



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-02-2026

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THE HON'BLE MR JUSTICE SENTHILKUMAR RAMAMOORTHY

**C.S.(Comm.Div.) No.304 of 2023
and A Nos.554 & 127 of 2025**

G S Srinivasa Rao
Trading as N V Gopal & Co.,
21/3, Rajabather Street,
T Nagar, Chennai

..Plaintiff / Petitioner(s)

Vs

V Purnachandra Rao
Trading as S V Gopal & Co,
K/24, Kanchi Colony,
South Boag Road,
T.Nagar, Chennai 600 017.

.. Defendant /
Respondent(s)

PRAYER in C.S.(Comm.Div.) No.304 of 2023: Plaint filed under Order VII

Rule 1 CPC Read With Order IV Rule 1 OS Rules Read With Sections 27, 28, 29, 134 & 135 of the Trade Marks Act, 1999 and Sections 51, 55, 62 of the Copyrights Act, 1957, praying to the judgment and decree as follows:

(a) A permanent injunction restraining the Defendant, by itself, its partners, men, servants, agents, distributors, stockiest, representatives or any one claiming through or under them from in any manner infringing the plaintiff's registered trade marks N.V. GOPAL & CO under No.1422868 in



Class 16 by using a deceptively similar trade mark S.V.GOPAL & CO or any other trade mark deceptively similar to the plaintiff's registered trade mark or in any other manner whatsoever;

(b) A permanent injunction restraining the Defendant, by itself, partners, men, servants, agents, distributors, stockiest, representatives or any one claiming through or under them from in any manner committing acts of copyrights infringement by using, in the course of trade, calendars and other artistic works which are a substantial reproduction of plaintiff's copyright in color scheme, get up and layout for their S.V.GOPAL & CO calendars, almanacs or in any other manner whatsoever;

(c) A permanent injunction restraining the Defendant, by itself, its partners, men, servants, agents, distributors, stockiest, representatives or any one claiming through or under them from in any manner passing off and / or enabling others to pass off the Defendant's products under the trade mark S.V.GOPAL & CO as and for the plaintiff's products by manufacturing, selling, or offering to sell, distributing, displaying, printing, stocking, using, advertising their products with a trade mark and / or label or artistic work that it identical in color scheme, get up and layout with that of the plaintiff's N.V.GOPAL & CO trade mark or artistic work or in any other manner whatsoever;

(d) The Defendant be ordered to surrender to Plaintiffs for destruction of all calendars, almanac, products, cartons, dyes, blocks, moulds, screen prints, packing materials and other materials bearing the trade mark S.V.GOPAL &



CO label or any mark deceptively similar to the plaintiffs' trade mark and artistic work N.V.GOPAL & CO label.

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(e) A preliminary decree be passed in favour of the plaintiffs directing the Defendant to render account of profits made by use of trade mark and copyright in the artistic work S.V.GOPAL & CO label and a final decree be passed in favour of the plaintiffs for the amount of profits thus found to have been made by the Defendant after the latter have rendered accounts.

(f) For costs of the suit.

PRAYER in A.No.554 of 2025: Application filed under Order XIV Rule 8 of OS Rules Read With Order XIII-A Rule 3 of CPC, 1908, to pass a summary judgment against the respondent / defendant above named and decree the suit as prayed for with costs.

For Plaintiff(s) /
Petitioner(s):

Mr.R.Sathish Kumar

For Defendant /
Respondent(s):

No Appearance

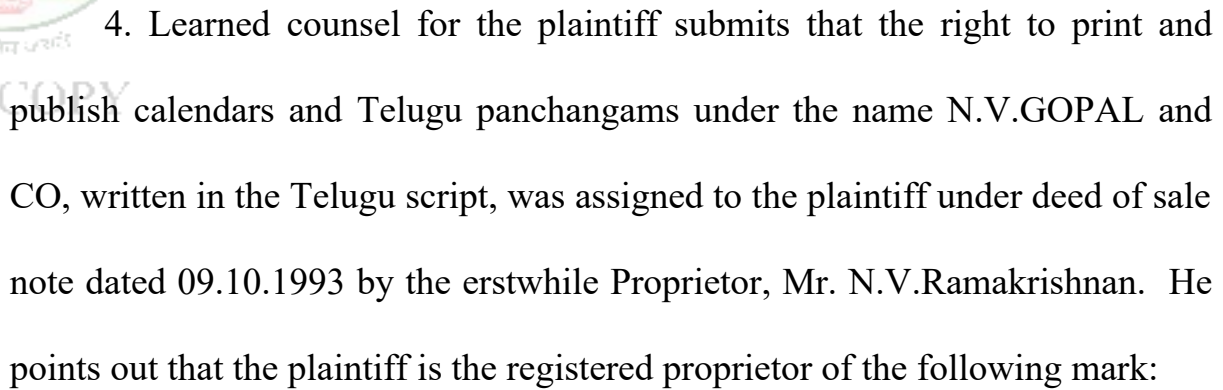
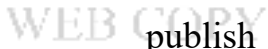


JUDGMENT

In a suit seeking remedies in respect of trade mark infringement and passing off, the plaintiff has presented this application for a summary judgment.

2. Suit summons was served on the defendant on 23.12.2023. The defendant filed the written statement along with an application to condone delay. The said application to condone delay was allowed on 04.07.2024 under A.No.2298 of 2024. Pursuant thereto, the written statement of the defendant was taken on file.

3. The defendant was represented by APR Associates at the time of filing of the written statement. Subsequently, there was more than one change of counsel. At the hearing on 02.07.2025, it was recorded that Mr.S.Ramesh Kumar, learned counsel, who had appeared at the hearing on 11.06.2026 and 16.06.2025, was not present and the matter was listed on 16.07.2025 in order to provide a final opportunity to the defendant. Because the defendant was not present on 16.07.2025, the defendant was set *ex parte*. Mr.S.Ramesh Kumar thereafter filed memo dated 11.08.2025 stating that he is withdrawing his vakalat. The defendant has not applied to set aside order dated 16.07.2025 or even appeared in person or through counsel thereafter. The present application is listed for hearing in the above facts and circumstances.



under trade mark No.1422868 with effect from 20.02.2008. By referring to the application filed by the defendant for registration of the impugned mark, learned counsel submits that the application was filed on 15.12.2022 on ‘proposed to be used’ basis. Upon being advertised in the Trade Marks Journal No.2111 on 03.07.2023, he submits that the plaintiff lodged a notice of opposition. On account of the defendant not adducing evidence in support of the application, he submits that the trade mark application was deemed to be abandoned.

5. Referring to the written statement of the defendant, learned counsel submits that a preliminary objection on the ground of alleged non-compliance with Section 12A of the Commercial Courts Act, 2015 was raised. He also



submits that an application for rejection of the plaint was filed on the ground that the suit was barred for non-compliance with Section 12A, and that such application was dismissed by order dated 04.07.2024 in A.No.2299 of 2024. Consequently, he contends that the said defence does not survive.

6. Learned counsel submits that the only other defence raised by the defendant is that the impugned mark, which translates as S.V.GOPAL & CO, was derived from and is an abbreviation of Sri Venkateswara. Learned counsel submits that this defence is entirely untenable and, in any event, does not explain the adoption of GOPAL & CO. He also relies upon evidence of use from 1993 in the form of invoices and other documents.

7. The question that falls for consideration is whether the plaintiff is entitled to a summary judgment. The grounds for summary judgment are set out in Rule 3 of Order 13A. Rule 3 reads as under:

“3. Grounds for summary judgment.- The Court may give a summary judgement against a plaintiff or defendant on a claim if it considers that-

(a) the plaintiff has no real prospect of succeeding on the claim or the defendant has no real prospect of successfully defending the claim, as the case may be; and

(b) there is no other compelling reason why the claim should not be disposed of before recording of oral evidence.



8. The above extract reveals that the applicant for summary judgement should establish that the counter party has no real prospect of succeeding. When the applicant is the plaintiff, in effect, the applicant should establish that the defendant has no real prospect of successfully defending the claim. The additional requirement under clause (b) is that there should be a compelling reason to record oral evidence before disposing of the matter. As regards the second requirement, in *Syrma Technology Pvt Ltd v. Powerwave Technologies Sweden AD (in bankruptcy)*, (2020) 4 LW 238, the Division Bench of this Court concluded that the onus is on the counter party provided the applicant has established that the counter party has no real prospect of succeeding.

9. The plaintiff has filed sale note dated 09.10.1993 executed by N.V.Ramakrishnan in favour of G.S.Srinivasa Rao, the proprietor of the Plaintiff. One of the recitals thereof is as under:

“WHEREAS the party of the SECOND PART is interested to purchase from the Party of the FIRST PART, the rights of the firm ‘N.V.GOPAL & CO’, pertaining only to the printing and publishing of the ‘N.V.GOPAL & CO.’ Telugu Panchangam Calendars and their Telugu Panchangams namely, Ananda Bharathi Panchangam, Nimmagadda Panchangam and Trilinga Gantala Panchangam excluding specifically the rights pertaining to the printing and publishing of their ‘Book’ – publications’ (in



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different languages), which is a separate part of their business and covers all publications as listed in their wholesale price catalogue dated 15.4.1993.”

10. It follows from the sale note that the plaintiff purchased the rights pertaining to printing & publishing of Telugu panchangam calendars from the proprietor/seller, N.V. Ramakrishnan, under the name N.V.GOPAL & CO. N.V.Ramakrishnan appears to be the son of the late M.Venugopala. The origin of the mark is not hard to discern therefrom. The plaintiff has filed invoices issued from 1993 onwards as evidence of use of the mark in relation to calendars. The trading, profit and loss statements from financial year 2017-18 to financial year 2022-23 have been placed on record.

11. The scanned version of the plaintiff’s calendar for January 2023 is set out below:





12. The scanned version of the defendant's calendar for January 2023 is set out below:

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13. Apart from the strong similarity in trade names, the striking similarity in trade dress is also evident. In fact, both the calendars carry the depiction of a peacock by the side of the word January. The plaintiff has also compared the colour scheme, get up and layout at paragraph 18 of the plaint.



14. The inference that follows from the above discussion is that the plaintiff is undoubtedly the prior user and registered proprietor of the trade mark N.V.GOPAL & CO written in Telugu script. In view thereof, the defences raised by the defences should be considered next.

15. The first defence raised by the defendant in the written statement is that Section 12A of the Commercial Courts Act was not complied with. The defendant filed an application under A.No.2299 of 2024 for rejection of the plaint. The said application was dismissed under order dated 04.07.2024 after recording that an interim order was granted because the plaintiff had made out a *prima facie* case. Given that the suit is for relief in respect of infringement of intellectual property rights, the recent judgement of the Supreme Court in *Novenco Building and Industry A/S v. Xero Energy Engineering Solutions Pvt. Ltd. & Anr. 2025 SCC OnLine SC 2278* also comes to the aid of the plaintiff. Therefore, the defendant has no real prospect of succeeding as regards this defence.

16. The only other defence raised by the defendant in the written statement is that the mark S.V.GOPAL and CO was derived from Sri Venkateswara. Considering the fact that both parties are in the same line of business and carry on operations in Chennai, the explanation provided by the defendant strains credulity. In any case, it does not explain the adoption of the identical GOPAL & CO. Therefore, I conclude that the defendant has no real



prospect of succeeding in its defence. In spite of filing a written statement, the defendant has not filed any documents along with such written statement.

Consequently, no case is made out to reject this application on the ground that there is a compelling reason to record oral evidence before adjudication.

17. For reasons set out above, the plaintiff is entitled to a summary judgment in terms of reliefs claimed in clauses (a) to (e) of paragraph 35 of the plaint. As the successful party, the plaintiff is also entitled to costs. Considering the fact that C.S.(Comm.Div.) No.304 of 2023 is being disposed of summarily, costs are capped in a sum of Rs.2.5 lakhs towards court fees, lawyer's fees and other expenses. A.No.554 of 2025 is allowed and, consequently, the decree shall be drawn up on the above terms.

09-02-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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SENTHILKUMAR RAMAMOORTHY, J.

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