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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserved	03/09/2026
Date of Pronounced	01/10/2026

CORAM:

THE HONOURABLE MS.JUSTICE R. POORNIMA

CRP(MD) NO. 933 of 2026
{CNR: HCMD010419572026}
Case QR

and

CMP(MD)No.4308 of 2026

1.The President Match Company,
A Partnership firm through its
Partner Nagarajan
Having Office at No.2/446, Deivanai Nagar,
Viswanatham Road, Sivakasi-626 123.
Virudhunagar District.

2.Nagarajan, Parnter,
M/s.The President Match Company,
2/446, Deivanai Nagar, Sivakasi-626 123.
Virudhunagar District.

3.Janarthanan, Partner,
M/s.The President Match Company,
2/446, Deivanai Nagar, Sivakas-626 123.
Virudhunagar District. : Petitioners/Respondents 1 to 3/
Defendants 1 to 3

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1.Ms.Sri Balamurugan Match Works,
A partnership Firm through its
Partner Rajendran, having Unit at Pernaickenpatti,
Sithurajapuram, Sivakasi,
Virudhunagar District. : 1st Respondent/Petitioner/
Plaintiff

2.M/s.Nagar Mal &Co.,
General Merchants & Commission Agent,
Bara Bazzar, Kathihar-854 105,
Bihar. : 2nd Respondent/4th Respondent/
4th Defendant

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed in IA No.4 of 2025 in COS No.4 of 2024, dated 01/12/2025 on the file of the Principal District and Sessions Judge, Virudhunagar at Srivilliputhur.

For Petitioners : Mr.R.Sathish Kumar

For Respondents : Mr.S.Anvith Kumar
for Mr.A.Sivaji

ORDER

This Civil Revision Petition is filed against the fair and decreetal order passed in IA No.4 of 2025 in COS No.4 of 2024, dated 01/12/2025 by the Principal District and Sessions Judge, Virudhunagar at Srivilliputhur.

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2.The revision petitioners are the defendants 1 to 3 in C.O.S. No.4 of 2024 on the file of the Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur. The 1st respondent/plaintiff instituted the suit seeking a decree of permanent injunction restraining the defendants, their men, agents and persons claiming through them, from in any manner infringing the plaintiff's registered trade mark bearing Registration No.**4321837** by using the device of a musical instrument in the label or any other label deceptively or substantially similar to the plaintiff's brand "**Acha Dholak**" including the colour scheme and get-up and also from using the said musical instrument with the colour scheme in a rectangle, which according to the plaintiff amounts to substantial reproduction of the plaintiff's artistic work and thereby constitutes infringement of the plaintiff's copyright, together with other consequential reliefs.

3.The suit was instituted on **15.06.2024**. The revision petitioners/defendant 1 to 3 entered appearance and filed their written statement on 04.01.2025, denying the allegations contained in the plaint.

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4.While the suit was pending, the 1st respondent/plaintiff filed I.A. No.4 of 2025 in COS No.4 of 2024 seeking amendment of the plaint. The amendments sought to be incorporated, in substance, relate to the constitution and origin of the plaintiff's business, the names of the partners, the manner in which the business was originally established by the plaintiff's father, the licence/registration obtained in respect of the trade mark, and the subsequent transfer/continuance of the business by the plaintiff.

5.The learned Trial Court, after hearing both sides, allowed the application for amendment. Aggrieved thereby, the defendants 1 to 3 have preferred the present Civil Revision Petition.

6.The principal contention of the learned counsel for the revision petitioners/defendants 1 to 3 is that the proposed amendments go to the very root of the plaintiff's entitlement to maintain the suit in respect of the registered trade mark. According to the learned counsel, the plaintiff originally projected itself as a partnership concern and claimed to be the proprietor of the registered trade mark. By way of amendment, however, the plaintiff seeks to introduce an entirely different case regarding the

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origin of the business, the status of the plaintiff, the role of his father, the licence allegedly obtained by his father and the subsequent transfer of the business to the plaintiff. It is, therefore, contended that the amendment substantially alters the nature and character of the suit and introduces a new cause of action.

7.It is further contended that the plaintiff had sufficient opportunity to plead the relevant facts and produce the necessary documents when the suit was instituted. The issues had already been framed on 21.01.2025 and the suit was posted for trial on 12.02.2025. Therefore, according to the revision petitioners, the plaintiff had not satisfied the requirement of due diligence contemplated under the proviso to Order VI Rule 17 CPC. It is also contended that the amendment is an attempt to fill up the lacuna in the plaintiff's case and to protract the proceedings. In view of the above circumstances, the learned counsel appearing for the revision petitioners prays for allowing this civil revision petition by setting aside the impugned order passed by the trial court.

8.In support of his contention, the learned counsel appearing for the revision petitioners would rely upon the following judgments:-

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(1)In AJENDRAPRASADJI N.PANDEY AND ANOTHER Vs. SWAMI KESHAVPRAKESHDASJI N, AND OTHERS, reported in (2006)12 SCC 1; and

(2)In D.Thangarasu Vs. Senthil Educational Trust, reported in 2026(1) CTC 721.

9.The learned counsel for the 1st respondent/plaintiff, on the other hand, submitted that the proposed amendment does not introduce a new cause of action. According to him, the plaintiff has merely sought to place on record the particulars relating to the constitution and origin of the business and the documents which were subsequently traced by the plaintiff. It is submitted that the plaintiff had specifically explained in the affidavit filed in support of the amendment application that at the time of institution of the suit, the relevant records could not be traced and that subsequently, on searching the records for the purpose of prosecuting the suit, the documents were located. Upon obtaining legal advice, the plaintiff immediately sought amendment of the plaint.

10.It is further submitted that though the issues had been framed, the evidence had not commenced when the amendment application was filed. Therefore, the amendment would not cause any prejudice to the

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defendants, who would have full opportunity to file an additional written statement, if necessary, and contest the amended pleadings and prays for dismissal of the civil revision petition.

11.In support of his contention, the learned counsel appearing for the 1st respondent would rely upon the following judgments:-

(1)In R.P.Sarathy (Died) Vs. Narasu's Coffee company by P.Sivanantham, reported in2021(5)CTC 601; and

(2)In Basavaraj Vs. Indira and others, reported in (2024)3 SCC 705.

12.Heard the learned counsel appearing for both sides and perused the materials available on record.

13.The plaintiff instituted the suit asserting rights in respect of the registered trade mark **"Acha Dholak"** bearing Registration No.**4321837.** The plaintiff had pleaded that it was a partnership concern and that it was the proprietor of the registered trade mark used in respect of its safety match products.

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14.By the proposed amendment, the plaintiff seeks to incorporate the names of the partners namely Rajendran, R.Rajalakshmi, R.Uma Maheswari and R.Dinagaran, including Rajendran and Rajalakshmi, stated to be husband and wife, and their heirs as the other partners. The plaintiff also seeks to plead that his father namely Gurusamy **originally commenced the business in the year 1971 and had obtained the requisite licence/registration in respect of the brand, under Licence No. L4 No.22/M-71, T.L. No.120/88, dated 14/07/1988** from the competent authority. It is further sought to be pleaded that the plaintiff's father had invented/introduced the brand **"Acha Dholak**" and that the business was subsequently handed over to the plaintiff in the year 2014.

15.Thus, the substance of the proposed amendment is to explain the origin and continuity of the business and the plaintiff's claim in respect of the trade mark. The proposed amendment does not seek to introduce an independent or inconsistent cause of action wholly unrelated to the original suit. The foundation of the suit continues to be the alleged infringement of the plaintiff's registered trade mark and artistic work.

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16.The power to permit amendment of pleadings under Order VI Rule 17 CPC is intended to enable the Court to determine the real questions in controversy between the parties. At the same time, after commencement of trial, the proviso to Order VI Rule 17 CPC requires the party seeking amendment to establish that despite due diligence, the matter could not have been raised before commencement of trial.

17.In the present case, it is true that the amendment application was filed after the issues were framed. However, mere framing of issues does not, by itself, establish that the trial had substantially commenced. More importantly, the plaintiff has offered an explanation that the relevant documents relating to the origin and constitution of the business were subsequently traced and that immediately thereafter, the amendment application was filed on legal advice.

18.The Hon'ble Supreme Court, in ***Revajeetu Builders and Developers v. Narayanaswamy & Sons*****,** reported in **(2009) 10 SCC 84**, has laid down the principles governing amendment of pleadings, including the requirement that the amendment should be necessary for

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determining the real controversy and that prejudice which cannot be adequately compensated should ordinarily be avoided.

19.Likewise, the Hon'ble Supreme Court has consistently held that delay, by itself, is not an absolute ground for rejecting an application for amendment, particularly where the amendment is necessary for adjudication of the real controversy and does not fundamentally alter the nature of the suit.

20.In the present case, the proposed amendment is closely connected with the plaintiff's existing claim relating to the registered trade mark. The plaintiff is not seeking to introduce a wholly new transaction or an independent cause of action. The proposed pleadings are intended to explain the genesis of the business and the basis on which the plaintiff claims rights in the registered trade mark.

21.The further contention of the revision petitioners that the plaintiff's claim is liable to fail merely because of the reference to a licence or registered-user status also cannot, at this stage, constitute a ground for refusing the amendment. The validity of the plaintiff's

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substantive claim and the legal effect of the documents relied upon by the plaintiff are matters to be adjudicated after the parties are afforded an opportunity to lead evidence. An amendment application cannot ordinarily be rejected merely because the amended pleading may give rise to a defence on merits.

22.The contention based upon Sections 52 and 53 of the Trade Marks Act, 1999 also does not warrant interference with the order permitting amendment. The precise status of the plaintiff, the nature of the registration/licence relied upon and the legal consequences thereof are matters which can be considered on the pleadings and evidence. The plaintiff asserts that the relevant trade mark is registered in its favour under Registration No.**4321837**. Therefore, the question as to whether the plaintiff is entitled to maintain the infringement action is a matter for adjudication in the suit and cannot, in the circumstances of the present case, be treated as a ground to reject the amendment itself.

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23.The Court must also bear in mind that an amendment which facilitates complete and effective adjudication of the dispute ought not to be refused on a mere technicality, particularly when the opposite party can be compensated by granting an opportunity to meet the amended pleadings.

24.In the present case, the amendment neither changes the basic nature of the suit nor introduces a wholly new cause of action. No serious prejudice is demonstrated to have been caused to the revision petitioners. The revision petitioners will have an opportunity to meet the amended pleadings in accordance with law.

25.The learned Trial Court has considered the rival contentions and exercised its discretion in allowing the amendment. The said exercise of discretion does not suffer from any jurisdictional error or material irregularity warranting interference under Article 227 of the Constitution of India. Consequently, this Court finds no merit in the present Civil Revision Petition.

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26. In the result, the Civil Revision Petition is **dismissed.** The order passed by the learned Trial Court allowing the application for amendment of the plaint is confirmed. The learned Trial Court shall proceed with the suit in accordance with law. The revision petitioners shall be at liberty to file an additional written statement, if so advised, in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

01 .10.2026

Index:Yes/No
Internet:Yes/No

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To,

1.The Principal District and Sessions Judge,
Virudhunagar District at Srivilliputhur.

2.The Section Officer,
VR/ER Section,
Madurai Bench of Madras High Court,
Madurai.

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R.POORNIMA, J.

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