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*A.Nos.341 & 342 of 2022*

**A.Nos.341 & 342 of 2022**

**in**

**C.S.No.176 of 2021**

**(Comm. Suit)**

**N.ANAND VENKATESH, J.,**

These applications have been filed by the plaintiff for amendment of plaint and for receiving additional documents respectively.

2. Heard Mr.P.S.Raman, learned Senior counsel appearing on behalf of the applicant/plaintiff and Mr.S.Diwakar, learned counsel appearing on behalf of respondent/defendant.

3. A.No.341 of 2022 has been filed by the plaintiff to include the relief of damages in the main reliefs that has been sought for at paragraph No.102 of the plaint. It is seen from the pleadings as well as the valuation made by the plaintiff that the plaintiff is insisting for damages and the amount has been quantified at Rs.50,00,000/- and the Court fee has been paid to the tune of Rs.53,600/-. In spite of the same, by oversight, the relief of damages was left in the main prayer that has been sought for at paragraph No.102. Hence, the present application has been



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filed to add the relief of damages in the main prayer.

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4. The learned counsel for the respondent/defendant submitted that the plaintiff is not entitled to claim any relief of damages since the plaintiff has already sought for the relief of rendition of accounts. The learned counsel submitted that the plaintiff can only alternatively claim for the relief of damages or the relief of rendition of accounts and both the reliefs cannot be sought for in the present suit. The learned counsel, therefore, vehemently opposed the application for amendment to incorporate the relief of damages.

5. In the considered view of this Court, the suit is now at the pre-trial stage and this Court while considering the application for amendment need not be so stringent for the simple reason that the defendant will always get an opportunity to oppose the relief by filing additional written statement. It will always left open to the defendant to raise objections with regard to simultaneous claim made for the relief of damages as well as rendition of accounts. This will be taken up as an



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issue ultimately in the main suit. Such an objection need not be considered at this stage while dealing with the application for amendment of the plaint. In the said application, the applicant/plaintiff has also sought for paying separate Court fee for prayer (d) in the main relief.

6. In the considered view of this Court, prayer (d) in the relief column will merely be a consequence for prayer (a), (b) and (c) and if ultimately, the plaintiff succeeds in prayer (a), (b) and (c), it will result in the relief of permanent injunction which has been sought for in prayer (d). In view of the same, if at the time of final disposal, this Court finds that prayer (d) must also be separately granted, the plaintiff can always be directed to pay separate Court fee. This exercise need not be undertaken at this point of time. Accordingly, this Court is inclined to allow the application seeking for amendment filed by the plaintiff to the extent indicated herein above.



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7. Insofar as A.No.342 of 2022 is concerned, this application has been filed by the plaintiff seeking the leave of this Court to file additional documents which are legal use certificates of the trademark registration. There cannot be any objections in allowing this application and this Court is also convinced with the reasons assigned in the affidavit filed in support of this application. In view of the same, this application is also be allowed.

8. In the result, both the applications shall stand allowed. Considering the facts and circumstances, there shall be no order as to costs.

**02.02.2022**

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