

A.No.3132 of 2021
in
C.S.No.235 of 2015

R.SUBRAMANIAN, J.

This application has been taken out by the defendant in the suit, which is one for infringement of the trademark of the plaintiff "FLYING ELEPHANT".

2.The plaintiff would claim that it is a registered proprietor of the said trademark and it is running the restaurant with the said trademark at Guindy in Tamilnadu. According to the plaintiff, the user of the same trademark and the trade name by the defendant in the Andamans would amount to infringement of its trademark. The defendant had filed its written statement on 04.09.2015. No documents have been filed along with the written statement.

3.The suit was taken cognizance of by the Commercial Division on 04.08.2021 and the defendant was directed to file its affidavit of admission / denial by 25.08.2021. After taking time, the defendant has come up with this instant application seeking permission to produce the documents. The

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documents that are sought to be produced are the documents, which had emanated prior to the suit except the GST registration certificate and MSME certificate, which are after the suit.

4.The reason assigned for non-production of the documents prior in point of time is that the documents were misplaced at the office of the defendant and it took some time to trace the documents. The fact that the defendant is in Andaman is also cited as a reason for delay. A perusal of the affidavit would show that the defendant had assigned reasonable cause for non-production of the documents along with the written statement. Therefore, this application is allowed, the defendant is permitted to produce the documents. Now that the documents have been received, the plaintiff as well as the defendant shall file their affidavits of admission / denial by 06.10.2021. Post on 06.10.2021.

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22.09.2021

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