

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

A No. 1826 of 2026
in C.S.(COMM.DIV.)No.52 of 2026

M/s Mangal Marketing
A Partnership firm,
Represented by its Partner Mr.Nitin M. Jain,
22/ 2 Alagappa Road, Purasaiwakkam,
Chennai Tamil nadu 600084

Also at,
No13 14 15 Mutha Royal Logistics Park Mutha
Royal Nagar, Madhavaram, Chennai-600060

..Applicant(s)

Vs

M/s. Mangal and Mangal
A Registered Partnership Firm,
Rep by its Managing Partner Mr.P.Mookan,
No.25, N.S.B Road, Thiruchirapalli - 620002

..Respondent(s)

PRAYER:- Application filed to Reject the Plaint in C.S.(Comm) No.52 of 2026 under Order VII Rule 11 of the Civil Procedure Code as being barred under Section 12A of the Commercial Courts, Act 2015 and to pass such further orders.

For Applicant(s): Mr.M.S Bharath

For Respondent(s): Mr.A.Jayesh Kumar Daga



ORDER

The present application have been filed to Reject the Plaint in C.S. (Comm) No.52 of 2026 as being barred under Section 12A of the Commercial Courts, Act 2015.

2. Heard Mr.M.S Bharath, learned counsel for the applicant and Mr.A.Jayesh Kumar Daga, learned counsel for the respondent.

3. Learned counsel appearing for the applicant/ defendant would contend that the present suit without exhausting the mandatory requirement of Section 12A of the Commercial Courts Act, 2015 (hereinafter referred to as “the Act”) would have to be rejected in limine.

4. He would submit that the applicant/ defendant had been carrying on business as early as in the year 1991 and admittedly the respondent/ plaintiff has the knowledge of the applicant’s activities as early as in the year 2025 when it had issued a cease and desist notice and the present suit stood instituted in the month of February 2026, after an unexplained delay, without exhausting Section 12A, hence would make the suit barred as there were no urgent interim reliefs that were required to be granted. That apart, he would submit that this Court had also not granted any injunction as prayed for by the respondent/ plaintiff which



itself would indicate that the applications filed for injunction was a ruse to circumvent the provisions of Section 12A of the Act.

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5. He had relied upon the judgment of the Hon'ble Apex Court in the case of *Yamini Manohar Vs T.K.D.Keerthi* reported in (2024) 5 SCC 815 in support of his submission that if the object of Section 12A is defeated by camouflaging the reliefs of an interim relief as urgent, can be a ground to reject the plaint. Hence, he seeks indulgence of this Court to reject the plaint on the aforesaid ground.

6. Countering his arguments, Mr.A.Jayesh Kumar Daga, learned counsel appearing for the respondent would primordially contend that the present application itself is an attempt to delay the grant of interim protection as when the applications came up for hearing, the Applicant/defendant had taken notice and sought time to file a counter and after filing, the counter present application had been taken out to reject the plaint on the ground of non compliance of Section 12A.

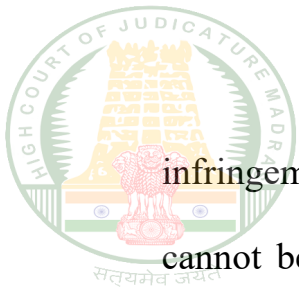
7. He would further submit that non-grant of an injunction cannot be a ground to come to a conclusion that there was no urgent interim reliefs that as prayed for is available and that it is only a camouflage to by-pass Section 12A. He would submit that it is for the applicant to substantiate that he had been in



business from the year 1991, but, when it had come to the knowledge of the respondent who is a registered trade mark holder which had been infringed by the applicant/defendant, the present suit had been filed.

8. He would further submit that it had been repeatedly held that there is no limitation for the continuing cause of action such as infringement. That apart, he would submit that in spite of the cease and desist notice, the applicant had continued to infringe the copyright and hence, to protect the trade mark of the applicant, the applicant had moved the suit with urgent interim reliefs. In that regard, he would take this Court through various averments in the plaint where it had been pleaded that urgent interim reliefs are required to be granted and for which reason, the respondent had not invoked the Provisions of Section 12A of the Act.

9. He had also relied upon the judgment of the Hon'ble Apex Court in ***SLP(Civil)No.2753 of 2025*** dated 27.10.2025 and contended that in a suit for infringement which arises out of a continuing infringement of an intellectual property right, the injury must be assessed in the context of the ongoing injury to prevent deception in the minds of the public and that the mere delay in the institution of the suit does not negate the urgency when the infringement is continuing and in that regard, he would submit that the applicant himself has admitted to the usage of the infringed trade mark and the said action of



infringement is even continuing till this date. To protect the statutory right it cannot be said that there is no urgency and hence, he seeks dismissal of the application.

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

11. It is the claim of the respondent/plaintiff who had instituted a suit to protect the intellectual property right that there has been a continuous infringement of the registered trade mark. On the other hand, it is the claim of the applicant/defendant that he had been in business using the very same trade name from the year 1991 and the respondent/ plaintiff had issued a cease and desist notice as early as in the month of October 2025, but had only filed the suit in the month of February 2026.

12. The reasons attributed as to the use of the trade mark by the applicant/ defendant from the year 1991 could only be substantiated during trial. It is an admitted fact that in the month on 17.10.2025, the respondent/ plaintiff had issued a notice of cease and desist to which a reply had emanated from the applicant/ defendant on 31.10.2025 and continued with the rejoinder issued by the respondent/ plaintiff on 27.11.2025 and an interim response on 08.12.2025



from the hands of the applicant/ defendant. Thereafter, the suit had been e-filed on 12.01.2026 and after formalities, physically filed on 09.02.2026.

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13. Admittedly, the suit had been filed seeking various reliefs to protect the trade mark of the respondent/ plaintiff and for other consequential reliefs. It is true that the Hon'ble Apex Court in the judgement relied upon by the learned counsel for the applicant indicates that the suit without compliance of Section 12A, there is no discretion of the Court to exempt a plaint from the rigours of Section 12A and the exemption would have to be viewed in the nature of an interim relief that is sought for and also that on the mere ground the suit ought not to have been rejected.

14. On the other hand, the judgment relied upon by the learned counsel for the respondent/ plaintiff which was in an identical circumstances where the relief was for infringement of an intellectual property right, the Hon'ble Apex Court had categorically held that infringement of an intellectual property is a continuous infringement and that the same should be assessed only in the context of an ongoing injury which arises out of such infringement of the intellectual property and in that regard, the mandatory provision of Section 12A could stand exempted. This Court is of the view that the judgment relied upon by the learned counsel appearing for the respondent/ plaintiff would squarely apply to the facts of the present case.



15. For the aforesaid reasons, this Court do not find any merits in the application and accordingly, the application stands dismissed. 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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