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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **24.07.2025**

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

(TM)A.Nos.66 & 67 of 2025 in

(T)OP(TM)No.55 of 2023

(ORA/291/2012/TM/CHN)

M. Mathew, Represented by its POA D.Justin,
Muthoot House, 26, Mummys colony, Kuravankonam, Kowdiar P.O.,
Trivandrum – 695003. ... Applicant/1st Respondent

vs.

1. Thomas John Muthoot

2. Thomas Muthoot

3. Thomas George Muthoot

All are residing in Muthoot Towers, 5th Floor, M.G. Road, Ernakulam,
682 035 Kerala. .. Respondents 1 to 3/Rectification Petitioners

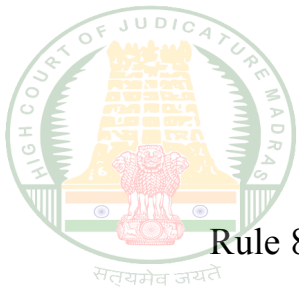
4. Registrar of Trade Marks,

Office of the Trade Marks Registry,

Guindy, Chennai-600 032. .. 2nd Respondent/4th Respondent

Prayer in (TM)A.No.66 of 2025: Application is filed under Order XIV Rule 8 of the Original Side Rules Read With Order XVIII Rule 17 of the CPC, 1908 along with Section 151 of the CPC, to re-open the chief examination of R.W.1 which was closed on 03.06.2025.

Prayer in (TM)A.No.67 of 2025: Application is filed under Order XIV



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Rule 8 of the Original Side Rules Read With Order XI, Rule 1(10) of the amended CPC, to bring on record the documents mentioned in the Judge's summons as additional documents and/or to replace the same related to already marked as exhibits and mark the same.

In both applications:

For Applicant : Mr.K.Balamurugan for M/s.Shivakumar and Suresh

For R1 to R3 : Mr.Arun C.Mohan

ORDER

By these two applications, the 1st respondent seeks to reopen the examination in chief of R.W.1 and bring on record the additional documents listed in the affidavit in support of (TM)A.No.67 of 2025.

2. Learned counsel for the applicant/1st respondent submits that the examination in chief of R.W.1 was closed on 03.06.2025. Out of the documents listed at paragraph 9 of the affidavit in support of (TM)A.No.66 of 2025, learned counsel submits that the documents listed at serial nos.2 to 17 were exhibited previously, albeit without the hash value of the relevant documents. Since an objection was raised on that ground by reference to Section 63(4)(c) of the Bharatiya Sakshya Adhiniyam, 2023 (BSA), learned counsel submits that the present application was necessitated. He further submits that the document listed



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at serial no.1 is a partnership deed executed by one of the ancestors of the applicant and that this document is germane because it supports the defence that the impugned mark was used by the predecessor of the applicant/1st respondent.

3. Learned counsel for the rectification petitioners opposes these applications. He contends that the petitioners had raised the objection that documents were being exhibited in contravention of Section 63(4)(c) of the BSA and that the applicant is endeavouring to fill up the lacunae by filing the present application. As regards the document at serial no.1, learned counsel submits that it is a document executed on 30.07.1934 and that the applicant has not shown reasonable cause for filing the document at this juncture.

4. On perusal of the documents listed at serial nos.2 to 17, these documents are examination reports issued by the Registrar of Trade Marks, certificates of registration issued by the Registrar of Trade Marks, Memoranda and Articles of Association of companies, intimations and acknowledgments from the Income Tax Department and the like. All these documents were issued or authenticated by public authorities. In



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these circumstances, the objection appears *prima facie* to the hyper technical.

5. As regards the partition deed dated 30.07.1934, the contention of learned counsel for the rectification petitioners that this document could have been filed earlier is not without merit. The document, however, appears *prima facie* to be relevant to the defence. As a result of the belated filing of this document, the rectification petitioners did not have an opportunity to deal with this document. Therefore, in order to provide a reasonable opportunity for the rectification petitioners to do so, the applicant/1st respondent is permitted to file this document subject to the right of the rectification petitioners to file a brief rejoinder dealing with the same. In addition, the rectification petitioners may raise objections, *inter alia*, on grounds of admissibility, relevance and proof in respect thereof.

6. For reasons aforesaid, these applications are allowed on the following terms:

- (i) The examination in chief of R.W.1 is reopened;
- (ii) The applicant is permitted to file the documents listed at



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paragraph 9 of the affidavit subject to the objections of the rectification petitioners on grounds of admissibility, relevance and proof and subject to the petitioners being permitted to file a brief rejoinder.

(iii) The rectification petitioners are also permitted to file an affidavit of admission/denial in respect of document no.1.

(iv). There shall be no order as to costs.

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24.07.2025
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To

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

SENTHILKUMAR RAMAMOORTHY,J.



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