



O.S.A.Nos.20 and 21 of 2020

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:18.09.2025

CORAM:

THE HON'BLE DR.JUSTICE G.JAYACHANDRAN

AND

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

O.S.A.Nos 20 and 21 of 2020

and

C.M.P.Nos.582, 588 and 592 of 2020

O.S.A.No.20 of 2020

M/s V.Vidhya Industries
a registered Partnership Firm
No.6/1, Nehru Street,
Avinashi Road, Peelamedu,
Coimbatore 641 004.
Rep.by its Partner Mr.V.Suresh

..Appellant

/versus/

1.K.K.Rajan,
Trading as Sharp Industries
801/1A, Sitra Road,
Sharp Nagar, Kalappatti,
Coimbatore 641 048.

2.Sharp Industries,
New No.234, Old No.143,
Angappa Naicken Street,
Parrys, Chennai 600 001.

..Respondents



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Prayer: Original Side Appeal has been filed under Section 13(1) of Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 read with Order XXXVI, Rule 1 & 9 of Original Side Rules and Clause 15 of Letters Patent, praying to allow the appeal, set aside the Order dated 25.09.2019 made in O.A.No.109 of 2019 in C.S.No.103 of 2019 on the Original Side of this Hon'ble Court.

For Appellant :Ms.S.Subashiny

For Respondents :Mr.K.Harishankar for R1

O.S.A.No.21 of 2020

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For Appellant :Ms.S.Subashiny

For Respondents :Mr.K.Harishankar for R1

COMMON JUDGMENT

(Order of the Court was made by Dr.G.Jayachandran,J.)

The Complaint filed under Order VII, Rule 1 of the Civil Procedure Code read with Sections 27, 134 and 135 of the Trade Marks Act, 1999 and Section 7 of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, No.4 of 2016, was initially entertained by this Court, granting leave to sue, since the first defendant is carrying on business at Coimbatore and the second defendants, alleged to be distributor of the first defendant, is carrying on business within the territorial jurisdiction of the Original Side of the Madras High Court.



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2. The leave to sue granted by this Court was subsequently revoked on an application filed by the defendants. Since it was found that the appellant and the first defendant, who are the real contesting parties, are carrying on business at Coimbatore, which falls outside the territorial jurisdiction of the Original Side of the Madras High Court and sofar as the second defendant is concerned, it was found that they are not carrying on business at the said address.

3. The learned Single Judge, after going through the records and the pleadings, found that the plaint squarely falls within the ambit of forum shopping. Though Section 134 of the Trade Mark Act, 1999, entitles the plaintiff to sue at the place, where he carries on business, in this case, the plaintiff, who is admittedly carrying on business at Coimbatore had chosen Chennai Court by impleading the second defendant.



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4. The learned counsel appearing for the appellant, who has preferred this OSA, on being aggrieved by the revocation of leave contended that the second defendant is the distributor of the first defendant is established through justdial portal. Jurisdiction being a mixed question of fact and law, having granted leave to sue, the same ought not to have been revoked for the reason stated by the learned Single Judge.

5. The learned counsel appearing for the respondent submitted that the respondent is the registered Proprietor of the trademark "SHARP FORCE". Appeal filed by the plaintiff before the Intellectual Property Appellate Board (in short "IPAB") for cancelling registration was dismissed and culminated in favour of the respondent. It was further submitted that claiming as prior user of the Trademark a suit was filed before the Commercial Division of this Court investing jurisdiction by impleading the second defendant. When it was brought to the notice of this Court that the first defendant has no presence within the jurisdiction



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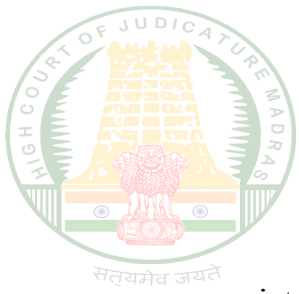
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of the Original Side of Madras High Court and that the second defendant is not carrying on any business at the said address, the leave to sue was rightly revoked.

6. According to the learned counsel for the Respondent, the learned Single Judge, upholding the principle of forum convenience, rightly held that since the plaintiff as well as the first defendant are carrying on business at Coimbatore, there is no necessity to entertain the suit at Chennai.

7. Heard the learned counsel appearing for the appellant and the respondents.

8. Cause of action for the suit arose in 2011 as a prior user of the trade mark “SHARP FORCE” by the plaintiff and consequently, on 07.01.2019 when the plaintiff came to know about the first defendant using the mark “SHARP FORCE”. The plaintiff claiming as the prior user had laid the suit. However, the claim regarding exclusive use of the



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registered trade mark “SHARP FORCE” by the plaintiff has been decided by this Court recently and held in favour of the first defendant. While the fact being so, this Court, apart from holding that the suit filed before the Original Side of the Madras High Court lacks territorial jurisdiction, also holds that the cause of action for the suit is no more available to the plaintiff. Hence, these Original Side Appeals stand dismissed. Consequently, connected Civil Miscellaneous Petitions are closed. There shall be no order as to costs.

(DR.G.J.J.) & (M.S.K.J.)
08.09.2025

Index:yes/no
Internet:yes
Speaking order/Non speaking order
Neutral citation:yes/no
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