



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 03.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

(TM)A.No.12 of 2025
in OP(TM)No.41 of 2024

1. Ashtavaidyan Dr. E. T. Yadu Narayanan Mooss
2. Ashtavaidyan Dr. E.T. Krishnan Mooss ... Applicants/Petitioners

vs.

- 1.A.V. Sankaran Namboothiri
S/o Vishnu Namboothri, Trading as M/s. Ashtavaidya Herbal Pharma,
EP VIII/251, 252, Ettumanoor, Kottayam, Kerala, PIN 686 631.
2. The Registrar of Trademarks, Office of the Trade Marks Registry,
Guindy, Chennai - 600 032. .. Respondents

Prayer : Application is filed under Order XIV Rule 8 of Original Side Rules Read With Order VII Rule 14(3) of amended CPC, to permit the petitioners to bring on record the documents as mentioned in Schedule – A as additional documents and mark the same in examination in chief.

For Applicants : Mr.K.Balamurali for Mr.Shivakumar and Suresh

For R1 : Mr.W.M.Abdul Azeez

For R2 : Mr.V.Ashok Kumar, SPC



ORDER

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By this application, the petitioners seek leave to place on record additional documents described in the schedule to the Judge's summons. In the affidavit in support of the application, it is stated that an issue relating to use of the relevant trade mark was raised in the course of these proceedings. Consequently, it is stated that the production of these documents is relevant, vital and necessary to decide the issues on hand.

2. The application is opposed by the contesting respondent in the rectification petition on the ground that the rectification petitioners have failed to establish reasonable cause in terms of Order XI Rule 1(5) of the Code of Civil Procedure, 1908, as applicable to commercial disputes and, by extension, to rectification petitions under the Madras High Court Intellectual Property Rights Division Rules, 2022. In support of the contention, learned counsel places reliance on the judgment of the Supreme Court in *Sudhir Kumar vs. Vinay Kumar G.B.*, *MANU/SC/0650/2021*, particularly paragraph 7.6 thereof.

3. The legal position is beyond doubt. A plaintiff or rectification



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petitioner is required to file all documents in its possession, custody, power or control at the time of filing of such petition. If such petitioner intends to file documents later, it becomes necessary to establish reasonable cause as per Order XI Rule 1(5) of the CPC. The proceedings are at the pre-trial stage. On *prima facie* examination, the documents appear to relate to use of the relevant mark by the rectification petitioners.

4. Upon considering the averments in the affidavit in support of this application and by taking into account the other relevant considerations, such as the stage of the proceedings, I conclude that applicants/petitioners have established reasonable cause. Therefore, this application is allowed subject to the right of the contesting respondent to file the affidavit of admission/denial in respect of these documents and also raise objections, *inter alia*, on the grounds of admissibility, relevance and proof in course of trial.

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SENTHILKUMAR RAMAMOORTHY, J.

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To

The Registrar of Trademarks,
Office of the Trade Marks Registry,
Guindy, Chennai - 600 032.

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