



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 28.08.2025

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

A.No.6607 of 2024
in C.S.(Comm.Div.) No.64 of 2024
and O.A.Nos.221 & 222 of 2024
and A.Nos.1620, 3133, 4154 & 6606 of 2024

Universal Speciality Chemicals Pvt. Ltd.,
Universal House, 28/A, Kamgar Nagar,
Kurla, Mumbai 400 024.

Also having office at:
Unit No.2, Sparkal Industrial Corporation
(Taloja Industrial Area), Plot No.B/18,
Taloja Industrial Estate,
M.I.D.C. District,
Raigad – 410 208, Maharashtra.

... Applicant

-VS-

M/s.Ramcides CropScience Pvt. Ltd.,
Rep. By its Manager – R & D
Dr.A.Vasanthakumar,
No.7, Duraisamy Road,
First Floor, Aishwarya Complex,
T.Nagar, Chennai – 600 017 and another.

... Respondents



WEB COPY For Applicant : Mr.Arun C.Mohan

For Respondents : M/s.R.Prem Raja Kumari for R1

ORDER

After applying for and obtaining leave to sue in A.No.1414 of 2024, by order dated 12.03.2024, the plaint was admitted on 19.03.2024. Along with the plaint, the plaintiff presented applications seeking interim relief. This application to revoke leave appears to have been filed in December 2024. The common counter affidavit in O.A.Nos.221 and 222 of 2024 was filed in June 2024.

2. The contentions of learned counsel for the plaintiff may be summarized as under:

(i) The defendants have sold the infringing product within the jurisdiction of this Court. This is evident from the product inquiry for delivery of the infringing product at PIN code 600 017, which is the PIN code for T.Nagar, Chennai.



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(ii) The patent was registered by the Patent Office, Chennai, and was duly renewed by the said Patent Office from time to time.

(iii) The second defendant has filed a petition to revoke the patent before this Court. The same evidence would be required to be adduced both in the suit and the revocation petition.

(iv) The defendants acquiesced in proceedings before this Court by filing the counter affidavit and written statement.

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

(i) *Teva Pharmaceutical Industries Ltd. and others v. Natco Pharma Limited*, MANU/D/1373/2014, particularly paragraph 20 thereof.

(ii) *Ramu Hosieries v. Ramu Hosieries and others*, MANU/TN/0188/1998, (*'Ramu Hosieries'*), particularly paragraphs 8 and 9 thereof.

(iii) *Ummer Koya and others v. Tamil Nadu Chess Association and others*, MANU/TN/0534/2005 (*'Ummer Koya'*), particularly paragraphs 9 and 10 thereof.



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(iv) *R.Mathiazhagan and others v. P.J.Ethiraj and Others,*

MANU/TN/8041/2021 ('Mathiazhagan'), particularly paragraphs 24 to 26 and paragraphs 31 and 33 thereof.

(v) *Hindustan Unilever Limited and others v. S.Shanthi and others,*

MANU/TN/6966/2021, particularly paragraphs 167 and 169 thereof.

4. The contentions of learned counsel for the defendants may be summarized as under:

(i) The plaint does not contain an assertion that the infringing product is being sold in Chennai.

(ii) The grant of patent by the Patent Office at Chennai is insufficient to clothe this Court with jurisdiction in an action for patent infringement. By relying on the judgment of the Full Bench of this Court in *Duro Flex Pvt. Limited v. Duroflex Sitzings System and another, 2014(5) LW 673, ('Duro Flex')* learned counsel submitted that the earlier judgment in *Ramu Hosieries* was overruled by the Full Bench while holding that the situs of registration of the trade mark by itself is insufficient to give rise to a cause of action to institute the suit before this Court.



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(iii) The defendants did not acquiesce in the prosecution of the suit and contended that this Court does not have jurisdiction in the counter affidavit and written statement.

(iv) In case leave is revoked and the plaintiff were to present the suit before a Court having jurisdiction, the defendants would withdraw the revocation petition after lodging a counter claim for revocation of patent in such infringement suit.

5. The first question that falls for consideration in light of the contentions noted above is with regard to acquiescence. The said contention was advanced by relying upon the judgment in *Ummer Koya*. In the counter affidavit filed in April 2024, it was stated *inter alia* as under in paragraph 18:

“Therefore, the Applicant does not carry on any business within the jurisdiction of this Hon'ble Court. The Applicant has failed to disclose any cause of action against the Respondent and the plaint is liable to be returned under the provisions of Order 7 Rule 10 of Civil Procedure Code.”



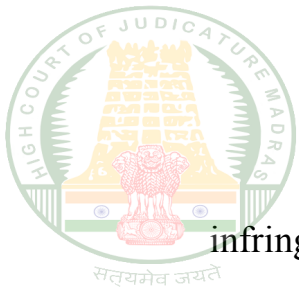
WEB COPY 6. In paragraph 8 of the written statement, which was also filed in

June 2024, the defendant stated as follows:

“8. At the outset, it is submitted that this Hon'ble Court does not have the jurisdiction to entertain the captioned suit and the suit is liable to be dismissed since there is no cause of action that has arisen before this Hon'ble Court.”

In these circumstances, an inference of acquiescence cannot be drawn.

7. The next issue to be dealt with is whether the grant of patent by the Patent Office at Chennai is per se sufficient to justify invoking the jurisdiction of this Court. The Full Bench of this Court in *Duro Flex* concluded that the situs of the Trade Mark Office at Chennai was insufficient by itself to confer jurisdiction on this Court. Learned counsel for the plaintiff contended that a suit for infringement of patent is distinguishable from a suit for infringement of trade mark by pointing out that even the manufacture of the infringing product constitutes



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infringement. The said contention is liable to be accepted. It, however, does not advance the cause of the plaintiff because there is no evidence that the infringing product is being manufactured in Chennai. Consequently, by analogy, the principle laid down in *Duro Flex* applies to this case. While the grant of Patent at Chennai is a material fact forming a part of the bundle of facts giving rise to the plaintiff's cause of action, the grant of patent by the Patent Office at Chennai is per se insufficient for the plaintiff to establish that this Court has jurisdiction.

8. In any action for infringement, be it of trade mark or patent, the most critical element in such cause of action is the commercial sale of products bearing the impugned mark or sale of the infringing product, as the case may be, within the jurisdiction of the relevant court. As contended by learned counsel for the plaintiff and as held in *Mathiazhagan*, the examination at the primary stage is on the basis of averments in the plaint. In the cause of action paragraph of the plaint, after referring to the grant of patent and the renewal thereof by the Patent Office at Chennai, in relevant part, the plaintiff has stated as under:



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“....in January 2024 when the knowledge of the infringing product sold by the Defendants became known to the Plaintiff, on different dates when the Defendants manufactured and sold the infringing product identical to or similar to that of the product of the Plaintiff on online platforms including Agribazaar and/or other stores/dealers in India, on 12.01.2024 when the Legal notice was sent on behalf of the Plaintiff to the Defendants, on 15.01.2024 when the Defendant received the Legal notices, and continues to arise till date as the Defendants have been manufacturing and selling its products infringing the patented invention of the Plaintiff, and on various other dates.”

9. Conspicuous by its absence in the above extract is an assertion that the infringing product is being sold at Chennai. Even if the documents filed with the plaint are examined in this regard, apart from a product inquiry emanating from a PIN code in Chennai, there is no evidence of sale in Chennai. Given the fact that more than one year has lapsed since the plaint was admitted, I called upon the defendant to file an affidavit disclosing whether the allegedly infringing product is sold in Chennai. In response, an



affidavit dated 30.06.2025 affirmed by Sharokh K.Nikorawalla was filed.

WEB COPY Paragraphs 2 and 3 thereof are as under:

“2. I most respectfully submit that the 2nd Defendant does not carry on any commercial activity, within the territorial jurisdiction of this Hon'ble Court. The 2nd Defendant does not sell, distribute, or otherwise make available the products referred to in the present suit within the territorial jurisdiction of this Hon'ble Court.

3. I further state that the 2nd Defendant has no distributors, agents, representatives, warehouses, or outlets in Chennai, and no part of its alleged business transactions giving rise to the present cause of action have taken place within the jurisdiction of this Hon'ble Court.”

In view of the above, I conclude that the plaint does not provide a reasonable basis to hold that the infringing product is being sold in Chennai.

10. The plaintiff contended further that the revocation petition has been filed before this Court and that the same evidence would have to be



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adduced both in the suit and the revocation petition. In response, learned counsel for the defendant submitted that the defendant would withdraw the revocation petition after lodging a counter claim seeking revocation in the suit filed before the jurisdictional court by the plaintiff. Especially in view of this submission, this contention of the plaintiff also does not carry much merit.

11. For reasons set out above, the leave granted on 12.03.2024 stands revoked. As a corollary, the Registry is directed to return the plaint for presentation before the jurisdictional court. Consequently, the connected applications are closed.

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