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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2026

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

**(TM)A.No.3 of 2026 in
(T)OP(TM)No.272 of 2023**

Sri Krishna Sweets Private Limited
137, D.B.Road, R.S. Puram, Coimbatore - 641002 ... Applicant

-VS-

1. M.Murali
No.25, Chinniya Street, T,Nagar,
Chennai 17.
- 2.The Registrar of Trade Marks,
Trade Marks Registry, Boudhik Sampada Bhavan
GST Road, Guindy, Chennai-600 032. ... Respondents

Prayer: Application is filed under Order XIV Rule 8 Read With Order XVI Rule 1 of the OS Rules Read With Section 138 of the Trade Marks Act, 1999 to issue summons to the Deputy Registrar of Trade Marks, Trade Marks Registry, Chennai to tender evidence in (T)OP(TM)No.272 of 2023 in relation to the two Certificates for Use in Legal Proceedings issued by them



under Section 137 of the Trade Marks Act in respect of the Trade Mark in
Application No.484525.

For Applicant : Mr. N. Sridhar
for Mr.Athiban Vijay A.K.

For R1 : Mr. Madhan Babu
Ms. K.V.Subha
Mr. R.Krishnamurthy

For R2 : Mr. K.Subbu Ranga Bharathi, CGSC

ORDER

The applicant is the first respondent in a rectification proceeding relating to Trade Mark No.484525. A civil suit and connected rectification petitions are also pending between the parties. In course of trial, the applicant exhibited two legal use certificates relating to the above mentioned trade mark as Exs.R1 and R35. The claimant states that the mark was described as a word mark in Ex.R35, whereas it is reflected as a device mark in Ex.R1. Therefore, the applicant has applied to summon the Deputy Registrar of Trade Marks to tender evidence in relation to Trade Mark No.484525.



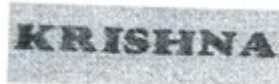
2. Learned counsel for the applicant submits that the ambiguity caused by the disparity between Exs.R1 and R35 can only be resolved if the Deputy Registrar enters the witness box and clarifies the matter. Because the Registrar of Trade Marks is a party, he submits that prohibition under Section 138 of the Trade Marks Act, 1999 (the TM Act) will not apply. He also submits that the Registrar of Trade Marks has not clarified the position in the counter affidavit.

3. The application is strongly opposed by learned counsel for the rectification petitioner. He submits that the application has been filed after a considerable delay. He points out that evidence was recorded in full through a Commissioner in all matters. He also submits that these legal use certificates have been in the possession of the applicant for a considerable period of time and no justification has been provided for filing the application at this belated juncture. Referring to the counter affidavit of the Registrar of Trade Marks, learned counsel submits that it is stated clearly therein that the mark is a device mark as per the records of the Trade Marks Registry.

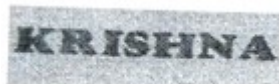


4. In paragraph 7 of the counter affidavit, the Deputy Registrar of Trade Marks has explained the differences between a word mark and a label/device mark. Thereafter, at paragraph 8, it is stated as under:

“8. It is submitted that the subject trademark Application was filed on 21/01/1988 the mark as



a ‘device mark’. The Trademark Registry has digitised the entire records. All the physical trademark files has been digitised and kept in electronic module, before the process of digitisation, there were chances of few typographical errors. It could have happened in the case of the applicant. Therefore, as per TM Application submitted by the 1st respondent on 21.01.1988, it is described the subject Trademark as



a ‘device mark’. ”

5. The registration was made with effect from 21.01.1988. Such registration certificate was issued by the Trade Marks Registry, Mumbai. Persons working in the Trade Marks Registry at Chennai would have no personal knowledge of the application by the applicant or the grant of



registration in respect thereof with effect from 1988. The Registrar has submitted available records. Therefore, in my view, no useful purpose would be served by summoning the Deputy Registrar, Trade Marks Registry, Chennai. Certified Copies of the legal use certificates are on record, and these documents are liable to be admitted in evidence as per Section 137 of the TM Act. The applicant's application for registration of Trade Mark No.484525 has also been placed on record from the records of the Trade Marks office. Parties are at liberty to raise contentions with regard to the nature of the mark in course of final disposal.

6. With the above observations, this application is disposed of.

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08.04.2026
(1/2)

To

The Registrar of Trade Marks,
Trade Marks Registry, Boudhik Sampada Bhavan
GST Road, Guindy, Chennai-600 032.



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SENTHILKUMAR RAMAMOORTHY,J.

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