPI is taken from Lipid which is a generic word, I do not think that the use of trade mark LIPICOR by the defendant is likely to cause confusion or deception. The defendant has tried to contend that two products are phonetically, naturally and visually dissimilar and the suffix 'CARD' and 'COR' do not sound similar. Following differences projected by the defendant

in the two products relating to colour combinations and other features can also not be lose sight of :

plaintiffs' "LIPICARD" Defendant's "LIPICOR" Sold on Doctor's prescription Sold on Doctor's prescription. Contains Drug Fenofibrate Contains Drug Atorvastatin Sold on round strip Sold on square strip Sold in capsules Contains 10 tablets. indicated by name of week days. Packing is yellow and red Packing is silver and golden. sold at Rs. 49/- for 7 capsules Sold at Rs. 197/- for 10 tablets or Rs. 115/- for 10 tablets. Name USV Ltd is printed in Name INTAS is placed one each bold letters. packing and strip."

12. Heard the learned counsel on either side and perused the material documents available on record, including the judgments relied upon by the respective parties.

13. The 1st Defendant has filed the application, seeking permission for approaching the Appellate Board within the time contemplated under the Act, stating that the Plaintiff cannot, as a matter of right claim exclusive right over the word 'ZINC', as there are more than 200 products with the said word, out of which, some of the products have already been registered and some of them are pending for registration. It was further stated by the 1st defendant that no one can has got the right to register any of the element and subsequently contend that there is an infringement and no doubt true that if the words are ~~discrepancies~~ similar, the Court is empowered to grant an interim order, but in the present case on hand, the words

'ZINCOVIT' and 'ZINKOACT' are phonetically dissimilar. According to the 1st Defendant, they are entitled to invoke Section 57 of the Trademarks Act to get the relief mentioned therein, as the said Section contemplates power to cancel or vary registration and to rectify the register.

14. Though the pronunciation of the words suffixed with 'ZINC', namely, 'VIT' and 'ACT', cannot be said to be same, it is to be noted that the Plaintiff has been using the trademark from the year 1990 and the trademark of the Plaintiff was registered as early as in 1988. The plaintiff had coined the word as ZINC + VITAMIN and by adding the letter 'O' in-between two words, had registered the trademark as 'ZINCOVIT'. It is seen that there is a prohibition under Section 13 of the Trademarks Act, as chemical elements cannot be registered and the 2nd Defendant has later on changed their label under the trademark as 'ZINKOACT' and since there is no label similarity, no confusion will arise between these two trademarks. According to the 1st Defendant, the registration of the trademark of the plaintiff cannot, at any stretch of imagination, withstand and the 1st Defendant is entitled to invoke Sections 9, 11, 13 and 18 r/w 57 of the Trade Marks Act, 1999 and therefore, interim injunction granted by this Court needs to be recalled and the injunction petition has to be rejected.

15. Though a specific time is prescribed under the Act for approaching the Appellate Board, it is represented by the parties that the Appellate Board is not functioning and that there is no member or expert appointed in the Board. Therefore, no purpose would be served in granting permission to the 1st Defendant to approach the Appellate Board for institution of rectification proceedings, instead the parties shall endeavour for speedy disposal of the main suit. But, at the same time, this Court is not lost sight of the fact that though the 1st Defendant did not mention as to the exact period from which the 2nd Defendant started manufacturing the products under the trademarks 'ZINKOACT', both the medicine preparations contain 'Zinc' and it is impossible to split the word into two. This Court would have definitely made the stay absolute, if the Defendants have retained the very same Cover, but it was fairly conceded by the learned counsel for the 1st Defendant that upon notice, the package was duly changed by deleting the 7 colour strip label. It was strongly contended by the 1st Defendant that stopping of the business of the Defendants in the midway will cause much hardship to them. As regards 'ZINCOVIT' and 'ZINKOACT', since the two words are phonetically dissimilar and the visual impression of the said names are also different, it cannot be presumed that it will cause confusion in the mind of a common public / consumer. However, the interest of the Plaintiff needs to

be safeguarded, because in case of winding up of the Defendant Companies and handing over the administration of the Companies to the Official Liquidator in future, then the Plaintiff will not be in a position to recover the damages at all and the Plaintiff will be constrained to stand in the queue as one of the secured / unsecured creditors. If the Properties of the Defendant Companies are given as Collateral Security, there is every possibility of the Plaintiff losing money in the event of the Official Liquidator taking control over the property in case of winding up of the Defendants' Companies. Therefore, I am of the view that one of the Directors of the Defendant Companies shall take the responsibility of giving their own self acquired unencumbered property as security, so that in case the plaintiff succeeds, the loss could be recovered by taking that property, which cannot be attached by any Court, much less the Company Court in view of the orders of this Court to be passed now.

16. Further, on reading of Section 124(5) of the Trade Marks Act, it is seen that the said provision empowers the Court to impose any new condition, if it deems fit to do so, with further provision to issue direction in respect of rendering of accounts. In the considered opinion of this Court, instead of vacating the interim injunction already granted by this Court on 04.07.2018, this Court is inclined

to modify the interim order dated 04.07.2018 and the Defendants are entitled to carry on their business activities, subject to the following conditions:

i) the Defendants shall render the accounts of profit made by use of trademark and copyright in the artistic work ZINKOACT label, once in three months to this Court till the disposal of the suit in C.S.No.433 of 2018;

ii) Unencumbered immovable properties of anyone of the Directors of the Defendant Companies (such property shall not belong to the Company) shall be given as Security within a period of 45 days from the date of receipt of a copy of this order, so that the interest of the Plaintiff is safeguarded in case the Plaintiff obtains a decree in its favour;

iii) The concerned jurisdictional Sub-Registrar is directed not to create any further encumbrance on the properties to be given as security by one of the Directors of the Defendant Companies and no Lower Forum shall attach the particular property furnished as security;

iv) The product of the Defendants should be sold in different shape and size and the colour of the package should also be modified;

v) This Court expects that the Government shall take effective steps to appoint a subject knowing and technical person as members of the Board so that the remedial measures are done at the most to the parties concerned.

17. In the result, Application No.8173 of 2018 is disposed of with the above directions. A.No.8172 of 2018 filed to frame a preliminary issue regarding invalidity of the plaintiff's Registration under No.487453 for the mark ZINCOVIT in C.S.No.433 of 2018 is dismissed, in view of the fact that the interim order granted by this Court is modified.

18. It is made clear that whatever observation made hereinabove, (except the conditions in Paragraph No.16, as the Plaintiff's rights need to be protected in case the Plaintiff succeeds in the suit) is only for the purpose of disposal of these Applications and it will have no bearing on the suit to be decided.

Sd./-S.V.N.J

28/06/2019

//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER(O.S.)

jj 21/11/2019

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