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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-02-2026

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

CMA(TM) No. 20 of 2025

Kailash Chand Surana
Sole Proprietor of M/s Kalptaru Enterprises, No.
7, Telegraph Abboy Street,
Kondithope, Chennai-600 079.

..Appellant(s)

.Vs.

1. The Registrar of Trademarks
The Trademark Registry, Chennai,
Intellectual Property Office Building,
GST Road, Guindy, Chennai-32.

2.Chanchal Kumar
Proprietor of M/s Balaji and Co, No. 26,
5th Main Road, 6th Cross, S.R.Nagar,
Bengalur-27.

Respondent(s)

PRAYER

Appeal filed under Section 91 of the Trade Mark Act, 1999, to set aside the Impugned Order dated 22.07.2025, thereby allowing the Opp. No. 1268958 abandoning the 2nd Respondent's Application No. 6165513.

For Appellant(s): Mr.A Jayeshkumar

For Respondent(s): Mr.K.Subbu Ranga Bharathi
Central Govt. Standing Counsel
for R1
Mr.M.Dhanush for R2



JUDGMENT

This appeal was filed against the order passed by the 1st respondent dated 22.07.2025 allowing the Opp. No.1268958 abandoning the 2nd Respondent's Application No. 6165513.

2. When the appeal was taken up for hearing on 08.1.2026, this Court after hearing both sides passed the following order:

Heard the learned counsel for the appellant, the learned Central Government Standing Counsel for the first respondent and the learned counsel appearing on behalf of the second respondent.

2. On carefully going through the order passed by the first respondent, it is seen that the first respondent has rendered a factual finding that the second respondent was the prior user of the trade mark and therefore, even though the trade mark was registered in favour of the appellant, since the second respondent was found to be the prior user, the first respondent proceeded to rely upon various judgments of the Apex Court and rejected the opposition of the appellant and allowed the application submitted by the second respondent.

3. The learned counsel for the appellant submitted that the so called invoices that were relied upon by the first respondent were forged and fabricated documents and even though the specific



ground was raised in this regard, the same was not considered by the first respondent. Therefore, it was contended that the second respondent was not a prior user and therefore, the opposition filed by the appellant ought to have been considered and the application submitted by the second respondent ought to have been rejected.

4. Learned counsel for the appellant wanted to place the original documents before this Court to substantiate the allegations made by the appellant against the second respondent.

Post this appeal under the caption “For orders”
on 05.02.2026.

3. When the matter was taken up for hearing today, the learned counsel for the appellant placed one of the original tax invoice bearing invoice No.1410. At page No.58 of the paper book, this invoice carries the description of goods SNE NAKODA at Sl.No.5. However, the original tax invoice produced before this Court from the concerned party shows that no such entry is made in the original bill. In view of the same, learned counsel for the appellant pointed out to each and everyone of the tax invoice starting from Page No.58 onwards upto Page No.65 in the paper book and submitted that such interpolations were made in those tax invoices by the 2nd respondent. Therefore, it was contended that the 2nd



respondent had approached the 1st respondent with unclean hands and had produced forged and fabricated documents and that the 1st respondent failed to specifically deal with this issue and rendered findings which are unsustainable in law.

4. Heard the learned counsel for appellant and the learned counsel for the respondents.

5. The 1st respondent while dealing with the issue raised by the appellant that the tax invoices produced are forged and fabricated documents, has held that the appellant should have initiated proceedings under Section 340 Cr.PC., and in the absence of the same, such allegations made by the appellant is frivolous and unsustainable and therefore the 1st respondent refused to delve deep into the issue and thereby brushed aside this important issue which ought to have been considered more seriously.

6. The original tax invoice that has been produced by the learned counsel for the appellant is only a sample of one of the invoices that was relied upon by the 2nd respondent and the other tax invoices which were also produced before the 1st respondent requires close scrutiny. This sample original tax invoice that has been produced by the learned counsel for the appellant certainly gives rise a doubt in the mind of the Court on the genuineness of the tax invoices that were



produced by the 2nd respondent before the 1st respondent. A little from a lot tells the whole story or a sample is representative of the whole. Hence, such a serious allegation cannot be brushed aside and the 1st respondent has to necessarily test the genuineness of each of the tax invoice that was relied upon by the 2nd respondent by examining the concerned party.

7.The learned counsel for the appellant submitted that in the light of the 2nd respondent producing forged and fabricated documents, the opposition made by the appellant has to be allowed and the application submitted by the 2nd respondent has to be rejected outright.

8.The above submission made by the learned counsel for the appellant is not sustainable since a very serious allegation has been made against the 2nd respondent and therefore the 2nd respondent must be necessarily given an opportunity to defend themselves. This will involve examination of parties who had actually issued such tax invoices and only after hearing from them, the genuineness or otherwise of all tax invoices that were relied upon by the 2nd respondent can be ascertained. Therefore, this Court is inclined to interfere with the impugned order passed by the 1st respondent and remand the matter back to the file of the 1st respondent.



9. The upshot of the above discussion is that the impugned order of the 1st respondent dated 22.07.2025 in Opp. No.1268958, is hereby set-aside and the matter is remanded back to the file of the 1st respondent. There shall be a direction to the 1st respondent to call the parties for an enquiry and specifically go into the issue of the genuineness of the tax invoices that were produced by the 2nd respondent. Based on the conclusion arrived at on the genuineness of those documents, final orders shall be passed by the 1st respondent. This process shall be completed within a period of six months from the date of receipt of copy of the order.

In the result, this appeal is allowed in the above terms. No costs.

05-02-2026

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



To

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Intellectual Property Office
Building, GST Road, Guindy,
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N.ANAND VENKATESH J.

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