



A.Nos.4251 to 4253 of 2023

in

C.S.No.371 of 2016

P.T.ASHA, J,

These applications are filed seeking leave of the Court to file an additional document, namely, a copy of the legal use certificate of the trademark, bearing No. 1267994, dated 19.02.2004 in Class 42, to mark the legal use certificate evidencing the sale and expenditure for the period 2010–2016 as secondary evidence and to permit the plaintiff to mark the legal use certificate dated 19.02.2004 in his chief examination.

2. The records would indicate that the suit was filed on 29.06.2016 and was admitted on 30.06.2016. The plaint document is the certificate of registration of the trademark, which was filed as a photocopy. The defendant had been served with the summons, and since they had not filed the written statement, the defendant's right to file the written statement stood forfeited by orders of this Court dated 06.02.2023, and the matter was posted on 24.02.2023, before the learned Additional Master-III for filing the proof affidavit and for marking the documents of the plaintiff, where once again, the plaintiff



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had not appeared. Since the case management schedule could not be adhered to, a revised case management schedule appears to have been filed and on 01.03.2023, P.W.1 was directed to be present for evidence on 13.03.2023. The records would further show that on 13.03.2023, P.W1 had entered the box and marked only Exhibits P1 and P2, and the matter was adjourned by nearly a month to 05.04.2023, on which date another 4 documents came to be marked, and the matter was adjourned to 05.06.2023, 26.06.2023, and thereafter posted on 07.07.2023. On 07.07.2023, the plaintiff attempted to mark an additional document, and that too was a xerox copy, which the learned Additional Master had refused to receive. Therefore, the plaintiff had sought time to get necessary orders from this Court and the matter was listed on 25.07.2023 before this Court. An adjournment was sought for on 25.07.2023 and on 28.07.2023, the applications in question have been filed.

3. A reading of the affidavits filed in support of these applications would show that the only reason given is that the document was lost and that an application for obtaining the certified copy was made to the



trademark registry. The affidavit is totally bereft of details as to when the details had got lost and when the application was made for the certified/ duplicate copy of the trademark. The plaintiff, who has filed the suit as early as in the year 2016, has taken this long to file the application for receiving the additional documents. P.W.1, who had commenced the evidence on 13.03.2023, that too an *ex-parte* evidence, has not taken steps to obtain the certified copies even at the time of filing the suit in the year 2016. In the plaint, the plaintiff does not state that the original document had gone missing.

4. Considering the fact that no reasons have been given and as these applications are highly belated, these applications are dismissed.

21.08.2023

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