

A.No.3062 of 2020
in C.S.No.57 of 2015

C.V.KARTHIKEYAN J,

This application has been filed seeking permission to file additional documents. The application has been taken out by the plaintiff in the suit. A list of documents have been annexed to the Judges Summons. A perusal of the same shows that they are letters written by Thyrocare Biotech Private Limited, Tax Challans, Orders placed, Invoices, Certificates issued and Annual Reports and Certificates of Registration and Legal User Certificates.

2. In the affidavit filed in support of the said application, it had been stated that these documents have been filed to show that the plaintiff is the prior user of the trademark and also that the documents also required to rebut the case of the defendant.

3. The plaintiff will necessarily have to be examined during the trial and the reason why these documents were not filed along with the plaint, has to be stated, since the plaintiff should have disclosed all the necessary documents at the time of institution of the suit. An acceptable reason will have to be given by the witness during the course of trial.

4. These documents will have to be tested during cross examination. Quite apart of the reason for non production of the

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documents, the witness will also have to speak about the relevancy of these documents. The documents should also be admissible and proved in manner known to law. The Originals will have to be produced.

5. With these observations, laying a caveat that the plaintiff should established all these aspects, I hold the documents can be taken on record.

6. I am conscious that the learned counsel for the defendant sought a little accommodation for filing counter. However, in view of the fact, that the documents would be tested during trial and in view of the further fact that the respondent / defendant would be granted opportunity to do so, this application is allowed. No order as to costs.

17.03.2021
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