

A.No.5499 of 2019
in
C.S.No.286 of 2019
DR.G.JAYACHANDRAN, J.

This application is filed by the defendant to reject the plaint under Order VII Rule 11 and strike out the same from the file. The reasons seeking such relief are as under:

2. The plaintiff had not disclosed his legal status in the plaint. No where in the plaint, the plaintiff has shown any other legal entity. The plaint is not signed and verified by a person as contemplated under Order 29 or under 30 of C.P.C.. The plaint is filed by one Mr.Saravanan, Manager (Legal) claims to an authorised signatory of the entity. The owner of the copy right one G.Muniasamy has not filed the suit and the address of the trade mark owner is shown as Kaleeswari Refinery Private Limited, 16, Teluguchetty Street, Old Washermenpet, Chennai-600 021, whereas in the plaint, the address of the plaintiff is M/s.Kaleesuwari Refinery Private Limited, No.53, Rajasekaran Street, Opposite Kalyani Hospital, Radhakrishnan Salai, Mylapore, Chennai-600 004. For the above said reasons, the plaint is sought to be rejected.

3. This Court perused the plaint and found that the suit is filed by M/s.Kaleesuwari Refinery Private Limited through its representative. Being a private limited company, a legal entity by itself has filed the suit in the name of the company is well maintainable. The address found in the trade mark licence registration certificate in the name M/s.Kaleesuwari Refinery Private Limited was issued on 27.01.2005 and the present suit is filed on 16.04.2019. The trade mark is granted to M/s.Kaleesuwari Refinery Private Limited. The change of address subsequently after a decade cannot disentitle the plaintiff filing the suit based on the registered trade mark showing the present address. Further, in the legal user certificate issued by the Registrar of Trade Marks on 23.11.2006, the proprietor address is shown as No.53, Rajasekaran Street, Opposite Kalyani Hospital, Radhakrishnan Salai, Mylapore, Chennai-600 004, which is same as the address shown in the plaint. The other grounds raised in the application are not sufficient reason to reject the plaint under Order VII Rule 11 and they do not fall under any of the 6 clauses (a) to (f) envisaged under Order VII Rule 11 of C.P.C.

4. Furthermore, in this case, the pleadings are completed. Matter is posted for affidavit of admission and denial. The applicant/defendant herein had taken out an application to file additional documents and that was allowed

by this Court on 21.06.2021. At this juncture, the application to reject the plaint has no reason to entertain. Hence the application is dismissed.

5. The learned counsel for the plaintiff states that in spite of the interim order passed by this Court on 25.04.2019, the defendant is continuing the use of the plaintiff's trade mark and copy right and infringing the same by adopting visibly and phonetically similar to the word and colour scheme and insist upon appointment of Advocate Commissioner.

6. The learned counsel for the respondent seeks time to argue the Advocate Commissioner application No.3278 of 2019.

7. On his request, the matter is adjourned to 29.07.2021. Meanwhile, the learned counsels are directed to file their affidavit of admission and denial.

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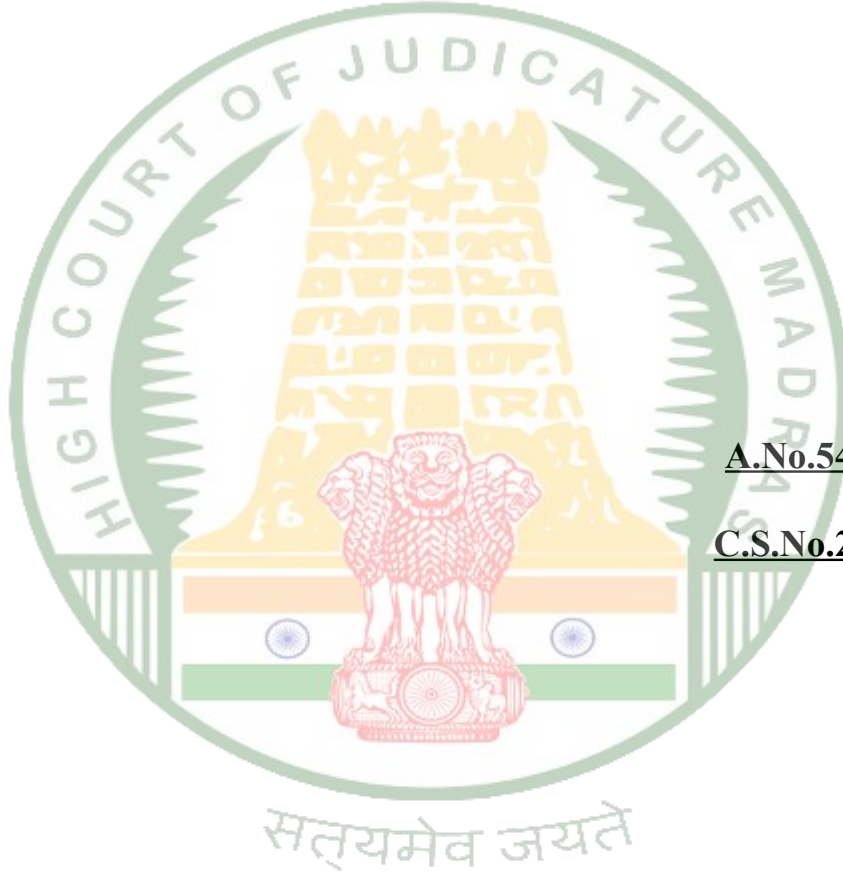
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