



2026:KER:14758

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE S.MANU

WEDNESDAY, THE 18<sup>TH</sup> DAY OF FEBRUARY 2026/29<sup>TH</sup> MAGHA, 1947

FAO NO.72 OF 2025

AGAINST THE ORDER DATED 11.04.2025 IN IA 2/2025 IN OS NO.11 OF 2025 OF ADDITIONAL DISTRICT COURT & SESSIONS COURT - VIII, ERNAKULAM / IV ADDITIONAL MACT, ERNAKULAM

APPELLANT/PETITIONER/PLAINTIFF:

M/S. G-TEC EDUCATION PRIVATE LIMITED  
HOUSE OF G-TEC, INDUS AVENUE, KALLAI ROAD,  
CALICUT, KERALA, REPRESENTED BY ITS AUTHORIZED  
OFFICER, MR. ANISH GEORGE, G-TEC AREA SUPPORT  
OFFICE DIRECTOR, ERNAKULAM, PIN - 673002

BY ADVS.  
SHRI.VIZZY GEORGE KOKKAT  
SRI.V.BOVAN CHERIAN VARKEY  
SRI.RENJITH RAJAPPAN  
SHRI.K.HARI SANKAR  
SHRI.ANANTHU ARAVIND  
SMT.ANJALA FARHATH V.S.

RESPONDENT/RESPONDENT/DEFENDANT:

MR.BINU A.JOY  
AGED 31 YEARS  
S/O.JOY MARKOSE, ALACKAPARAMBIL HOUSE,  
PERUMBADAVOM P.O, ELANJI, ERNAKULAM,  
PIN - 686665

THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY HEARD ON 18.02.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



## **J U D G M E N T**

Appellant is the plaintiff in O.S.No.11 of 2025 pending before the Additional District Judge – VIII, Ernakulam filed under Section 134(1) & (2) and Section 135 of the Trade Marks Act, 1999. The appellant filed I.A.No.2 of 2025 for interim injunction restraining the respondent from using the trade mark "GIO TECH" or "GIO TECH COMPUTER ACADEMY" along with a deceptively similar logo containing the alphabet "G" or any other visually or phonetically similar mark to that of the petitioner's registered trade mark "G-TEC COMPUTER EDUCATION" or "G-TEC" trademark and its logo till the disposal of the suit. By the impugned order dated 11.04.2025, the learned Additional District Judge turned down the plea for interim injection. The I.A was dismissed.

2. Notice was issued and initially a counsel appeared for the respondent. However, no vakalath was filed and when the appeal was taken up for hearing, none represented for the respondent.

3. Heard the learned counsel for the appellant and perused the pleadings and documents.



4. The learned counsel for the appellant submitted that the respondent was a franchisee of the appellant. He intimated the appellant by a communication dated 14.12.2024 that he wanted to terminate the franchisee arrangement with effect from 20.01.2025. This was agreed to by the appellant and a communication to that effect was issued on 02.01.2025. However, after termination of the franchisee arrangement, the respondent continued to run the institution under the name and style "M/s.G-TEC COMPUTER EDUCATION". Hence the appellant issued a notice through his lawyer on 15.01.2025 calling upon the respondent to stop using the logo "G-TEC COMPUTER EDUCATION". There was no response to the notice. Hence the appellant approached the jurisdictional police authority and in mediation the respondent agreed to change the name. However he thereafter started using a similar name "GIO-TECH" with a deceptively similar logo. Hence the suit was filed. The learned counsel further submitted that the order passed by the learned Additional District Judge is not legally sustainable. He contended that the learned Additional District Judge in fact undertook an exercise



of dissecting the trademarks and held that those who wish to pursue computer education are the customers of the appellant as well as the respondents and they belong to educated class. The learned Additional District Judge held that since the potential consumers are capable of noticing differences between the trademarks and the trade names, there is no force in the contention of the appellant.

5. The learned counsel for the appellant heavily relied on a judgment of a Division Bench of the Delhi High Court in **M/s.South India Beverages Pvt. Ltd. v. General Mills Marketing.Inc.& Another [2014 SCC OnLine Del 1953]** He referred to paragraph 16 of the judgment which deals with the Rule of Anti - Dissection. It is observed by the Delhi High Court as follows:

*"16. This rule mandates that the Courts whilst dealing with cases of trademark infringement involving composite marks, must consider the composite marks in their entirety as an indivisible whole rather than truncating or dissecting them into its component parts and make comparison with the corresponding parts of arrival mark to determine the likelihood of confusion. The raison d'tre underscoring the said principle is that the*



*commercial impression of a composite trademark on an ordinary prospective buyer is created by the mark as a whole and not by its component parts.”*

6. It is also profitable to refer to the observations in paragraph 19 as well as 20 of the same judgment. The Delhi High Court in the said judgment observed that even sophisticated consumers are not immune from confusion under all circumstances. It was also stressed that degree of similarity in the marks necessary to support a finding of infringement is less than in the case of dissimilar or non competing products. It is to be noted that in the case at hand, both the appellant and the respondent are offering similar services.

7. It is trite law that the test for substantial similarity involves viewing the products in question through the eyes of the layman. A layman is not expected to memorise precisely the trademarks and note the differences among different trademarks appearing similar at first blush.

8. It is also pertinent to note that the respondent was a franchisee of the appellant. The respondent was running the institute under the trademark of the appellant for sometime



and later expressed his inability to continue with the franchisee arrangement. This was accepted by the appellant. However, the respondent thereafter continued to operate the institute under the same trade mark for some time. Only after intervention by the appellant he started using a similar trade mark and trade name. Therefore a clear case of dishonest intention is also reflected in the conduct of the respondent in this regard. In this context, it is apposite to refer to the judgment of the Hon'ble Supreme Court in **Midas Hygiene Industries (P) Ltd and another v. Sudhir Bhatia and others** [(2004) 3 SCC 90]. Paragraph 5 of the judgment of the Hon'ble Supreme Court held as follows:

*"5. The law on the subject is well settled. In cases of infringement either of trade mark or of copyright, normally an injunction must follow. Mere delay in bringing action is not sufficient to defeat grant of injunction in such cases. The grant of injunction also becomes necessary if it prima facie appears that the adoption of the mark was itself dishonest."*

9. In the said case, the respondents used to work with the appellants. Thereafter they resorted to naming their product by adopting a similar trade name as well as packing



design having similar colour scheme, get up, background and colour combination as that of the appellants copyright.

10. The learned counsel for the appellant also relied on judgment of the Hon'ble Supreme Court in **Laxmikant V. Patel v. Chetanbhai Shah and another** [(2002)3 SCC 65]. He relied on the said judgment to contend that once a case of passing off is made out, normally injunction shall be granted to prevent the mischief.

11. In the case at hand, as rightly pointed out by the learned counsel for the appellant, the analysis made by the court below is by dissecting the trademarks. Such an exercise is not in consonance with the settled principles regarding infringement. The appellant got his trademark registered in the year 2000. According to the appellant, it is a reputed and well established trade mark. It is clear that the respondent resorted to run the business by using a similar trade mark and the fact that he was franchisee of the appellant cannot be ignored. The comparison of the tradenames of the appellant and the respondent shows that they are phonetically similar and confusion is likely to be caused on account of the same.



Therefore I am of the view that a prima facie case has been made out by the appellant and the balance of convenience is also in favour of the appellant. If the respondent is not restrained by an order of injunction that may result in irreparable injury and loss to the appellant. In the above circumstances I find that the impugned order cannot be sustained. Impugned order is accordingly set aside. I.A.No.2 of 2025 in O.S.No.11 of 2025 on the file of the Additional District Court – VIII, Ernakulam shall stand allowed. The respondent is restrained from using the trade mark "GIO TECH" or "GIO TECH COMPUTER ACADEMY", along with a deceptively similar logo containing the alphabet "G" or any other visually or phonetically similar mark to that of the petitioner's registered mark "G-TEC COMPUTER EDUCATION" OR "G-TEC" trademark and its logo till the disposal of the suit.

The appeal is allowed as above. No costs.

Sd/-  
**S.MANU**  
**JUDGE**