



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2026

CORAM

THE HON'BLE MR JUSTICE SENTHILKUMAR RAMAMOORTHY

**A Nos. 2891 of 2019 and 3885 of 2025
in C.S. No.149 of 2019**

A. No.2891 of 2019

Kasi Group Of Companies
No.91/15, East Jones Road,
Saidapet, Chennai 600 093.

..Applicant

Vs

Palson Enterprises
New No.54 5th Cross Street,
Trustpuram, Chennai
Tamil Nadu 600 024
rep. By its Partner
Mr.P.L.Subramaniam

..Respondent

A No. 3885 of 2025

Kasi Group of Companies
No.91/15, East Jones Road,
Saidapet, Chennai 600 093
Annakkalanijitam,
K.M.Vidhyasagar,
K.M.Manju Parkavi,
K.M.Vishnu Vardhan,
No.91/15, East Jones Road,
Saidapet, Chennai 600 093.

..Applicant

Vs

Palson Enterprises
New No 54, 5th Cross Street, Trustpuram,
Chennai, Tamil Nadu 600024 Rep by its Partner
Mr. P.L. Subramaniam

..Respondent



A No. 2891 of 2019

Application filed under Order XIV Rule 8 of O.S. Rules and Order VII Rule 11 of Code of Civil Procedure praying to reject the plaint.

WEB COPY

A No. 3885 of 2025

Application filed under Order XIV Rule 8 of O.S. Rules r/w Section 151 of Code of Civil Procedure praying to recall the order dated 25.08.2023 passed in A.No.689 of 2023 in C.S.No.149 of 2019 and the amendments made thereto based on the said order.

For Applicant: Mr.M.S.Krishnan,
Senior Counsel
for M/s.Sarvabhauman Associates
in both applications

For Respondent: Mr.Arun C.Mohan
in both applications

COMMON ORDER

Asserting that the plaintiff became the owner of not only the cinema theater but also intellectual property rights relating thereto under sale deed dated 26.08.2002, the suit was instituted in February, 2019 seeking remedies in respect of alleged infringement of trade mark and passing off. An application to reject the plaint was filed by the defendant shortly thereafter in April, 2019. In the affidavit in support of the application, the late Mr.M.K.Mathivathanan asserts that he is the proprietor of Kasi Talkies. He also asserts that there is no entity by the name Kasi Group of Companies and that he has neither incorporated a company nor formed a proprietary concern or partnership firm under the name Kasi Group of Companies. On that basis, he stated that the suit is not maintainable.



Mr.M.K.Mathivathanan passed away in the year 2021. In January 2023, the plaintiff filed A.No.689 of 2023 under Order VI Rule 17 of the Code of Civil Procedure read with Section 151 thereof to amend long and short cause titles by amending the name of the first respondent/defendant as Kasi Talkies represented by M.Annakkalanjiyam, K.M.Vidhyasagar, K.M.Manju Parkavi and K.M.Vishnu Vardhan. Said application was allowed by order dated 25.08.2023. Some time in July 2025, A.No.3885 of 2025 was filed to recall the order dated 25.08.2023 in A.No.689 of 2023. The applicants are described in the said application as Kasi Group of Companies, M.Annakkalanjiyam, K.M.Vidhyasagar, K.M.Manju Parkavi and K.M.Vishnu Vardhan. Both the application to reject the plaint and the application to recall the order dated 25.08.2023 are being disposed of by this common order.

2. Learned Senior Counsel for the applicant in the above applications contended as under:

2.1 The suit was filed against the non-existing entity named Kasi Group of Companies in the plaint. Even before the suit was filed, the plaintiff had issued cease and desist notice dated 24.12.2018. In reply dated 15.02.2019, Mr.M.K.Mathivathanan stated categorically that all the businesses are carried on by Mr.M.K.Mathivathanan under the name and style of Kasi, a traditional name. Thus, the plaintiff was put on notice that there is no entity by the name Kasi Group of Companies even before the institution of the suit. This was reinforced in the application for rejection



of plaintiff. In the affidavit in support of such application, Mr.M.K.Mathivathanan stated that 'there is no entity by name Kasi Group of Companies as arrayed in the present suit'. Even thereafter, the plaintiff did not take steps to implead Mr.M.K.Mathivathanan as the defendant instead of Kasi Group of Companies;

2.2 Mr.M.K.Mathivathanan passed away on 31.05.2021 and this was communicated to the plaintiff on 29.06.2022. More than six months later, the plaintiff filed A.No.689 of 2023 to substitute the legal heirs of the deceased Mr.M.K.Mathivathanan instead of Kasi Group of Companies. Said application was not maintainable because Mr.M.K.Mathivathanan had not been brought on record in the suit during his life time. This defect is non-curable and the plaint is liable to be rejected on this ground;

2.3 Given the nature of the suit, the plaintiff would not be gravely prejudiced and it may be open to the plaintiff to file a fresh suit subject to objections by the defendant.

3. In response to these contentions, learned counsel for the plaintiff submitted that the plaint cannot be rejected merely because the plaintiff mis-described the defendant. Relying on the judgment of the Supreme Court in *Dogiparthi Venkata Satish and Another vs. Pilla Durga Prasad and Others* (2025 SCC OnLine SC 1825), particularly paragraph Nos.4.1 and 4.2 thereof, he submits that a proprietary concern may be sued under the name and style in which business is carried on as per Order XXX Rule 10



of Code of Civil Procedure. Mr.M.S.Krishnan, learned Senior Counsel, refutes the contention on the ground that the plaintiff did not sue Kasi Talkies at the outset and that the judgment will come to the aid of the plaintiff only if Kasi Talkies had been sued.

4. The admitted position is that the suit was originally instituted against Kasi Group of Companies. It appears that the plaintiff was informed, through counsel, that Mr.M.K.Mathivathanan was carrying on businesses under the name and style of 'Kasi' and that Kasi is the name of his father. Said reply notice dated 15.02.2019 contains description of Mr.M.K.Mathivathanan as the Chairman and Managing Director of the Kasi Group of Companies. While the letter clarifies that the business was carried on by Mr.M.K.Mathivathanan, said letter does not indicate that the Kasi Group of Companies is not a legal entity. The affidavit in support of the application to reject the plaint, on the contrary, makes it abundantly clear that there is no entity by name Kasi Group of Companies as arrayed in the present suit. Upon receipt of the application with said affidavit, the plaintiff should have taken steps to amend the plaint to correctly describe the defendant. This was not done during the life time of Mr.M.K.Mathivathanan. As stated earlier, he passed away on 31.05.2021 and the plaintiff was informed of such death on 29.06.2022.

5. About seven months later, the plaintiff applied for amendment by bringing on record the legal heirs of the deceased Mr.M.K.Mathivathanan. After taking note of the death certificate and the legal heirship certificate,



said application was allowed. Pursuant thereto, amendments were carried out in the plaint on 07.09.2023. In the amended plaint, the defendant is described as Kasi Talkies represented by M.Annakkalanjiyam, K.M.Vidhyasagar, K.M.Manju Parkavi and K.M.Vishnu Vardhan. In the application filed in July, 2025 to recall the order dated 25.08.2023, the applicants/defendants described themselves as Kasi Group of Companies, M.Annakkalanjiyam, K.M.Vidhyasagar, K.M.Manju Parkavi and K.M.Vishnu Vardhan.

6. Thus, even after the amendment, it appears that the defendants were also confused with regard to the correct description. In circumstances wherein mis-description results in the party concerned not receiving notice or being otherwise unable to defend the proceeding, such mis-description should clearly be treated differently and any injustice caused as a result thereof would be liable to be swiftly remedied.

7. In the matter at hand, the defendants admitted that they are legal heirs of the late Mr.M.K.Mathivathanan and that pursuant to *inter se* assignment, businesses are being carried on by Mr.K.M.Vishnu Vardhan under the trade mark/trade name Kasi.

8. The application to reject the plaint was filed on the basis that the plaint does not disclose a cause of action against the Kasi Group of Companies, being a non-existent entity. Subsequently, such plaint has been amended to reflect the name of Kasi Talkies represented by its



proprietors. Therefore, it cannot be said that the plaint does not disclose a cause of action after such amendment, which takes effect from the date of presentation.

9. Undoubtedly, the plaintiff was lax in not filing an application to bring Mr.M.K.Mathivathanan on record within a reasonable time after filing of the application to reject the plaint in April, 2019. This, in turn, has resulted in the filing of these applications. The plaintiff should, therefore, be put on terms.

10. Accordingly, these applications are disposed of as under:

10.1 Application to reject the plaint (A.No.2891 of 2019) is dismissed;

10.2 Application to recall the order dated 25.08.2023 (A.No.3885 of 2025) is disposed of by directing the plaintiff to pay a sum of Rs.40,000/- (Rupees Forty Thousand only) as costs to the defendants. Such costs shall be paid within two weeks from the date of receipt of a copy of this order.

22.04.2026

mmi



WEB COPY

A Nos. 2891 of 2019 & 3885 of 2



SENTHILKUMAR RAMAMOORTHY J.

mmi

**A Nos. 2891 of 2019 and 3885 of 2025
in C.S. No.149 of 2019**

22.04.2026