

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON
08.06.2026PRONOUNCED ON
31.07.2026

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THE HON'BLE MR.JUSTICE K.KUMARESH BABU

OA Nos. 928 & 929 of 2025
in C.S.(COMM.DIV.)No.238 of 2025

M/s.HMS Medical Systems,
A Registered Partnership Firm
Rep. by Its Authorised Signatory Mr C Dinesh
No.9 First Cross Street, New Colony, Porur,
Chennai- 600116

..Applicant in
both O.As

Vs

1. B Jayamani,
M-1074, 7th Main Road,
Thiruvalluvar Nagar,
Thiruvanmiyur, Chennai – 600 041.
2. M/s.Bharat Medical Systems
M-1074, 7th Main Road, Thiruvalluvar Nagar
Thiruvanmiyur, Chennai-600 041.

..Respondent(s) in both
the O.As

PRAYER in O.A.No.928 of 2025:- To grant an ad interim injunction restraining the Respondents, its Partners, men, servants, agents or anyone claiming through or under his from in any manner infringing the Plaintiff's trade mark **HMS DIGILASER** which is similar or in any way deceptively similar to or colourable imitation of the defendant's **BMS DIGILASER PRO** or any other name/mark which is similar or deceptively similar and identical to



the trade mark **HMS DIGILASER** of the Applicant and in any manner selling and advertising the same for sale, pending disposal of the suit and pass such further or other orders as deemed fit by this Court.

PRAYER in O.A.No.929 of 2025:- To grant an ad interim injunction restraining the Respondents, its Partners, men, servants, agents or anyone claiming through or under his from in any manner passing off the registered trade mark **HMS DIGILASER** by adopting and using the mark **BMS DIGILASER PRO** or any other name/ mark which is similar or deceptively similar and identical to the trade mark **HMS DIGILASER** of the plaintiff and in manner of passing as and for those of the plaintiff by selling the products and by advertising the same for sale pending disposal of suit and pass such further or other orders as deemed fit by this Court.

In both the O.As:-

For Applicant(s): Ms.Devi .N

For Respondent(s): Mr.Ramesh Ganapathy for RR1 & 2

COMMON ORDER

The present Applications have been filed seeking ad interim injunctions restraining the Respondents, its Partners, men, servants, agents or anyone claiming through or under his from in any manner infringing and passing off Plaintiff/Applicant's trade mark.

2. Heard Ms.Devi.N, learned counsel for the applicant and Mr.Ramesh Ganapathy, learned counsel appearing on behalf of the respondents.



3. Learned counsel appearing for the applicant would submit that the applicant is a leading manufacturer in the medical equipments particularly in the treatment of physiotherapy and electrotherapy. The applicant had been marketing its products under the trade mark **DIGILASER** which had also been registered with the Registrar of Trade Marks.

4. While that being so, it had come to the knowledge of the applicant that a product carrying a trade mark **DIGILASER PRO** which was deceptively similar to the product of the applicant which has a registered trade mark. She would further submit that the said product was also available on an online platform which was removed when it was brought to the intermediary that there has been an infringement of the plaintiff's trade mark.

5. When that being so, the respondent had also filed a Rectification Application in respect of the applicant's trade mark and the same is pending. She would further rely upon the judgment of the Hon'ble Apex court reported in **2004 (3) SCC 92** to assert the applicant's right for an infringement. Further for the very same principle she had also relied upon the judgment of the Hon'ble Apex Court in the case of *N.R.Dongree and Ors. Vs Whirlpool Corpn. And Ors.* reported in **1996 (5) SCC 714** and in the case of *Parle Products (P) Ltd., Vs. Respondent: J.P & Co.,* reported in **1972 (1) SCC 618**.



6. Countering her arguments, Mr. Ramesh Ganapathy, learned counsel for the respondents would submit that the respondent is engaged in manufacture of supply of physiotherapy and electrotherapy equipments from the year 2001. He would submit that the products are only sold in the hospitals, physiotherapy centres, rehabilitation clinics, and by trained healthcare professionals. He would submit that the respondent had independently adopted the **“BMS DIGILASER-PRO”** as early as in the year 2014 and he would further submit that the term **“DIGI”** had denoted the Digital Technology and laser based physiotherapy treatment and **“PRO”** had signified a professional-grade and in that regard an application was also been taken out by the respondent for registration of its trade mark and its pending registration. Thereafter, according to him, the trade mark is not deceptive in nature and commonly used to denote the equipment to be a laser digitalised form for treatment. Therefore, he would submit that the application cannot be allowed to monopolise the same. He would further submit that the respondent had initiated rectification procedures seeking for cancellation of the applicant's trade mark.

7. That apart, he would submit that the prefix **“BMS”** in the respondents' trade mark would itself make it directly, conceptively distinct from the applicant's trade mark. He would further submit that the products are not used by a common man and is only for the use of professionals who would easily distinguish the applicant's product and the respondents' products and therefore,



it would not lead to a deception in the mind of purchasers to purchase the respondents' product to be as that of the applicant's product. He would further submit that the present suit had been filed only to eliminate the commercial competition of the products of which the respondents' product is well received in the professional market.

8. In support of his submissions, he would rely upon the judgments of the Hon'ble Apex Court in the case of ***J.R.Kapoor Vs Micronix India*** reported in ***1994 Supp (3) SCC 215***, in the case of ***Cadila Health Care Ltd. Vs Cadila Phramaceuticals Ltd.***, reported in ***2001 (5) SCC 73***, and in the case of ***Pernod Ricard India Private Limited and Another Vs Karanveer Singh Chhabra*** reported in ***2025 SCC Online SC 1701***.

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

10. It is an admitted case that the applicant had been benefitted with a registered trade mark. It is the allegations of the applicant that the respondent had been infringing the registered trade mark of the applicant. The respondents on the other hand had categorically stated that the trade name as conceived by the respondents is not deceptively similar which would cause confusion in the mind of the general public and further that the trade mark adopted by the



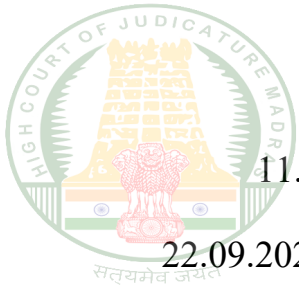
applicant is descriptive in nature and the applicant in such a descriptive trade mark cannot claim an exclusive title.

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11. In this regard, it is to be noted that the respondent had taken out an application for rectification of the applicant's trade mark. Further, it has also been admitted to by the respondent that the respondent had also taken out an application to register its trade mark. When it is the claim of the respondent that the trade mark as conceived by the applicant and registered to be descriptive in nature, no reasons, have been attributed by the respondents as to why such a trade mark to be registered at its end for claiming an exclusive right to use such trade mark.

12. It is true that the Hon'ble Apex Court had repeatedly held that when there would be no confusion in the mind of the end users of the product, there could be no issue of infringement of a trade mark. Such a finding could be arrived at by this Court only after completion of trial and not at the stage of an application.

13. When a Rectification Application for the very same trade mark is pending, this Court is of the view that the injunction granted by this Court bestowing a *prima facie* finding on 22.09.2025 could be made absolute, but, however, subject to the orders to be made in the rectification application.

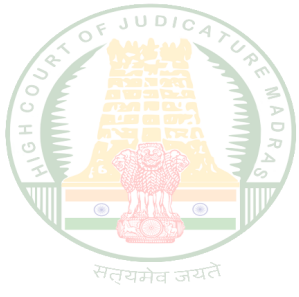


11. For the aforesaid reasons, the injunction granted by this Court on 22.09.2025 is made absolute, however, subject to the result of the Rectification Petition. However, there shall be no order as to costs.

31-07-2026

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

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K.KUMARESH BABU, J.

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