

CR 111597/2022
14/10/2022

Annexure # - Page 1
A

S.S.D
Party in person

Order Sheet

IN THE COURT OF PRL. CITY CIVIL AND SESSIONS JUDGE, BENGALURU

FR No. : O.S./6/2022

Registration No. : O.S./42/2022

OS 42/2022

Plaintiff Vs Defendant

1) SRINIVAS S DEVATHI

1) LEGAL AND TREATIES DIVISION

Nature of Case :

INTELLECTUAL PROPERTY RIGHTS

Provision of Law :

U/o VII Rule 1 of CPC sec 86

Advocate for Plaintiff Sri./Smt. :

PARTY IN PERSON

Date of Filing :

03-01-2022

Date of Registration :

03-01-2022

Relief :

PRAYS TO HONBLE COURT TO PASS ORDERS TO DEFENDANT TO INITIATE THE COURT PROCEEDINGS FOR LAWSUIT O.S. 2487/2021 FILED IN THIS HONBLE COURT FOR SAKE OF JUSTICE AND EQUITY BY ORDERING DEFENDANT TO ISSUE THE CONSENT LETTER OF THE INDIAN CENTRAL GOVERNMENT CERTIFIED IN WRITING BY A SECRETARY TO INDIAN GOVERNMENT TO SUE DEFENDANT 1 USPTO, AND SUMMON DEFENDANT 3, INTERNATIONAL BUREAU WIPO AND DEFENDANT 4 INTELLECTUAL PROPERTY INDIA FOR FACT FINDING AND VERIFICATION IN THE LAW SUIT O.S No. 2487/2021 SO THAT THE LAWSUIT PROCEEDINGS COULD BE INITIATED ON THE UPCOMING HEARING DATE

Date of Cause of action :

22-09-2021

Receipt No.

Purpose and

Bank Name

Amount

Date

Mode

44249/2021-2022

Court Fee on Plaintiff

SBI

1000.00

03-01-2022

DD

CAO/CMO

Registered and made over this case to CCH-
court for disposal according to law.

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3/11
PRL. CITY CIVIL AND SESSIONS JUDGE
BENGALURU

office Note:-

- ① Legal notice u/se 80(2) of
LPC not issued against Deft-
Deft copies not furnished
fee not paid



03/01/2022

P- Party-in-person
- for compliance of office
objection

Plaintiff in present and
prays time to comply office
objection.
Call on : 04.01.2022.

XVIII Addl. CC & SJ, Bengaluru.

04/01/2022

P- Party-in-person
- for compliance of office
objection

Plaintiff present prays
time to comply office
objection.
Call on : 14.01.2022.

XVIII Addl. CC & SJ, Bengaluru

14/01/2022

P- Party-in-person
- for compliance of office
objection

Case called.
In view of the SOP
passed by the Hon'ble High
Court of Karnataka dated
04.01.2022 matter is
adjourned.
Call on : 17.01.2022.

XVIII Addl. CC & SJ, Bengaluru



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o.s. 42/2022

17/01/2022

P- Party in person
- For compliance of
office objection

IA-1

o.s. 80(2) cpe

Plaintiff/Party-in-person is present filed **IA No.1** U/Sec 80 (2) of CPC.
Heard on IA.

In view of the SOP passed by the Hon'ble High Court of Karnataka dated 04.01.2022 matter is adjourned.

For orders by :
18.01.2022.

XVIII Addl. CC & SJ, Bengaluru

18/01/2022

P- Party-in-person
- For orders

py is present

In this case, before passing order on I.A.No.1 it is just and necessary to hear further. Because question of maintainability is involved in the above suit. Hence case is reopened for further hearing.

Call on 25.1.2022

(NAGARAJAPPA. A.K)

XVIII Addl. City Civil Judge,
Bengaluru.

25/01/2022

P- Party in person
- for f. hearing

Party-in-person/
plaintiff is present.
Heard on IA partly.
To hear further hearing
on IA by : 28.01.2022.

XVIII Addl. CC & SJ, Bengaluru



28/01/2022

P- Party-in-person
- for F. leg. on IA I

Party-in-person/
plaintiff is present and filed
memorandum of production
of addl documents.

This mater is taken-up
for hearing on
maintainability and orders
on IA No.1.

Heard further
argument by plaintiff.

For orders by :
31.01.2022.

XVIII Addl. CC & SJ, Bengaluru

31/01/2022

P- Party-in-person
- For orders.

On considering the facts and
circumstances of the case and
considering the nature of the suit, as
well as the relief prayed by the
plaintiff in this case, the question of
maintainability of suit is involved.
Since the office has registered this
suit, hence it is just and necessary to
issue summons to the defendants
subject to hear on maintainability of
the suit as well as on I.A.No.1, after
appearance of the defendants.

Hence, issue suit summons and
I.A.No.1, notice to the defendants
R/by 2.3.2022 *also furnish PF +
copy to as per Office Note.*

13/1 21/3/22

(NAGARAJAPPA, A.K)

XVIII Addl. City Civil Judge,
Bengaluru.

want of DPP-16/-

of
12.



09/02/2022

Pt. has filed I.A U/S. 151 of CPC praying to advance the hearing of the case. Hence, file is put up before the court.

Case advanced. Plaintiff/party in person filed application U/O 5 rule 9(A) (1) of CPC and also filed two memorandums with some documents.

Heard on application. For orders by : 11.02.2022.

XVIII Addl. CC & SJ, Bengaluru

11/02/2022

P- Party in-person - for orders

Orders on Memorandum of Facts filed by the plaintiff in person Under Order 5 Rule 9-A(1) of CPC

Heard and perused the memorandum of fact. In this case, after hearing the argument by the plaintiff and considering the nature of the suit and relief sought by the plaintiff, this court passed an order on 31.1.2022 to issue suit summons to the defendants subject to hearing on maintainability of the suit as well as I.A.No.1 after appearance of he defendants. Now plaintiff has filed this memorandum of fact seeking to amend the court order dtd.31.1.2022 that the suit is



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maintainable and issue suit summons to the defendants by speed post, air mail as appropriate.

When this court already come to the conclusion that after appearance of the defendants the above suit will be taken up for hearing on maintainability and hence question of amendment of the order dtd.31.1.2022 as prayed by the plaintiff in the memorandum of facts does not arise. Moreover, the reasons stated by the plaintiff in the above memorandum of facts are not satisfied.

However suit summons can be issued through speed post or air mail or by RPAD. But not by hand to serve the summons to the defendants through plaintiff. Because plaintiff is in person conducting the suit and considering the nature of the suit and status of the defendants, it is necessary to issue suit summons to the defendants through court or by RPAD, or Speed Post or by Air Mail.

Hence, the IA., memorandaum of facts filed by the plaintiff in person is hereby rejected.

Re-issue suit summon, IA.notice to the defendants through court or Speed post, or RPAD, or Air Mail if PF and necessary process paid by the plaintiff

Call on 2.3.2022

(NAGARAJAPPA. A.K)

XVIII Addl.City Civil Judge,
Bengaluru.

TMD



02/03/2022

p- party in person

- SS not returned

case called out.

Plaintiff called out absent.

Sri.BS advocate filed memo appearance for defendant

p.1.

Await summons of remaining defendants.

For WS and objection to

is by defendant No.1.

Returnable by 05.04.2022.

VIII Addl. CC & SJ, Bengaluru.

05/04/2022

p- party in person

D. - B.S

For WS & OBJ TO JAS

by D NO-1

filed. Defaul of

Cherale as. No nu

By wait as to def

objection by 09/06

by 09/06

09/06/2022

P- Party in person

Def - B.S.

- for WS & obj. of Def.

Train
P.O. IS ON LEAVE ADJ. TL 17/6

I/C Acc. B'lor



17/08/2022

P- party in person
Def- B-S
For WS & obj of Def

Case called out.
Learned advocate for defendant no.1 prays time to file written statement.

Plaintiff filed memorandum U/o 5 Rule 3(1) of Code of Civil Procedure.

Objections to memorandum U/o 5 Rule 3(1) of CPC and maintainability of the suit by 30.08.2022.

XVIII ACC & SJ, Bengaluru.

30/08/2022

P- Party in person
Def- B.S.
- For obj. to memorandum and W.S.

Case called out.
Plaintiff filed a memo with one document.

Heard argument on maintainability of suit.

Orders by 19.09.2022.

XVIII ACC & SJ, Bengaluru.

19/09/2022

P- Party in person
D- B.S.
- For orders on maintainability of suit

Orders not ready.
Orders by 26.09.2022.

XVIII ACC & SJ, Bengaluru.



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26/08/2022

P- Party-in-person
D - B.S.

for orders on maintainability suits

The Plaintiff filed 5 voluminous documents and voluminous pleading in the case, hence the court could not go through all the pleadings and documents furnished by the parties. As such Orders on maintainability could not passed.

Orders on maintainability of the suit by 13.10.2022.

XVIII ACC & SJ, Bengaluru.

13/10/2022

P- Party-in-person
D - B.S.

- for orders on maintainability

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

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

[PADMA PRASAD]

XVIII Additional City Civil Judge.
BANGALORE.

Deemed notified on 19/10/22

19/10/22
19/10/22



S/E

Form
No.9
(Civil)
Title
Sheet
for
Judgmen

**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 13th day of October 2022

ORIGINAL SUIT 42/2022

PLAINTIFF

Srinivas S. Devathi,
Aged 44 years,
S/o Late D. Satyanarayana,
Residing at No.63, 11th 'B' Cross,
3rd 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.



Uma Sekhar
13/10/22

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.



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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



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13/10/22

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



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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



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13/10/22

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



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31/01/22

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 13th day of October 2022.]



This is the Annexure... A stated in the [PADMA PRASAD] XVIII Additional City Civil Judge. Affidavit of SRINIVAS S. DEVARAJ BANGALORE.

M.S.B.
M. S. BALLAL
 Advocate & Notary (Govt. of India)
 Reg. No. 2374. Bengaluru.

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and (d) of CPC. Accordingly, this point is answered in **negative**. In the result, following:

ORDER

- The suit is hereby dismissed as not maintainable in view of the non-obtaining of permission in writing from the Central Government to institute the suit against the defendants as per Section 86 (1) and (2) of CPC, 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 **13th day of October 2022.**]

[PADMA PRASAD]

XVIII Additional City Civil Judge.
BANGALORE.

This is the Annexure.....^B stated in the
Affidavit of.....**SRINIVAS . S. DEVATHI**


M. S. BALLAL
Advocate & Notary (Govt. of India)
Reg. No. 2374. Bengaluru

