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(Civil)  
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**IN THE COURT OF THE XVIII ADDITIONAL CITY CIVIL JUDGE  
AT BANGALORE CITY**

PRESENT: SRI PADMA PRASAD

B.A.(Law) LL.B.,  
XVIII Additional City Civil Judge.

Dated this the 13<sup>th</sup> day of October 2022

**ORIGINAL SUIT 42/2022**

**PLAINTIFF**

Srinivas S. Devathi,  
Aged 44 years,  
S/o Late D. Satyanarayana,  
Residing at No.63, 11<sup>th</sup> 'B' Cross,  
3<sup>rd</sup> Main, Prashanthnagar,  
Bangalore-560 079,  
INDIA.  
Mobile (91)-903-589-4251  
E-mail ID:  
Srinivas@Coolcartechnology. com.

[By Party in Person]

**/v e r s u s/**

**DEFENDANTS:** 1. Legal and Treaties Division,  
Ministry of External Affairs,  
Room# 901, Akbar Bhavan,  
Chanakyapuri,  
New Delhi-110 021.  
Ph:91-11-24674144.

Represented by Mrs. Uma Sekhar,  
Additional Secretary, also  
representing External Affairs  
Minister Mr. S. Jaishankar.

## ORDERS ON MAINTAINABILITY

The present suit filed by the plaintiff in person for mandatory injunction in the nature of directions to be given to the defendant to issue consent letter of Indian Central Government certified in writing by a Secretary to Indian Government to sue defendant no.1 USPTO and summon defendant no.3 – International Bureau (WIPO) and defendant no.4 Intellectual Property of India for fact finding and verification in the law suit, O.S.2487/2021.

2. The case made out by the plaintiff namely Srinivas S.Devathi is that, he has filed a suit in O.S.No.2487/2021 and accordingly prayed to issue direction to the defendant – Legal and Treaties Division, Ministry of External Affairs, New Delhi to issue consent letter, as prayed in the plaint.

The plaintiff filed this suit without disclosing any cause of action. Hence, this court raised the objection regarding the maintainability of the suit in the present form.

Accordingly the court directed the plaintiff to advance the arguments regarding the maintainability of the present suit.

3. On the basis of the above, point for consideration is that – **‘Whether the suit is maintainable in the present form under law or on facts?’**

4. Heard the plaintiff in person.

5. Perused the pleading / plaint along with materials placed before the court. On that basis, my findings on the above point is in **negative** for the following:

## **REASONS**

6. The entire plaint nowhere discloses the cause of action for the suit. It is relevant to note that this suit is filed in connection with O.S. No.2487/2021 and the prayer is to issue consent letter of the Indian Central Government, certified in writing by a Secretary to Indian Government. Such prayer cannot be granted by this court. Any consent letter or certificate to institute a suit against the

foreign authorities to be obtained by the plaintiff prior to the filing of the suit as per Section 86 of CPC. Therefore, it is the bounden duty of the plaintiff to obtain such certificate from the Central Government and it is not the duty of the Court to issue such directions.

7. Further the entire plaint nowhere disclose cause of action for this suit. Any suit can be filed before the court if there is a cause of action for the suit, otherwise the suit is liable to be dismissed **under Order 7 Rule 11 (a) and (d) of the CPC that reads as -**

**“11. Rejection of plaint –** The plaint shall be rejected in the following cases:

(a) Where it does not disclose a cause of action;

((d) where the suit appears from the statement in the plaint to be barred by any law.”

8. I have repeatedly gone through the entire plaint, but that nowhere discloses the cause of action for the suit. The entire plaint nowhere discloses that

trade mark or patent obtained by the plaintiff has been infringed or any other person has obtained the trade mark on the patent obtained by the plaintiff. If at all, anybody has obtained similar patent, the plaintiff has to file a specific suit against that particular person or the authority that has been issued the patent. Infact, there is no material on record to show that the defendants have refused to entertain the claim of plaintiff. In fact, the plaintiff approached the court without exhausting his rights as contemplated under Section 41 (h) Specific Relief Act.

9. It is also relevant to note that there is no material on record to show that the plaintiff has approached the defendant for issuance of written consent or permission to prosecute the suit in O.S.2487/2021 and the defendant has refused to give any such written consent or permission. When there is no material before the court to show that the plaintiff has approached the defendant for issuance of written permission/ consent to prosecute the

defendants in O.S.No. 2487/2021, certainly this suit is not maintainable.

10. It is well settled principle of law that a cause of action means every fact, which if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the court. In other words, it is bundle of fact which taken with the law applicable to them gives the plaintiff a right to relief against the defendant. It must include some act done by the defendant. Since in the absence of such an act, no cause of action can possibly accrue. It is not limited to the actual infringement of the right sued on but includes all material facts on which it is founded. It does not comprise evidence necessary to prove such facts but every fact necessary for the plaintiff to prove to enable him to obtain a decree. But, in the case on hand, the plaintiff has not at all made out any case to show that any of the defendants have denied the claim of plaintiff nor the defendants are aware of the claim of plaintiff or the defendants are liable to act upon the claim of plaintiff. In the

absence of any such material before the court, certainly it cannot be accepted that there is any cause of action for the suit.

11. As the entire plaint nowhere discloses the cause of action, certainly this suit cannot be entertained, and plaint is liable to be rejected.

12. Therefore, considered from any angle, this suit in the present form is not maintainable as the plaintiff failed to make out any cause of action for the suit as well as not obtained any written permission from the Central Government, this plaint is liable to be rejected under Order 7 Rule 11 (a) and (d) of CPC. Accordingly, this point is answered in **negative**. In the result, following:

## **ORDER**

- The suit is hereby dismissed as not maintainable, and consequently plaint is rejected under Order 7 Rule 11 (a) and (d) of CPC.

\* \* \*

[Dictated to the Judgment Writer directly on computer, *Script* corrected, signed and then pronounced by me, in the Open Court on this the 13<sup>th</sup> day of October 2022.]

[PADMA PRASAD]  
XVIII Additional City Civil Judge.  
BANGALORE.





...Order pronounced in the Open Court.... (Vide separate detailed order..)

- The suit is hereby dismissed as not maintainable, and consequently plaintiff is rejected under Order 7 Rule 11 (a) and (d) of CPC.

[PADMA PRASAD]  
XVIII Additional City Civil Judge.  
BANGALORE.



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