



O.A.Nos.481, 482 & 561 of 2025, A.Nos.2262, 2266
& 2540 of 2025 in C.S(Comm Div).No.122 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 25.08.2025

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

O.A.Nos.481, 482 & 561 of 2025, A.Nos.2262, 2266
& 2540 of 2025 in
C.S(Comm Div).No.122 of 2025

(in all OAs and As)

Mohammed Usman Sait
Son of Haji Ebrahim Oosman Sait,
Proprietor of Joonus Sait & Sons,
having its registered office at No.36,
Rattan Bazaar Road, George Town,
Chennai-600 003.

.. Applicant/Plaintiff

-VS-

Mohammed Saleem Sait
Son of Haji Ebrahim Oosman Sait
having its registered office at
F-37, 38, Dee Cee Tower,
2nd Avenue, Chinthamani,
Anna Nagar East, Chennai 600 102,
Alternatively at
Ground Floor, Alsa Mall, Main Entrance,
Comex, Red Cross Rd, near Alsa Mall, Egmore,
Chennai-600 008.

.. Respondent/Defendant



O.A.Nos.481, 482 & 561 of 2025, A.Nos.2262, 2266
& 2540 of 2025 in C.S(Comm Div).No.122 of 2025

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Prayer in O.A.No.481 of 2025: Judge's summons filed under Order XIV Rule 8 of O.S.Rules and Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908, prayed to grant ad interim injunction restraining the Respondent, his son acting on his behalf, his officers, representatives, agents, affiliates, and all others acting for and on his behalf, including social media influencers and vloggers acting on his behalf from selling, offering for sale, advertising, marketing, promoting, whether through offline or online mode, providing any goods or services, under the trademark, tradename, service mark or domain name “Joonus Sait”, whether as a standalone word, part of a logo, or in any other manner identical or deceptively similar to the Applicant's registered trademark “Joonus Sait & Sons,” thereby amounting to infringement of the Applicant's registered trademarks till disposal of the suit.

Prayer in O.A.No.482 of 2025: Judge's summons filed under Order XIV Rule 8 of O.S.Rules and Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908, prayed to grant ad interim injunction restraining the Respondent, his son acting on his behalf, his officers, representatives, agents, affiliates, and all others acting for and on his behalf, including social media influencers and vloggers acting on his behalf from using the trademark, tradename, service mark or domain name “**Joonus Sait**,” whether alone or in combination with other words or logos, in any manner that amounts to passing off their goods, services, or business as those of the Applicant's, causing confusion, deception, or dilution of the Applicant's



O.A.Nos.481, 482 & 561 of 2025, A.Nos.2262, 2266
& 2540 of 2025 in C.S(Comm Div).No.122 of 2025

goodwill and reputation associated with '**Joonus Sait & Sons**', till disposal of the suit.

Prayer in O.A.No.561 of 2025: Judge's summons filed under Order XIV Rule 8 of O.S.Rules and Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908, prayed to grant an interim injunction directing the Respondent/Defendant to cease and desist from representing, in any manner whatsoever, that the Respondent/Defendant holds any proprietary right, title, or interest in the name or mark “Joonus Sait” or any part thereof, till disposal of the suit.

Prayer in A.No.2262 of 2025: Judge's summons filed under Order XIV Rule 8 of O.S.Rules and Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908, prayed to direct the Respondent to forthwith, withdraw, abandon, or cause to be withdrawn or abandoned, Trademark Application No.5341379 filed before the Trade Marks Registry, Chennai under Class 25 for the mark “Joonus Sait,”; and further direct the Respondent to forthwith transfer the domain name “<http://Joonussait.com/>” to the Applicant and further to direct the Respondent to furnish an undertaking before this Court that he shall not, either directly or indirectly, use, adopt, or apply for registration of any trademark, tradename, domain name, copyright, or any other form of intellectual property incorporating the mark “**Joonus Sait**”, or any mark identical or deceptively similar to the Applicant's registered trademark “**Joonus Sait & Sons**,”; till the disposal of the suit.



O.A.Nos.481, 482 & 561 of 2025, A.Nos.2262, 2266
& 2540 of 2025 in C.S(Comm Div).No.122 of 2025

WEB COPY

Prayer in A.No.2266 of 2025: Judge's summons filed under Order XIV Rule 8 of O.S.Rules and Order XXVI Rule 9 of the Code of Civil Procedure, 1908, prayed to appoint Advocate Commissioner to inspect the respondent premises to take photos/videos of the products bearing Applicant/Plaintiff Trade mark and seize the materials containing the Applicant/Plaintiff Trade Mark.

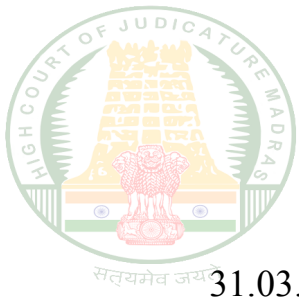
In all OAs and As

For Applicant/Plaintiff : Mr. Amit Sharma
Ms. Pallavi Barua and
Mr. Prabhu Mukund Arunkumar

For Respondent/Defendant : Ms. S.Suba Shiny and
Mr. Subramanian Vaidyanathan

ORDER

Business under the name and style of M/s. Joonus Sait & Sons is being carried on for several decades. By deed of partnership dated 01.04.1993, the firm was reconstituted with Mr.Ebrahim Sait and his sons, Mr.Saleem Sait, Mr.Osman Sait and Mr.Irfan Sait, being the partners. Under Deed of Release and Retirement of Partner dated 01.04.2000 (the Deed of Release), Mr.Saleem Sait exited the partnership firm with effect from 4/17



O.A.Nos.481, 482 & 561 of 2025, A.Nos.2262, 2266
& 2540 of 2025 in C.S(Comm Div).No.122 of 2025

WEB COPY

31.03.2000. The Deed of Release records that the continuing partners would take over the assets, liabilities, goodwill, trade name, trade mark, etc. of the partnership firm. On the same date, a Memorandum of Understanding dated 01.04.2000 (the MoU) was executed by and between Mr.Saleem Sait, Mr.Osman Sait and Mr.Irfan Sait. This document refers to another partnership firm under the name and style of M/s. Joonus Sait. The said document further records that Mr. Saleem Sait requested his two brothers for permission to use the trade name M/s. Joonus Sait notwithstanding the firm being dissolved with effect from the end of 31.03.1998.

2. The present dispute arises in relation to the above documents. The plaintiff is Mr. Osman Sait and he has prayed for reliefs in respect of alleged trade mark infringement and passing off. Several interlocutory applications were presented seeking remedies in respect of alleged trade mark infringement and passing off, including in relation to the application filed recently by Mr. Saleem Sait for registration of the trade mark “Joonus Sait”.



O.A.Nos.481, 482 & 561 of 2025, A.Nos.2262, 2266
& 2540 of 2025 in C.S(Comm Div).No.122 of 2025

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3. The contentions of learned counsel for the plaintiff, Mr.Amit Sharma, who was assisted by Ms. Pallavi Barua and Mr.Prabhu Mukund Arunkumar, learned counsel, may be summarized as under:

(i) The defendant has changed his stand over time. In reply dated 29.04.2022 to the Registrar of Trade Marks, the defendant stated that his brothers acceded to his request to use the trade name of M/s. Joonus Sait for his individual business. By contrast, in reply dated 09.11.2024 from counsel for the defendant to counsel for the plaintiff, it was stated that the defendant has the right to use the mark 'Joonus Sait' by virtue of inheritance and because the mark relates to the family business.

(ii) When the defendant exited the partnership under the name and style of M/s. Joonus Sait & Sons, the remaining partners took over not only the assets but also the liabilities of the firm. The only right remaining with the defendant was to claim the amount standing to the credit of his account as on 31.03.2000. He specifically agreed not to use the firm's name or represent himself as carrying on the business of the firm.



O.A.Nos.481, 482 & 561 of 2025, A.Nos.2262, 2266
& 2540 of 2025 in C.S(Comm Div).No.122 of 2025

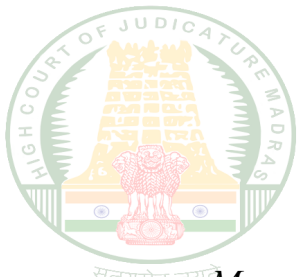
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(iii) The Memorandum of Understanding dated 18.09.2002 (the 2002

MoU) records that the defendant exited the partnership firms M/s.Joonus Sait & Sons and M/s. J.S. & S. Enterprises and that the property at No.23, Old No.W-16, North Main Road, Western Extension, Anna Nagar, Chennai-600 101 was transferred to his name as part of the settlement of his account. It also records that he has no claim whatsoever in the family businesses/properties.

(iv) Under the MoU, the defendant was merely permitted to use the trade name, M/s. Joonus Sait, but was not granted any proprietary rights in respect of the trade mark. Such permission was granted on condition that it is intended solely for his individual business. By inducting his son into the business, he breached the condition. By lawyer's notice dated 26.09.2024, the permission to use the trade name was revoked on account of breach. Upon such revocation, the defendant has no right to use the trade name.

(v) Merely on account granting conditional permission to the defendant to use the trade name, it cannot be said that the plaintiff acquiesced in the use of the mark by the defendant. The judgment of the Bombay High Court in *Shobha Omprakash Agarwal and Others v.*



O.A.Nos.481, 482 & 561 of 2025, A.Nos.2262, 2266
& 2540 of 2025 in C.S(Comm Div).No.122 of 2025

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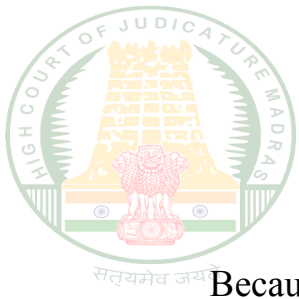
Maganlal & Sons, 2013 SCC OnLine Bombay 1255 (Maganlal & Sons), was relied upon in this connection, particularly paragraphs 12, 13, 16 to 19 thereof.

4. In response to these contentions, Ms.Suba Shiny, learned counsel for the defendant, who was assisted by Mr.Subramaniam Vaidyanathan, learned counsel, submitted as follows:

(i) The family of Mr. Ebrahim Sait carried on business through three partnership firms, namely M/s. Joonus Sait & Sons, M/s. Joonus Sait and M/s. J.S. & S. Enterprises.

(ii) While M/s. Joonus Sait & Sons and M/s. J.S. & S. Enterprises continued their businesses, M/s. Joonus Sait ceased to carry on business by the end of 31.03.1998.

(iii) Since the defendant exited from the other partnerships, Mr.Osman Sait and Mr. Irfan Sait, the other partners of M/s. Joonus Sait, with the consent of Mr. Ebrahim Sait, gave their no objection to the defendant carrying on business under the trade name of M/s. Joonus Sait.



O.A.Nos.481, 482 & 561 of 2025, A.Nos.2262, 2266
& 2540 of 2025 in C.S(Comm Div).No.122 of 2025

WEB COPY

Because they were the other partners of the said firm, it was necessary for them to grant such no objection.

(iv) No restriction is recorded in the MoU with regard to the length of time during which the defendant may use the trade name, M/s. Joonus Sait, or otherwise restricting the defendant from asserting proprietorship in respect of the said trade name/mark subject to not transferring the trading name to a third party.

(v) The MoU was executed by all three partners of the firm, M/s. Joonus Sait. Therefore, one of such partners is not entitled to revoke the no objection under lawyer's notice dated 26.09.2024.

(vi) The defendant has carried on business continuously since the year 2000 and has developed the business considerably over this period. In these circumstances, the balance of convenience is entirely in favour of the defendant and the plaintiff is not entitled to interim relief.

(vii) As regards the application for registration of the trade mark “Joonus Sait”, without prejudice to the contention that the defendant is entitled to assert proprietary rights in relation thereto, the defendant undertakes not to prosecute such application until disposal of the suit.



O.A.Nos.481, 482 & 561 of 2025, A.Nos.2262, 2266
& 2540 of 2025 in C.S(Comm Div).No.122 of 2025

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5. By way of a brief rejoinder, the following submissions were made on behalf of the plaintiff:

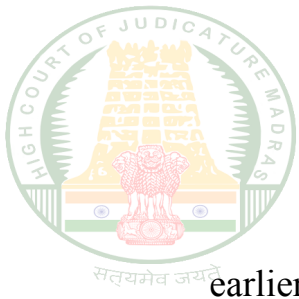
(i) There is no document evidencing that the defendant was permitted to carry on the business of the erstwhile firm, M/s. Joonus Sait.

(ii) An inference of acquiescence or waiver cannot be drawn on the basis of permission to use. The judgment of the Delhi High Court in *Social Work and Research Centre v. Barefoot College International*, 2023 SCC OnLine Del 1343 (*Barefoot College*), particularly paragraphs 69 to 73, is relied upon in support of this proposition.

(iii) The power to revoke is inherent in the power to grant permission. The judgment of the Hon'ble Supreme Court in *Shree Sidhballi Steels Limited and Others v. State of Uttar Pradesh and Others*, (2011) 3 Supreme Court Cases 193, particularly paragraph 38 was relied upon.

6. At the heart of this dispute is two documents. The first being the Deed of Release. This document was signed by Mr. Ebrahim Sait and his three sons, as partners of the firm, M/s Joonus Sait & Sons. As noticed

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O.A.Nos.481, 482 & 561 of 2025, A.Nos.2262, 2266
& 2540 of 2025 in C.S(Comm Div).No.122 of 2025

WEB COPY

earlier, it records that the defendant shall be deemed to have retired from the said partnership with effect from the end of 31.03.2000. It also records that the remaining partners shall take over the assets, including trade name and trade mark, and liabilities. The MoU was executed on the same date. Although Mr.Ebrahim Sait was alive when the MoU was executed, he did not join in the execution thereof, and it was only executed by Mr.Saleem Sait, Mr.Osman Sait and Mr.Irfan Sait, all of whom were described as erstwhile partners of the firm, M/s. Joonus Sait.

7. If it had been the understanding of the remaining partners of M/s Joonus Sait & Sons that the exiting partner was not entitled to use the trading name, M/s Joonus Sait & Sons, or any variant thereof, without their permission, all of them should have issued the licence to Mr. Saleem Sait. The MoU records in the recitals that Mr.Saleem Sait had requested his two brothers to permit him to use the trade name of the erstwhile firm, M/s.Joonus Sait, for his individual business. The operative clauses are as under:



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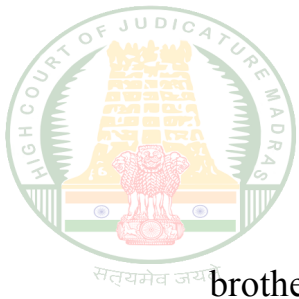
O.A.Nos.481, 482 & 561 of 2025, A.Nos.2262, 2266
& 2540 of 2025 in C.S(Comm Div).No.122 of 2025

“1) Mr. Osman Sait and Mr. Irfan Sait have acceded to the request of Mr.Saleem Sait to use the trade name of M/s. Joonus Sait for his individual business.

2) Mr.Saleem Sait categorically declares and affirms that he shall not under any circumstances either sell or transfer by any means the trade name of M/s. Joonus Sait to any Third Party/Parties.

3) The Parties herein have mutually agreed to the fact that the partnership business of M/s. Joonus Sait has been finally dissolved on 31/03/1998 and that there are no assets and liabilities, receivable or payable and that none of the erstwhile partners have any claim against the firm or against each other on any account.”

8. The *prima facie* conclusion that follows on examining this document is that it pertains to the trading name of the firm M/s. Joonus Sait, which was dissolved as of end of 31.03.1998. Since it was the trading name of a partnership constituted by the three brothers, *prima facie*, all three brothers had proprietary interest in the trading name. When one of the



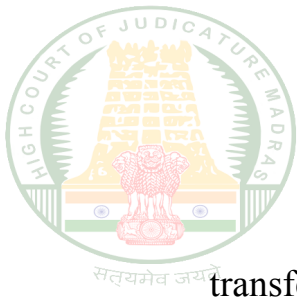
O.A.Nos.481, 482 & 561 of 2025, A.Nos.2262, 2266
& 2540 of 2025 in C.S(Comm Div).No.122 of 2025

WEB COPY

brothers wanted to use such trading name for his business, he requested the other brothers/other partners for permission to do so and such permission was granted on condition that he should not sell or transfer the trading name to any third parties. Put differently, it does not appear *prima facie* to be a licence granted by the owners of the trade mark to a licensee.

9. It is common ground between the parties that the defendant has carried on business under the trading name of M/s. Joonus Sait continuously since the year 2000. In effect, such business has been carried on for about 25 years as on date.

10. The question that arises for consideration is whether the defendant should be restrained from using such trading name at this interlocutory stage. By reliance on the Deed of Release dated 01.04.2000 and the 2002 MoU, learned counsel for the plaintiff submitted that the defendant exited the partnership firm under the name and style of M/s. Joonus Sait & Sons on condition that he could claim the amount standing to the credit of his account. As recorded in the 2002 MoU, his account was settled by *inter alia*



O.A.Nos.481, 482 & 561 of 2025, A.Nos.2262, 2266
& 2540 of 2025 in C.S(Comm Div).No.122 of 2025

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transferring a property in Anna Nagar to his account. Therefore, he is not entitled to use the trading name or trade mark “Joonus Sait”. Learned counsel further submitted that mere permission or licence was granted to him to use such name. Being a licence, it may be revoked by the licensor(s) at any point of time.

11. The plaintiff has placed on record the registration certificate relating to the trade mark Joonus Sait and Sons, which was registered under Trade Mark No.5334036 in class 25. If the disputes were between third parties, as appears to be the case both in *Maganlal & Sons* and *Barefoot College*, the considerations would be different. Here, it is common ground between the parties that three partnership firms were in existence and that the three brothers were originally partners in all three partnership firms. It also appears from the records that the plaintiff, Mr.Osman Sait, is the sole proprietor of the business of M/s. Joonus Sait and Sons, as on date, and that the other brother, Mr.Irfan Sait, is the sole proprietor of the business carried on by M/s. J.S. & S. Enterprises today. The MoU should be looked at in this factual context.



O.A.Nos.481, 482 & 561 of 2025, A.Nos.2262, 2266
& 2540 of 2025 in C.S(Comm Div).No.122 of 2025

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12. On closer examination, it is noticeable that the MoU does not grant the right to use the trade name for a limited period of time. The only condition appears to be that the defendant should not sell or transfer the trade name to any third party. The plaintiff does not allege that the defendant has transferred or even endeavoured to transfer the trade name to any third party. While the defendant asserts proprietary rights in respect of the trade name/trade mark Joonus Sait, including by virtue of building the brand over a 25 year year period, it does not appear *prima facie* from the MoU that the parties recognized the defendant's sole proprietorship over the trading name.

13. At this juncture, it is necessary to balance the equities. As the person carrying on business under the name and style of M/s. Joonus Sait for 25 years, in the facts and circumstances set out above, it would be inappropriate to restrain the defendant from doing so pending disposal of the suit. At the same time, in view of the *prima facie* finding that the MoU does not indicate that the defendant is entitled to assert sole proprietorship over the trading name, the defendant should not prosecute the application



O.A.Nos.481, 482 & 561 of 2025, A.Nos.2262, 2266
& 2540 of 2025 in C.S(Comm Div).No.122 of 2025

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for registration of the trade mark until disposal of the suit, as undertaken by learned counsel for the defendant. Learned counsel has also stated that any claims to being the sole torchbearer for the legacy of Joonus Sait have been withdrawn by deleting such materials from the website of the defendant. The said statement is recorded.

14. These applications are disposed of on the above terms without any order as to costs.

25.08.2025

Index : Yes/No

Internet : Yes/No

Neutral Citation: Yes/No

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O.A.Nos.481, 482 & 561 of 2025, A.Nos.2262, 2266
& 2540 of 2025 in C.S(Comm Div).No.122 of 2025

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**O.A.Nos.481, 482 & 561 of 2025, A.Nos.2262, 2266
& 2540 of 2025 in
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25.08.2025