



W.P.No.11739 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **03.06.2024**

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

Writ Petition No.11739 of 2024 and
W.M.P.No.12819 of 2024

M/s.V.V.V. & Sons Edible Oils Limited,
Represented by its Director, M.Rajiv Vignesh,
No.443, Bazaar, Virudhunagar-626 001.

Registered Address:
No.6, 6/2, Ellayamudali Street II Lane,
Kailasam street, Tondiarpet,
Chennai-600 081.

... Petitioner

-VS-

1. The Commissioner of Customs-IV,
“Customs House”,
No.60, Rajaji salai,
Chennai-600 001.

2.The Assistant Commissioner of Customs (Exports),
Tuticorin Port,
Tuticorin.

3.T.M.M.R. Ratnasamy Nadar & Co.,
116, Madurai Road,
Virudhunagar-626 001.

... Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 1st and 2nd respondents to permit the petitioner to open the export consignment of the 3rd respondent, in the presence of the 1st/2nd respondent to find out whether the consignments are exported with the registered trademark “Idhayam” of the petitioner herein.

For Petitioner : Mr.R.L.Ramani, Senior Counsel
for Mr.P.V.Sudakar

For R1 & R2 : Mr.G.Meganathan, Junior Standing Counsel

ORDER

By this writ petition, the petitioner seeks a direction to respondents 1 & 2 to open the export consignments of the 3rd respondent so as to ascertain whether the said consignments bear the registered trademark of the petitioner.

2. The petitioner had filed a civil suit in C.S.No.475 of 2017 and an ex parte decree as prayed for was granted against M/s.Shivaraja Impex Company. In C.S.No.238 of 2020, a decree was passed by recording the undertaking of M/s.Shivaraja Impex Company that no exports would be



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undertaken by affixing the petitioner's trademark. By alleging that the 3rd respondent herein is violating the above mentioned orders, the present writ petition has been filed.

3. Learned senior counsel for the petitioner referred to the bill of lading and labels of peanut oil bearing the trademark “Idhayam”. On such basis, he points out that the 1st and 2nd respondents should be directed to consider the petitioner's representation dated 14.03.2024 and permit the petitioner to inspect the 3rd respondent's consignment.

4. Mr.G.Meganathan, learned junior standing counsel, accepts notice for respondents 1 & 2. He submits that the said respondents cannot be directed to open all export consignments of the 3rd respondent to enable the petitioner to verify whether the petitioner's trademark was infringed.

5. The petitioner has placed on record the judgments of this Court in C.S.No.475 of 2017 and C.S.No.238 of 2020. Both judgments are against an entity called M/s.Shivaraja Impex Company. The 3rd respondent in the present writ petition is T.M.M.R. Ratnasamy Nadar & Company. *Prima*



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facie it appears that the above mentioned judgments may not apply to the 3rd respondent herein. Assuming that the 3rd respondent herein has infringed the petitioner's trademark, it is always open to the petitioner to gather relevant evidence and initiate appropriate legal proceedings. On the basis of the petitioner's apprehension that the 3rd respondent herein has infringed its trademark, the customs authorities cannot be directed to open the relevant export consignments and thereby enable such verification by the petitioner. Since the relief claimed by the petitioner is misconceived, a mandamus cannot be issued.

6. Therefore, W.P.No.11739 of 2024 is dismissed by leaving it open to the petitioner to initiate appropriate legal proceedings against the 3rd respondent herein. There will be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

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SENTHILKUMAR RAMAMOORTHY,J

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To

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Chennai-600 001.

2.The Assistant Commissioner of Customs (Exports),
Tuticorin Port,
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