

A.No.1638 of 2020

in

C.S.No.259 of 2019

C.V.KARTHIKEYAN J.

This application has been filed seeking permission to file additional documents. The documents which are sought to be filed are Extract of E-Register for the Trademark “AAROGYA Ragi Malt” under Class 5 and under Class 35 and also of the Trademark “AROKYA” under Class 29 and Legal User Certificates.

2.It is to be mentioned that copies of the said documents have been filed.

3.The learned counsel for the applicant/plaintiff however, stated that he would produce the originals at the time when evidence is actually let in and if the applicant/plaintiff requires the originals for their official purposes, then copies may be compared with the originals.

4.In the affidavit filed in support of the said application, it had been stated that the legal user certificate had been obtained and they have been filed now and that they are necessary documents. It is also

stated that the extract of the E-Register had also been obtained from the Trademark Registry. It is stated that in the interest of justice, the applicant may be permitted to file these documents.

5.Heard the learned counsel for the respondents / defendants who had also filed a counter and stated that a similar application would also filed on behalf of the respondent/defendant.

6.Taking into account the fact that the issues raised in the plaint will have to be necessarily adjudicated and per se the Trademark Registration Certificate are not permitted for judicial proceedings and very specifically, Legal Users Certificate are alone to be used in judicial proceedings, the application is allowed, however subject to admissibility, relevancy and proof. These are issues which the respondent / defendant may raise when the documents are actually produced for marking.

7.An objection is also raised that the certificate under Section 65 (B) of the Evidence Act, has not been filed. That is an issue which is to

be addressed by the applicant/plaintiff and which issue can also be taken by the respondents/defendants.

8.With these observations, the application is allowed.

22.09.2020

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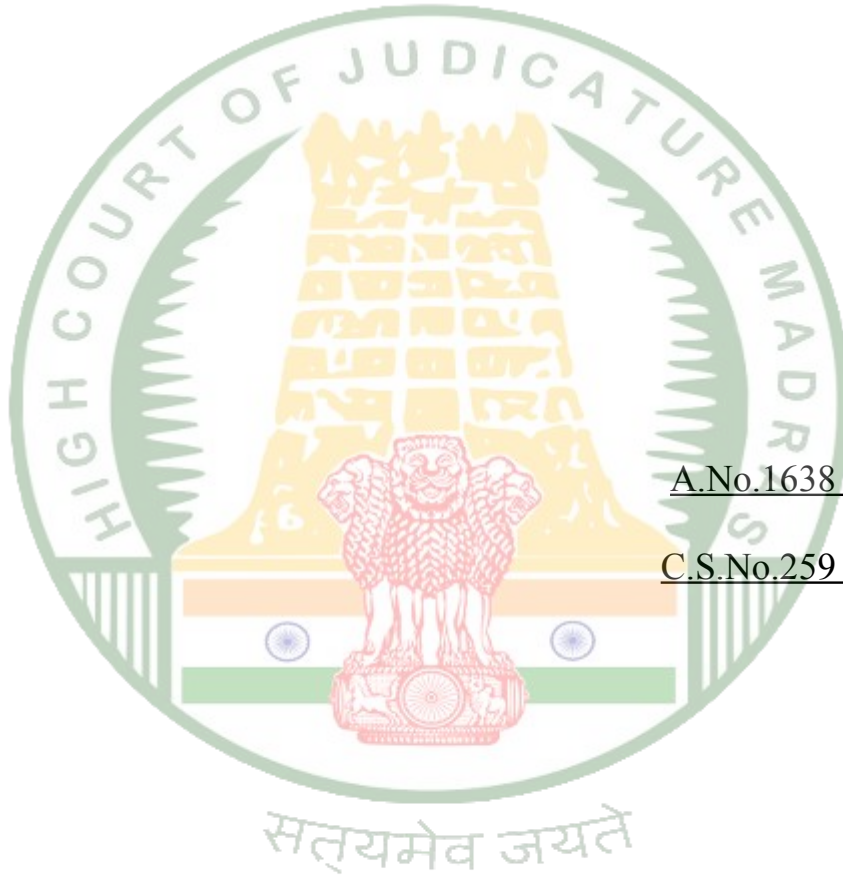


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