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O.A.Nos.78 & 79 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.04.2025

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

O.A.Nos.78 & 79 of 2025
in C.S.(Comm.Div.) No.32 of 2025

In both OAs.

Sri Ramachandra Educational and Health Trust,
New No.24 (Old No.25), Sir C.V.Raman Road,
Alwarpet, Chennai-600 018.

Represented by its Registrar, Prof. Roopa Nagarajan,
and also at No.1, Ramachandra Nagar,
Porur, Chennai-600 016.

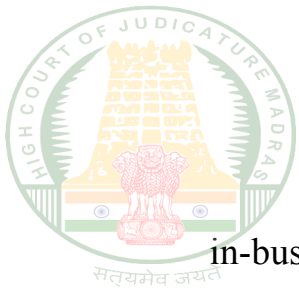
... Applicant/Plaintiff

-vs-

Dr.Babaseheb Ambedkar Vaidyakiya Pratishthan Sanchalit
Shri Ramchandra Institute of Medical Sciences,
Survey No.21-22, Murtujapur, Beed Bypass Road,
Chhatrapati Sambhajanagar, Opposite PB Estate,
Maharashtra – 431 006.

... Respondent/Defendant

Prayer in O.A.No.78 of 2025 : Application is filed under Order XIV Rule 8 of the Original Side Rules Read With Order XXXIX Rules 1 & 2 of CPC to grant an ad interim injunction restraining the respondent, by themselves, their partners/proprietors/trustees, heirs, legal representatives, successors-



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in-business, assigns, servants, agents, distributors, representatives or any one claiming through or under them by use of the mark SRI RAMACHANDRA, either separately or collectively thereby indicating any connection in the course of trade or business with the Applicant which would amount to passing off or enabling others to pass off their institution as and for the Applicant's institution or in any other manner whatsoever, pending disposal of the suit.

Prayer in O.A.No.79 of 2025 : Application is filed under Order XIV Rule 8 of the Original Side Rules Read With Order XXXIX Rules 1 & 2 of CPC to grant an ad interim injunction restraining the respondent, by themselves, their partners/proprietors/trustees, heirs, legal representatives, successors-in-business, assigns, servants, agents, distributors, representatives or any of them from in any manner infringing the Applicant's registered trade marks 'SRI RAMACHANDRA' by use of deceptively similar trade mark or any other deceptively similar mark in any manner whatsoever, pending disposal of the suit.

In both OAs.

For Applicant/Plaintiff : Mr.Arun C.Mohan

for Respondent/Defendant : Dr.G.Babu
Shrikant V.Adwant
Mr.Pallav Sinha



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COMMON ORDER

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In a suit seeking relief in respect of alleged infringement of trade mark and passing off in relation to the plaintiff's registered trade mark “Sri Ramachandra”, the plaintiff has presented these applications seeking interim relief to restrain infringement and passing off, respectively.

2. The plaintiff asserts that Sri Ramachandra Institute of Higher Education and Research (SRIHER) was established in the year 1985. It is further stated that SRIHER has established multiple constituent colleges, which are listed at paragraph 4 of the plaint. The plaintiff also asserts that multiple trade mark registrations were applied for and obtained for the trade mark 'Sri Ramachandra' and its variants.

3. The plaintiff also states that the suit was instituted upon coming to know in November 2024 that the defendant is using the mark “Shri Ramchandra Institute of Medical Sciences”.



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4. Learned counsel for the plaintiff invited my attention to the registrations obtained by the plaintiff for several marks containing the feature 'Sri Ramachandra', which he described as the dominant feature. He also points out that these marks have been used since the late 1980s. As proof of use, he refers to advertisements in newspapers inviting applications for various medical courses and to awards and accolades received by the plaintiff.

5. By referring to documents placed on record by the defendant, learned counsel contends that the Consent of Affiliation was issued by the Maharashtra University of Health Sciences, Nashik, on 15.01.2025 and that the notification recognising the institution as an approved institution for purposes of Section 5 of the Maharashtra Anatomy Act, 1949 was issued only on 14.02.2025. Therefore, learned counsel submits that the balance of convenience is in favour of the applicant/plaintiff inasmuch as the very establishment of the defendant institution with the name containing the impugned mark is at a nascent stage. He further submits that irreparable



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hardship would be caused to the plaintiff, if the defendant is permitted to undertake medical education under the impugned mark.

6. Learned counsel for the defendant refuted these contentions on several grounds. His first contention is that 'Sri Ramachandra' is the name of a deity. Consequently, he contends that such name cannot be appropriated exclusively by any person. Learned counsel for the defendant also contended that Sri Ramachandra, being the name of a deity, is *publici juris*. He relies upon a list of entities established and either dormant or operating under the name Sri Ram or variants thereof. His third contention is that a lease deed dated 20.06.2018 was executed by Shri Ramchandra Mandir (Math) Balaji Trust, Jaswantpura, Aurangabad, as lessor, to and in favour of Dr.Babasaheb Ambedkar Vaidyakiya Pratishthan as lessee in respect of the property described in the schedule thereto ad measuring about 25 acres. With specific reference to clause 5 of the lease deed, learned counsel submits that it was agreed between the lessor and lessee that the medical college to be constructed on the demised property will be known as Shri Ramchandra Institute of Medical Sciences.



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7. Pursuant to such lease deed, learned counsel contends that approvals have been obtained to admit students and run the medical college.

In this regard, he refers to and relies upon documents pertaining to the Medical Assessment & Rating Board (MARB). He points out that the MARB has recognised the functioning of a 420 bed hospital with 50 medical students, who were admitted pursuant to first letter of permission dated 10.08.2024. The third contention of learned counsel is that the plaintiff has obtained registrations for either device marks, wherein 'Sri Ramachandra' is only an element in a composite mark, or for the word mark 'Sri Ramachandra Medical College and Research Institute'. In either case, he contends that the plaintiff is not entitled to claim exclusivity over any element thereof but only for the whole mark.

8. In support of these contentions, learned counsel referred to and relied upon the following judgments:

(i) *Lal Babu Priyadarshi v. Amritpal Singh*, (2015) 16 SCC 795 (*Lal Babu*), particularly paragraphs 18 to 21 thereof.



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(ii) *Vasundhra Jewellers Pvt. Ltd. v. Kirat Vinodbhai Jadvani and*

another, 2022 SCC OnLine Del 3370 (*Vasundhra Jewellers*);

(iii) *Freudenberg Gala Household Products Private Limited v. Gebi*

Products, order dated 14.07.2016 in Notice of Motion No.1530 of 2015 in

Suit No.758 of 2015 (Freudenberg), especially paragraphs 10 to 14 thereof.

9. In light of the rival contentions, the first aspect to be examined is with regard to use of the relevant trade marks. As noticed earlier, in the plaint, the plaintiff asserted that SRIHER was established in the year 1985. The plaintiff has placed on record multiple registration certificates in relation to its trade marks. The registration certificate pertaining to Trade Mark No.2170665 indicates that registration of the word mark 'Sri Ramachandra Medical College and Research Institute' was granted with effect from 05.07.2011 in relation to educational services (class 41), research in the fields of medicine and health care (class 42) and medical services (class 44) by way of a multi-class application under class 99. The advertisement in relation thereto appears to have been published in Trade Mark Journal No.1780 dated 16.01.2017. The document contains an



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assertion of use since 16.07.1988. Several other registration certificates pertaining to device marks containing the element 'Sri Ramachandra' have also been placed on record. The plaintiff has further placed on record advertisements carried in newspapers particularly in relation to notifications for admitting students to various undergraduate and postgraduate programmes. Also on record are awards and accolades received by the plaintiff and copies of the cease and desist notice and the reply thereto.

10. The defendant has relied upon lease deed dated 20.06.2018 as the genesis for the adoption of the impugned mark. This document indicates that the land described in Schedule - 1 thereto ad measuring about 25 acres was leased to Dr.Babasaheb Ambedkar Vaidyakiya Pratishtan in 2018 for purposes of constructing a medical college under the name and style of 'Shri Ramchandra Institute of Medical Sciences (SIMS)'. The said college is admittedly under construction as on date. Learned counsel for the defendant contends, however, that the college is currently functioning in the premises of Dr.Hedgewar Hospital. He also states that about 50 students were admitted pursuant to first letter of permission dated 10.08.2024. Thus, the



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evidence on record clearly indicates that the plaintiff is the prior user of the relevant marks and has used the same for more than three decades. By contrast, actual use by the defendant is only for a few months.

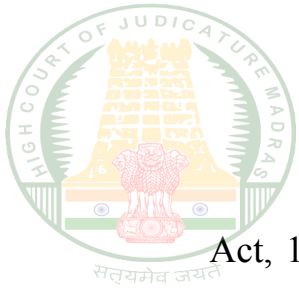
11. The next question that falls for consideration is whether the plaintiff is disentitled to relief on account of the mark being the name of a deity. As discussed earlier, the documents on record indicate *prima facie* the use of the mark or variations thereof since 1988. The use and registrations of the plaintiff are in relation to medical education and health care services. Such use has been for a period in excess of three decades. The defendant did not file oppositions or apply for rectification of the plaintiff's marks over this long period. The judgment of the Supreme Court in *Lal Babu*, which dealt with and rejected an appeal against an order of the Intellectual Property Appellate Board reversing an order of registration, therefore, does not advance the cause of the defendant. Similarly, the interlocutory order in *Freudenberg* refusing to grant interim relief to prevent use of the mark 'Lakshmi' to a person asserting proprietorship over the mark 'Mahalakshmi' does not come to the aid of the defendant. Indeed, in the circumstances



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outlined above, even if the marks of the plaintiff were not inherently distinctive, there is *prima facie* evidence of acquired distinctiveness in relation to medical education and health care services. As regards the contention that the element 'Sri Ramachandra' is *publici juris*, the onus is on the defendant to establish the same by leading evidence in that regard. In *National Bell Co. v. Metal Goods Manufacturing Co. (P) Ltd.* Another, 1970 (3) SCC 665, the Supreme Court held that the party asserting that a mark is common to trade should establish that use by others is substantial. A Division Bench of this Court in *P.M.Palani Mudaliar & Co. v. Jansons Exports*, AIR 2017 Mad 105, held that use by others should exceed use by the proprietor of the mark in order to establish *publici juris*. At this juncture, the evidence on record is insufficient to draw such conclusion.

12. The next aspect to be considered is the contention regarding the plaintiff's marks being composite. Learned counsel for the defendant is correct in contending that the proprietor of a composite mark is only entitled to the exclusive use of the whole mark and not individual elements thereof. This contention finds statutory expression in Section 17 of the Trade Marks



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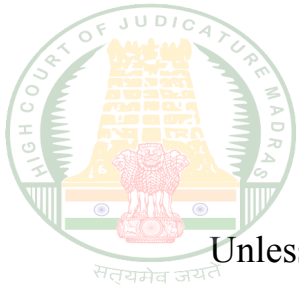
Act, 1999. In this case, however, the plaintiff has also registered the word mark 'Sri Ramachandra Medical College and Research Institute' with effect from 05.07.2011. If this word mark, as a whole, were to be compared with the impugned mark, namely, 'Shri Ramchandra Institute of Medical Sciences', there is little doubt regarding deceptive similarity especially upon considering the identical services to which the rival marks are applied. The contention that the whole mark of the defendant is Dr.Babaseheb Ambedkar Vaidyakiya Pratishtan (BAVP), R K Damani Medical College, Shri Ramchandra Institute of Medical Sciences cannot be countenanced because the relevant section of the public would not refer to the medical college or institute in that manner. In other words, it would be referred to as Shri Ramchandra or Shri Ramchandra Institute of Medical Sciences as mentioned in the lease deed. Hence, the likelihood of deception or confusion among the relevant section of the public, including by way of association, is high. Besides, as stated earlier, there is a strong *prima facie* case of acquired distinctiveness through long use for the plaintiff's marks.



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13. Balance of convenience is an important consideration. The documents on record *prima facie* indicate that the defendant has not completed construction of the medical college on the leased premises, and this position is admitted by learned counsel for the defendant. The documents issued by the MARB indicate *prima facie* that the first letter of permission was granted on 10.08.2024. Such letter of permission has been issued in the name of Dr.Babaseheb Ambedkar Vaidyakiya Pratishthan (BAVP), R K Damani Medical College, Shri Ramchandra Institute of Medical Sciences. Given the proprietary claim of the plaintiff, the plaintiff cannot have any objection to the use of Dr.Babaseheb Ambedkar Vaidyakiya Pratishthan or R K Damani Medical College. The objection is confined to the use of 'Shri Ramchandra'. Even without using the words 'Shri Ramchandra', the defendant would be in a position to continue to run the medical college subject to informing the authorities concerned about this order. As regards the hospital, the hospital is functioning under the name of Dr.Hedgewar Hospital, and the functioning thereof would not be affected at all if an interim order is granted. The letter of permission is, as stated above, dated 10.08.2024. Therefore, the medical college is still at a nascent stage.



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Unless restrained at this juncture, the position is likely to become irreversible later. Therefore, the plaintiff is entitled to interim relief in the application for infringement.

14. As regards the relief of passing off, the documents on record indicate *prima facie* that the defendant has proceeded *bona fide* to establish an institution. The institution is run by the Dr.Babaseheb Ambedkar Vaidyakiya Pratishthan (BAVP). The name R K Damani Medical College and a device are appended thereto. Therefore, it appears *prima facie* that there is no misrepresentation or intention to pass off the services as those of the plaintiff. Although intention to deceive is not a condition precedent for passing off, at the interlocutory stage, I am not inclined to grant relief in respect of passing off.

15. For reasons set out above,

(i) O.A.No.78 of 2025 seeking relief in respect of passing off is dismissed.



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(ii) O.A.No.79 of 2025 is allowed by restraining the

respondent/defendant from infringing the applicant/plaintiff's registered trade mark by using the mark 'Shri Ramchandra' as part of the name of the medical college or institution of the respondent/defendant. In order to provide some lead time to the respondent/defendant to apprise the authorities concerned about this order and obtain permissions, if necessary, this order will come into operation 15 days from the date of receipt of a copy thereof. For the avoidance of doubt, it is made clear that this order will not stand in the way of the respondent/defendant operating the medical college under the name Dr.Babaseheb Ambedkar Vaidyakiya Pratishthan (BAVP), R K Damani Medical College or any other name that is not deceptively similar to 'Sri Ramachandra'.

09.04.2025
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Index : Yes/No
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Neutral Citation : Yes/No

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SENTHILKUMAR RAMAMOORTHY,J.

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