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(TM) A No. 97 of 2025
in (T) OP (TM) No.55 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2025

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

(TM) A No. 97 of 2025
in (T) OP (TM) No.55 of 2023

Thomas John Muthoot,
Thomas George Muthoot and
Thomas Muthoot,
Muthoot Pappachan Group,
Muthoot Towers,
5th Floor, M.G.Road,
Ernakulam – 682 035.
Kerala

.... Applicant

Vs.

1. M.Mathew
2. Registrar of Trademarks,
Office of the Trade Marks Registry,
Guindy, Chennai – 600 032.

.... Respondents

Application filed under Order XIV Rules 8 of O.S.Rules read with Order VI Rule 16 of CPC., pleased to strike off the respondent witness, Mr.D.Justin and to declare the exhibits marked and the evidence adduced by the 1st respondent witness as null and void.

For Applicant : Mr.Arun C.Mohan
For Respondent : Mr.K.Balamurali
for Mr.Shivakumar & Suresh [R1]



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ORDER

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This application has been filed to strike off the evidence recorded on the side of the first respondent of one Mr.D.Justin and to nullify the exhibits marked through this witness.

2. Heard Mr.Arun C.Mohan, learned counsel appearing for the applicant and Mr.K.Balamurali, learned counsel appearing for the first respondent.

3. The applicant is the petitioner in the main petition. The main petition has been filed to remove, expunge and rectify the entry relating to the registration, and to impose a condition that the registration of the impugned mark shall not confer exclusive rights on the first respondent.

4. The above petition was at the stage of recording of evidence.

5. The first respondent had examined one Mr.D.Justin as R.W.1. During the course of cross-examination, it came to light that the said D.Justin is an Advocate enrolled with the Bar Council of Kerala and that he continues to be on its rolls. In spite of the same, the Advocate was put in the witness box and was examined as a witness on the side of the first



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respondent. It is under these circumstances, the present application has been filed to strike off the evidence of the said Mr.D.Justice and to nullify those exhibits marked through the said witness.

6. In the considered view of this Court, a practising advocate, who has been registered on the rolls of the bar council can never enter a witness box by representing any person or entity since it may lead to a misconduct. If the said Mr.D.Justin wanted to act as an agent of the first respondent, it can only be done by way of representing the first respondent as a counsel and not as a witness of the first respondent.

7. When this Court expressed its mind, the learned counsel for the first respondent submitted that he leaves it to this Court, but he requested to this Court that liberty may be granted to the first respondent to let in evidence through some other witness.

8. In the light of the above submissions, this Court does not want to dig deeper into the issue and it will suffice to strike off the evidence tendered by Mr.D.Justin and all the documents that were marked through this witness shall also stand nullified.



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mp

9. Liberty is granted to the first respondent to examine any other witness in order to substantiate his defence.

In the result, this application is allowed in the above terms.

11.12.2025

Index:yes/no
Speaking order/Non-speaking order
NCC:yes/no
mp

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