



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 15TH DAY OF JUNE 2022

THE HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

A.Nos.1350 and 1806 of 2022

in

C.S.(Comm. Suits). No.677 of 2016

1. M/s. Maya Appliances Private Limited
No.10/5, Royal Enclave,
Besant Avenue, Adyar,
Chennai-600020
Also having factory at
3/140, I.T.Highway, Oggiam,
Thoraipakkam, Chennai 600097
Represented by its Authorised signatroy,
Mr.E.Mohan

(*) 2. Vijaysrinivasan,
S/o.Srinivasan
C4, Golden Sehombbrunn Apartments
No.29 Cenotoph Road,
2nd Lane, Teynampet, Chennai 18

(*)3. N.D.Venkatesan,
S/o.Damodharan
#3/140, I.T.Highway, Oggivam,
Thoraipakkam, Chennai600097

**(*)(Plaintiff's 2 and 3 impleaded
as per order dated 06.10.2016 in
Ap.No.5200 to 5203 of 2016)** ...Plaintiffs



Butterfly Gandhimathi Appliances Ltd,
143, Pudupakkam Village,
Kelambakkam Vandalur Road
Kancheepuram District, 603 103

.. Defendants

A.Nos.1350 and 1806 of 2022:-

Butterfly Gandhimathi Appliances Ltd,
143, Pudupakkam Village,
Kelambakkam Vandalur Road
Kancheepuram District, 603 103

.. Applicant

Vs.

1. M/s. Maya Appliances Private Limited
No.10/5, Royal Enclave,
Besant Avenue, Adyar,
Chennai-600020
Also having factory at
3/140, I.T.Highway, Oggiam,
Thoraipakkam, Chennai 600097
Represented by its Authorised signatroy,
Mr.E.Mohan

2. Vijaysrinivasan,
S/o.Srinivasan
C4, Golden Sehombrunn Apartments
No.29 Cenotoph Road,
2nd Lane, Teynampet, Chennai 18

3. N.D.Venkatesan,
#3/140, I.T.Highway, Oggivam,
Thoraipakkam, Chennai-600097

... Respondents

A.No.1350 of 2022:-

Application praying that this Hon'ble Court be pleased to grant
leave to file the following additional documents?



S.No.	Date	Particulars	Nature of Document
1.	27.05.2015	Certified copy of Patent Application under No.5006/CHE/2014 filed by the Plaintiffs	Copy
2.	08.04.2016	Certified Trademark Application bearing No.3230307 under Class 11 for the trademark AIR filed by the Plaintiff No.1	Copy
3.	01.06.2016	Legal Proceeding Certificate of Design Registration No.284003	Copy
4.	01.06.2016	Legal Proceeding Certificate of Design No.284005	Copy
5.	01.06.2016	Legal Proceeding Certificate of Design No.284009	Copy
6.	01.06.2016	Legal Proceeding Certificate of Design No.2840011	Copy
7.	25.05.2016	Legal Proceeding Certificate of Design No.283767	Copy
8.	25.05.2016	Legal Proceeding Certificate of Design No.283768	Copy
9.	25.05.2016	Legal Proceeding Certificate of Design No.283769	Copy
10.	1.06.2016	Legal Proceeding Certificate of Design No.284004	Copy
11.	1.06.2016	Legal Proceeding Certificate of Design No.284006	Copy
12.	1.06.2016	Legal Proceeding Certificate of Design No.284008	Copy
13.	1.06.2016	Legal Proceeding Certificate of Design No.284010	Copy
14.	1.06.2016	Legal Proceeding Certificate of Design No.284012	Copy
15.	1.06.2016	Legal Proceeding Certificate of Design No.284013	Copy
16.	28.06.2016	Legal Proceeding Certificate of Design No.284747	Copy
17.	28.06.2016	Legal Proceeding Certificate of Design No.284748	Copy
18.	28.06.2016	Legal Proceeding Certificate of Design No.284749	Copy
19.	07.02.2022	Copy of reply filed by the	Copy



WEB COPY

		Respondents / Plaintiffs along with the request for amending the claim in the Opposition proceedings initiated by Applicant/Defendant in Patent Application under No.5006/CHE/2014.	
20.	14.03.2022	Copy of reply filed by the Applicant/Defendant to the request for amendment of claim filed by the Respondent / Plaintiff in the Opposition proceedings initiated by Applicant/Defendant in Patent Application under No.5006/CHE/2014 along with 4 Prior art documents in relation to patent numbers CN201709744U, CN20321574U, US7335861B2, US5402767, and US5139007.	Copy
21.	13.09.2021 30.11.2021	Application filed to obtain legal use certificate for Registration Nos.284007, 236190, 261530 & 266852 along with reminders sent to the Controller of Designs by the Defendant	Copy
22.	15.03.2022	Affidavit filed under Section 65 B of the Evidence Act, 1872	Original

A.No.1806 of 2022:-

Application praying that this Hon'ble Court be pleased to allow the Applicant/Defendant to carry out the amendments set out in the Schedule hereunder, in the Written statement in C.S.No.677 of 2016.

These Applications coming on this day before this court for hearing, the court made the following order:-

The defendant has presented two applications.



2. A.No.1806 of 2022 is for amendment of the written statement.

The applicant states that the plaintiff amended the plaint in the light of a 7th design registration certificate (Design Registration No.264343), which had not been adverted to in the plaint as originally filed. The applicant also states that no documents were filed when the written statement was originally filed and, therefore, it has become necessary to seek amendment of the written statement so as to consolidate the pleadings and bring all relevant documents on record.

3. The respondents/plaintiffs oppose the application for amendment on the ground that an additional written statement was filed after the plaint was amended. In such additional written statement, the plaintiff states that the defendant responded to the amendment by which reference was made to Design Reg.No.264343. The plaintiff further states that the law, as applicable to commercial disputes, does not provide for an application for amendment of the kind prayed for by the defendant.

4. Upon considering the rival contentions and on examining the affidavit and counter affidavit, it appears that the applicant has filed this application largely for the purpose of consolidating the written statement

and additional written statement and to bring on record the additional



documents proposed to be relied upon. As long as the pleadings placed on record by the defendant form the frame work for the introduction of the additional documents, no amendment to the pleadings is necessary for such purpose because evidence need not be pleaded. Indeed, if such amendment is permitted, it would protract the proceedings in as much as the plaintiff would seek permission to file further pleadings in response.

5. Turning to the application for leave to file additional documents (A.No.1350 of 2022), the applicant asserts that these documents were produced in course of interim applications. This contention is not controverted by the plaintiff except with regard to documents pertaining to the prosecution of the patent proceedings. The suit is admittedly at the pre-trial stage. In the facts and circumstances, the applicant has established reasonable cause to produce these additional documents subject to the right of the plaintiff to raise objections *inter alia* on the grounds of admissibility, relevance and proof. The plaintiffs are also permitted to file an affidavit of admission/denial of these additional documents. The plaintiffs state that they are in the process of preparing and filing a response to the written statement and additional written statement.



6. For reasons set out above, A.No.1806 of 2022 is dismissed and

A.No.1350 of 2022 is allowed on the above terms.

7. List the matter on 29.06.2022.

Sd./-SKRJ.

15/06/2022

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.

EVK 20/06/2022