

A.No.1881 of 2021
in C.S No.400 of 2019

DR.G.JAYACHANDRAN, J.

This application is filed by the fifth defendant to pass a summary judgment.

2.The suit is for infringement of patent. During the course of hearing, this Court earlier appointed Scientific Advisor and his report is available before this Court. Several applications were later on filed for different relief and disposed. Now the present stage of the case is to fix date for examination of witnesses. On completion of pleadings, this Court has framed the issues. The fifth defendant who is the applicant herein, has taken out an application to amend the issues framed and to include additional issues. The said application allowed and new issues taken as additional issue.

3.At this juncture, this application is filed under Order XIII A to pass summary judgment which contemplates passing of order without recording oral evidence.

DR.G.JAYACHANDRAN,J.

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4.The ground for summary judgment enumerated under Order XIII A Rule 1(3) does not attract in the present case, since the disputed fact regarding the patent ought to be and can be decided only on recording oral evidence. Particularly, the Scientific Advisor who has given his report pursuant to the direction of this Court, is a party to be examined as witness. This application filed without any merit and to delay process, deserves dismissal. Hence, dismissed on costs of **Rs.10,000/- (Rupees Ten Thousand only)** payable to the Legal Services Authority on or before 09.11.2021.

Call the matter on **10.11.2021**.

06.10.2021

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