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A.No.3368 of 2024
in
C.S.(Comm.Div.)SR.No.82460 of 2024

SENTHILKUMAR RAMAMOORTHY,J

By this application, the intending plaintiff seeks leave to sue the 1st respondent before this Court. The suit is for relief in respect of alleged passing off by the defendants by use of the impugned mark



in relation to services provided by the defendants.

2. In the draft plaint, it is asserted that the 1st plaintiff and the 2nd defendant adopted the trade mark "VITRO LAB" and that the impugned mark has been used unlawfully by the 2nd respondent at the instance of the 1st respondent. It is also stated that the registered office of the 2nd respondent is at Kodambakkam, Chennai within the



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jurisdiction of this Court and that services are provided from the said address.

3. The respondents oppose this application on the grounds that the 2nd respondent carries on business at Madurai and that the said respondent was incorporated jointly by the 1st applicant and the 1st respondent. According to learned counsel for the respondents, the 2nd respondent has been arrayed as a party so as to shore up an illusory cause of action.

4. The suit is in respect of passing off by use of the impugned mark. The 1st respondent is admittedly the registered proprietor of such mark. The impugned mark is admittedly used by the 2nd respondent, which is a limited company having both its registered office and corporate office within the jurisdiction of this Court. Consequently, a part of the cause of action has arisen within the jurisdiction of this Court. Hence, this application is allowed as prayed for. As a corollary, the Registry is directed to number the suit



if otherwise in order.

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