



WEB COPY

(TM) A No. 11 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-06-2026

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

(TM) A No. 11 of 2026

IN

OP(TM) NO. 63 OF 2024

Alupac
15/45C, NH144 Kanyakumari Road,
Valavan Nagar, Perungudi 2,
Kavalkinaru Post 627 105,
Tirunelveli District,
Tamil Nadu, India.

..Petitioner(s)

Vs

1. Kishor T.Bhanushali
No.501-502, Tirupati Towers CHSL,
Cross Roads,
VAPI 396191,
Gujarat, India
2. The Registrar Of Trade Marks
Trade Marks Registry,
Boudhik Sampada Bhavan,
GST Road, Guindy, Chennai 600 032

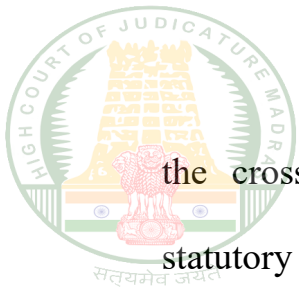
..Respondent(s)

PRAYER:- Application filed to receive the additional documents listed and permit the applicant/1st respondent to mark the documents as Exhibits R21 to R25.

For Petitioner(s):	Ms.J.Aishvariya for M/s.Navarree Ebenezer Roy
For Respondent(s):	Mr.Arjun Santhosh for M/s.Khurana & Khurana for R1

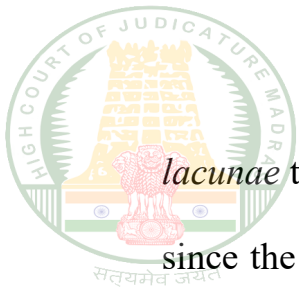
ORDER

The learned counsel appearing for the applicant would submit that during



the cross examination of RW-1, several issues relating to contemporary statutory records, adoption and user of mark were raised. To substantiate the case of the applicant, it had now become necessary to rely upon the Judges summon mentioned documents which were already in existence. She would further submit that these documents form part of the business records, but however were not placed earlier and in view of the cross examination, it had become necessary for the applicant to place the said relevant documents to substantiate his case. Hence, she seeks indulgence of this Court to permit the applicant to mark these documents.

2. Countering her arguments, Mr.Arjun Santhosh, learned counsel appearing for the first respondent would contest that the said documents are being sought to be introduced as an after thought to cover the *lacunae* in the case of the applicant. He would further submit that there is no reasons attributed by the applicant as to why these documents were not brought on record when the claim of the respondent was that he was the prior user of the mark. He would further submit that the claim of the respondent is that he had been using the mark from the year 2016 and admittedly, these documents all relate to the year 2017 which would not have any bearing even if it is allowed to be marked. He would further contend that no reasons have been attributed whatsoever by the applicant to receive the documents and a reading of the affidavit filed in support of the application would itself expose that it is only to fill up the

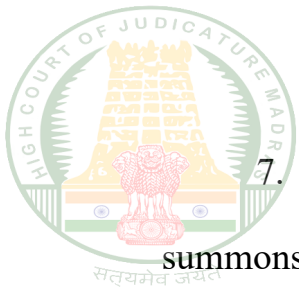


lacunae that these documents are attempted to be marked. He would submit that since the Item Nos.3 & 4 of the Judges summon listed documents are statutory documents, he would have no objection in receiving the same. Hence, he prays this Court to dismiss the application in respect of Item Nos. 1, 2 & 5.

4. I have considered the submissions made by the learned counsels appearing on either side and perused the materials available on record.

5. As rightly contended by the learned counsel appearing for the respondent, a perusal of the affidavit filed in support of the application do not disclose any averment as to why the documents which were all available with the applicant had not been sought to be received as documents in evidence. The averments pleaded specifically indicates that only to substantiate the facts that were brought out in the cross-examination of RW1, these documents are sought to be marked.

6. It is further to be noted that the Item No.2 of the schedule listed documents relates to GST returns of the applicant from the year 2017-2021 in that regard this Court is of the view that there would be no impediment in allowing the said documents to be received, as already the return from 2021-2022 had been received in evidence.



7. With regard to the documents in Item Nos. 3 & 4 of the Judges summons, the respondent themselves do not have any objection to permit the same to be received. As I have already found that no reasons have been attributed as to why the documents which were already available earlier namely Item Nos. 1 & 5 of the Judges summon listed documents was failed to be marked and there is no plausible explanation as to why the said documents would have to be necessarily be received. This Court is of the view that the same cannot not be allowed to be received.

8. For the aforesaid reasons, the application stands partly allowed only in respect of Item Nos.2, 3 & 4 of the Judges summons mentioned documents.

9. In view of the orders passed, the evidence of RW1 stands reopened and recalled for leading further evidence in respect of these three documents and the respondents are permitted to cross-examine the RW1 in that regard.

10. List the matter before the learned Master on 03.07.2026 for further recording of evidence.

16-06-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

GBA



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K.KUMARESH BABU, J.

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