

WEB COPY

A No. 2575 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 24-06-2026

Pronounced on : 28-08-2026

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

A No. 2575 of 2026

in

C.S(Comm.Div.)SR.No.19644 of 2026

M/s.Vinbros and Co.,
Represented by its Partner
Mr. V.C Raamsukaesh,
No. 4A, Subbiah Salai,
South Boulevard,
Puducherry – 605 001.

..Applicant(s)

Vs

1. M/s Chamundi Winery and Distillery
Represented by its Partner Mr.K.Ananda Rao,
No.1313, 9th Cross, 277th Main, 1st Phase,
J.P.Nagar, Bangalore 560 078.

2. M/s.R.R. Wine Mart,
Represented by its Managing Partner
Mr. Ramamurthy, R.S No. 99/2, 3 & 6,
Cuddalore Main Road,
Madukarai, Puducherry 605 105.

..Respondent(s)

Judge's Summons filed under Order 14 Rule 8 of O.S. Rules and Order III Rule 1 of the O.S. Rules read with Clause 12 of the Letters Patent, praying to grant leave to file the present suit against the Respondents/Defendants before this Hon'ble Court under Clause 12 of the Letters Patent of the Madras High Court.



For Applicant(s): Mr.MS Bharath

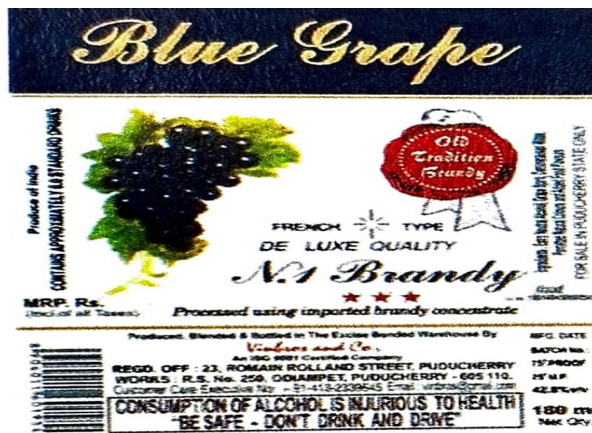
For Respondent(s): Mr.Anirudh Krishnan
(For Caveator)

ORDER

The present application has been filed to grant leave to file the present suit against the Respondents/Defendants before this Hon'ble Court under Clause 12 of the Letters Patent of the Madras High Court.

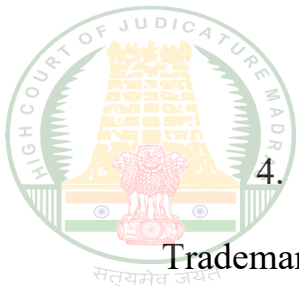
2. Heard both sides.

3. Mr.MS.Bharath, learned counsel appearing for the applicant would submit that the applicant is a registered trademark holder of various products, including the infringed trademark namely:-



whereas the trademark used by the respondent is:-

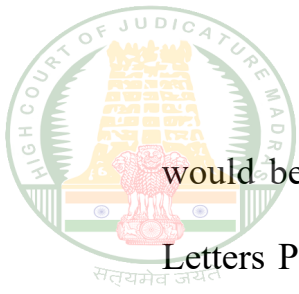




4. He would further submit that, in view of the registration with the Trademark Office within the jurisdiction of this Court, by application of Section 134(2) of the Trademarks Act, this Court has jurisdiction to entertain the suit.

That apart, the opposition application filed by the applicant as against the application for registration of trademark by the respondents would also indicate that the respondents have knowledge of the applicant's registered trademark, but had continued to infringe the same. He would also rely upon judgments in support of his contention that, by interpretation of Section 134, the suit could be laid before this Court, even though there is no cause of action within the jurisdiction of this Court, and therefore, leave is also not required under Clause 12 of the Letters Patent. Hence, he prays this Court to permit the applicant to sue the defendant before this Court.

5. Countering his arguments, Mr. Anirudh Krishnan, learned counsel, for the Caveator, would submit that admittedly, except the situs of registration of the trademark within the jurisdiction of this Court, no cause of action had arisen for the applicant to sue the defendants before this Court. He would submit that the applicant, even in his plaint, had categorically admitted that there is no sale of the infringing products currently within the city of Chennai, and admittedly, the applicant / plaintiff is also not carrying on the business within the jurisdiction of this Court, nor the respondents either reside or carry on business within the jurisdiction of this Court. This itself would indicate that the suit



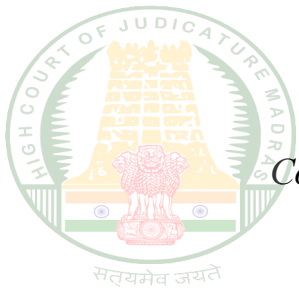
would be hit not only by Section 20 of the C.P.C., but also Clause 12 of the Letters Patent and Section 134(2) of the Trademarks Act. Even though he had also relied upon various judgments on the issue of jurisdiction and maintainability of the suit within the jurisdiction of this Court, he prays this Court to dismiss the application for grant of leave as prayed for by the applicant.

6. I have considered the arguments made by the respective learned counsels.

7. Section 134(2) had been the subject matter of various judgments, and it is to be noted that the Full Bench of this Court had dealt with the issue in the case of ***Duro Flex Pvt., Ltd., Vs. Duroflex Sitzings System*** reported in **2014 5 LW 673**. The Hon'ble Full Bench had framed issues, particularly with relation to the jurisdiction of this Court in a trademark suit brought upon for infringement of the rights of the registered holder.

8. For better appreciation, the relevant issues and the answers to that, as arrived at by the Hon'ble Full Bench, are extracted hereunder:

“(i) Whether the situs of the Trade Mark Registry in Chennai and the name being on its register would itself give rise to cause of action to institute a suit in the Madras High



Court?

(ii) *Whether the principles of Forum Conveniens or analogous principles apply for consideration of an application for leave to sue under Clause 12 of the Letters Patent in case part of cause of action arises at Chennai? It is the aforesaid two legal questions that have arisen for our consideration.”*

The Full Bench had answered the issues as follows:

“We thus conclude on this question by observing that the fact that the situs of the registration of Trade Marks is with the Trade Marks Registry at Chennai by itself would not be sufficient to give rise to cause of action to institute the suit in the Madras High Court, though it may be a factor to be taken into account, among the bundle of facts, for purposes of determining the situs of the cause of action. The legal view to the contrary expressed in the various judgments referred to by the learned counsel for the appellant thus stands over-ruled.”

9. It would also be useful to refer to a decision of the Hon'ble Apex Court in the case of ***Indian Performing Rights Society Ltd., Vs. Sanjay Dalia, reported in (2015) 10 SCC 161***, wherein the provision of Section 134 vis-a-vis the cause of action for filing the suit had been dealt with. For better appreciation, the paragraphs 20 to 22 are extracted hereunder:

“20. In our opinion, in a case where the cause of action has arisen at a place where the plaintiff is residing or where there are more than one such persons, any of them actually or voluntarily resides or carries on business or personally works for



gain would oust the jurisdiction of other place where the cause of action has not arisen though at such a place, by virtue of having subordinate office, the plaintiff instituting a suit or other proceedings might be carrying on business or personally works for gain.

21. At the same time, the provisions of Section 62 of the Copyright Act and Section 134 of the Trade Marks Act have removed the embargo of suing at place of accrual of cause of action wholly or in part, with regard to a place where the plaintiff or any of them ordinarily resides, carries on business or personally works for gain. We agree to the aforesaid extent that the impediment imposed under Section 20 CPC to a plaintiff to institute a suit in a court where the defendant resides or carries on business or where the cause of action wholly or in part arises, has been removed. But the right is subject to the rider in case the plaintiff resides or has its principal place of business/carries on business or personally works for gain at a place where cause of action has also arisen, suit should be filed at that place not at other places where the plaintiff is having branch offices, etc.,

22. There is no doubt about it that the words used in Section 62 of the Copyright Act and Section 134 of the Trade Marks Act, “notwithstanding anything contained in CPC or any other law for the time being in force”, emphasise that the requirement of Section 20 CPC would not have to be complied with by the plaintiff if he resides or carries on business in the local limits of the court where he has filed the suit but, in our view, at the same time, as the provision providing for an



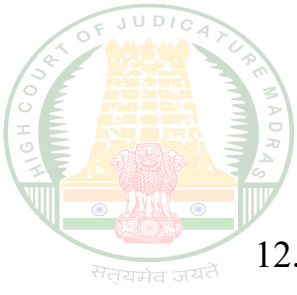
WEB COPY

additional forum, cannot be interpreted in the manner that it has authorised the plaintiff to institute a suit at a different place other than the place where he is ordinarily residing or having principal office and incidentally where the cause of action wholly or in part has also arisen. The impugned judgments, in our considered view, do not take away the additional forum and fundamental basis of conferring the right and advantage to the authors of the Copyright Act and the Trade Marks Act provided under the aforesaid provisions.”

10. The aforesaid principles had to be applied to the present case, and particularly on the cause of action and the jurisdiction that has been pleaded in the plaint for instituting the suit at Paragraph No.75, which is extracted hereunder:

“75. As the Defendants’ products under the infringing trademark are not currently sold in the city of Chennai, the plaintiff craves leave of this Hon’ble Court to sue the Defendants before this Hon’ble Court.”

11. From Paragraph No.75, as extracted above, this Court finds that no part of cause of action had been admittedly pleaded, and only the situs of the registered trademark alone had been pleaded for grant of leave to sue the respondents before this Court. This had been answered in negative by the Full Bench of this Court in the judgment extracted supra.



12. For the aforesaid reasons, I do not find any merits in the application.

WEB COPY

13. Accordingly, the leave as prayed for stands rejected. As a corollary, the Registry is directed to return the plaint for being presented before the appropriate Court. No costs.

28-08-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

kak



WEB COPY

A No. 2575 of 2



K.KUMARESH BABU, J.

kak

A No. 2575 of 2026

28-08-2026