



WEB COPY

A No. 5249 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-12-2025

CORAM

**THE HONOURABLE MR JUSTICE SENTHILKUMAR
RAMAMOORTHY**

A No. 5249 of 2025

in

C.S(COMM DIV) No. 82 of 2025

Mr.Natwarsingh Parbatsingh Chouhan

Applicant(s)

Vs

Aravind Laboratories
Rep by its Partner and Joint Proprietor
of the Registered Trademark
Mr.R.Rajagopal Residing at Old No.
82, New No.76, Dr. Ranga Road,
Mylapore, Chennai 600004.

Respondent(s)

Prayer:

To reject the Plaint under Order VII Rule 11 of CPC, 1908 in C.S.
(Comm.Div) No.82 of 2025.

For Applicant(s): Mr.Sai Srujan Tayi

For Respondent: M/s.Gladys Daniel

ORDER

The defendant seeks rejection of the plaint. The principal ground on



which the application is filed is that the defendant's trade mark is admittedly a registered trade mark and that no infringement action would lie in view thereof.

WEB COPY

2. Learned counsel for the defendant referred to Section 29(1) of the Trade Mark Act, 1999 (the TM Act) and Section 30(2)(e) thereof to contend that an action for infringement cannot be maintained against the registered proprietor of the trade mark. Because the defendant is the registered proprietor and the plaintiff has filed rectification proceedings in respect thereof, learned counsel submits that the plaint is liable to be rejected as barred by law under Order VII Rule 11(d) of the Code of Civil Procedure, 1908.

3. In response to this contention, learned counsel for the plaintiff relies on Section 124(1)(b)(i) of the TM Act and contends that only the suit is liable to be stayed pending adjudication of the rectification petition. By further relying on Sub-section (5) of Section 124, learned counsel contends that the stay of such suit does not preclude the Court from adjudicating the interlocutory applications.

4. On perusal of the plaint, it is clear that the plaintiff has filed a rolled up action for infringement of trade mark and passing off. The settled legal position is that a suit cannot be rejected in part. Consequently, even if the defendant's



contention with regard to the non-maintainability of a suit for infringement were to be accepted, the plaint cannot be rejected on that ground. In addition, it should be noticed that the rights of a defendant relying on the registration of its mark is contingent on the validity of such registration. Validity of the registration of the defendants mark is the subject of challenge in the pending rectification proceedings.

5. Section 124 of the Trade Marks Act deals with a situation, where the defendant in a suit for infringement sets up the registration of its mark as a defence. The statute provides for the stay of the suit in that situation pending adjudication of the rectification proceedings. The conclusion that emerges from the above is that the plaint cannot be rejected on this ground.

6. For both the reasons discussed above, the application for rejection of plaint is dismissed. No costs.

15-12-2025
(2/4)

Jeni



WEB COPY

A No. 5249 of 2025



SENTHILKUMAR RAMAMOORTHY J.

Jeni

**A No. 5249 of 2025
in C.S(COMM DIV) No. 82 of 2025**

**15-12-2025
(2/4)**