



WEB COPY



A.Nos.3831 & 3832 of 2024
in
C.S(Comm.Div.)No.199 of 2023

SENTHILKUMAR RAMAMOORTHY,J

By these two applications, the plaintiff seeks time to file a reply statement in response to the written statement and to exhibit the documents described in the schedule to the Judge's summons.

2. Learned counsel for the applicant submits that the defendants referred to the withdrawal of the trade mark application by its predecessor in interest in the year 2017. Consequently, she submits that it has become necessary to place on record both the letter dated 19.10.2017 and subsequent letter dated 15.12.2022 requesting the Registrar of Trademarks not to accept and act on the letter of withdrawal. She also submits that a letter dated 05.10.2023 was issued by the defendants subsequent to the presentation of the plaint. She further submits that a rectification petition was filed by



the plaintiff before the Registrar of Trademarks and that the documents relating thereto are relevant for the purpose of adjudicating the suit.

3. The respondents/defendants have filed a counter to these applications. The principal objection of the defendants is that the plaintiff should have disclosed facts relating to the withdrawal letter dated 19.10.2017 in the plaint. By referring to paragraph 7 of the proposed reply statement, learned counsel points out that the explanation therein that the letter dated 19.10.2017 was submitted inadvertently should not be permitted in a reply statement. He also submits that the subsequent letter dated 15.12.2022 was submitted just prior to the institution of the suit so as to lay the foundation for an explanation with regard to the withdrawal. He also points out that the proposed reply statement is being filed much after the expiry of the 120 day period.



WEB COPY

4. On examining the plaint and the written statement, it appears that the case of the plaintiff is that it acquired title to the relevant trade mark by an assignment deed. Since the defendants assert that the trade mark application was withdrawn by the plaintiff's predecessor, the plaintiff seeks to place on record the two relevant documents in this regard. As regards letter dated 05.10.2023, the plaintiff could not have placed this on record while instituting the suit because the document is subsequent to the date of presentation of the plaint. The relevance of the documents relating to the prosecution of the rectification petition between the same parties also cannot be ruled out at this juncture.

5. In the above facts and circumstances, by leaving open contentions on the part of the defendants with regard to the letter dated 19.10.2017, subsequent letter dated 15.12.2022 and the deed of assignment, the applicant has established reasonable cause to permit the exhibition of these additional documents subject to the right of



WEB COPY



SENTHILKUMAR RAMAMOORTHY,J

kj

the defendants to file an affidavit of admission/denial in respect thereof and raise objections in course of trial *inter alia* on the grounds of admissibility, relevance and proof. These applications are allowed subject to the observations set out above.

kj

23.09.2024

(1/2)

A.Nos.3831 & 3832 of 2024
in C.S(Comm.Div.)No.199 of 2023