

C.M.A(MD)No.287 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 20.02.2026

Pronounced on : 01.06.2026

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

C.M.A(MD)No.287 of 2025

Rio Children's Hospital Pvt. Ltd.,
Represented by Dr.M.Saravanan,
Chairman / Managing Director,
40/4c, 2b1,Vandiyur Bit-1,
Ring Road,
Madurai - 625 020.

... Appellant/Petitioner/Plaintiff

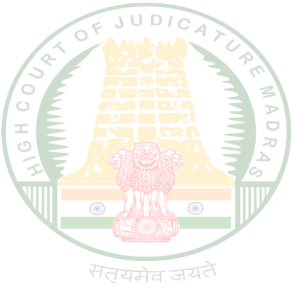
Vs.

Rio Scans and Labs,
No.3, Ezhil Nagar,
Opp.To RTO Office,
NGO A Colony,
Tirunelveli,
Tamil Nadu - 627 007.

...Respondent/Respondent/Defendant

PRAYER: Civil Miscellaneous Appeal is filed under Section 13(1A) of the Commercial Courts Act, 2015, to set aside the fair and decretal order, dated 20-09-2024 passed in I.A.No.1094 of 2022 in O.S.No.302 of 2022 on the file of the Principal District Judge, Madurai and allow the present Civil Miscellaneous appeal.

For Appellant : Mr.S.Eshwar
For Respondent : Mr.K.Sankararaman



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JUDGMENT

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This Civil Miscellaneous Appeal is filed against the fair and decreetal order, dated 20.09.2024 passed in I.A.No.1094 of 2022 in O.S.No.302 of 2022 on the file of the Principal District Court, Madurai.

2.The brief facts of the case:

The petitioner is running a leading children's hospital in Madurai and engages renowned pediatricians and leading gynecologists in and around Madurai to provide high standards of care for its patients. The petitioner has been popularly known and recognized in the medical field and by the general public across South Tamil Nadu as "RIO CHILDREN'S HOSPITAL" since 2013. Thereby, the petitioner is enjoying reputation and goodwill not only in Madurai but also in Tirunelveli, Kanyakumari, Trichy, Chennai and Bengaluru. The petitioner's trademark "RIO" was assigned to the petitioner's family and attained its status under the Trade Marks Act. The petitioner came to know that the respondent is running a lab center at Tirunelveli under the name "Rio Scans and Labs" which caused confusion and deception among the general public. The respondent's impugned name is identical to that of the petitioner and the same dilutes the petitioner's proprietary rights over its trade mark. After the exchange of legal notices, the respondent applied for



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registration of the trademark. Hence, the petitioner herein has filed a suit in O.S.No.302 of 2022 on the file of the Principal District Court, Madurai, against the respondent for the relief of permanent injunction restraining them from using the petitioner's trade mark 'RIO'. Along with the plaint, the petitioner filed a petition in I.A.No.1094 of 2022 in O.S.No.302 of 2022 under Order 39 Rule 1 & 2 and U/s.151 of CPC., for an interim injunction. The petition was resisted by the respondent by filing a counter. After hearing both sides, the learned Principal District Judge, Madurai, has dismissed the application for interim injunction by his order, dated 20.09.2024. Aggrieved by the said order, the petitioner/plaintiff moved this Court by way of this Civil Miscellaneous Appeal.

3.Heard both sides and perused the records in this Civil Miscellaneous Appeal. The learned counsel for both parties argued at length and relied on number of rulings.

4.The learned counsel appearing for the appellant/petitioner has argued that the petitioner has been adopting the trade mark "RIO" as part of its corporate name and flagship branch since March, 2013 and has been running Rio Children's Hospital, Rio Mum & Me, Rio Mum & Me Scans relating to healthcare, child and maternity care. The trademark is associated with the



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petitioner only and no one else. The mark 'RIO' is not concerned with medical sciences. The respondent started their firm as Rio Scans and Labs in 2016.

Hence, the petitioner moved the trial Court by filing a suit and sought an interim injunction. The trial Court has only reproduced the pleadings of both sides and dismissed the petition. The trial Court has not passed a well-reasoned order. The petitioner has registered its trademark for its various firms even before filing the suit. The learned trial Court has wrongly observed that the name RIO is generic, in fact, it is not generic. The respondent's usage of the trade name RIO prior to the petitioner's usage is not correct. The respondent has not filed any document to show that they have been using the name RIO from 2016. The trial Court has failed to consider two things under Section 29(3) of the Trade Marks Act, that is, (1) Similarity and (2) usage as identical/similar. The trade name RIO is used by the respondent as that of the petitioner in the same medical field. Hence, as per Section 28(1) of the Trade Marks Act, passing off is against the petitioner's equitable right. The petitioner has registered its trade name even before the use of the trade name by the respondent, so the petitioner has a prima facie case under Section 31(1) of the Trade Marks Act. One of the petitioner's customers got confused about the usage of the trade name by the respondent and brought the same to the knowledge of the petitioner. The service of the petitioner relates to health care. If the respondent continues



the trade name as that of the petitioner's mark, the petitioner will be severely affected and the general public also would be affected in medical treatment.

The Court has to determine whether a mark is deceptively similar to another, particularly to consider the dominant feature of the mark. Hence, the respondent has to be restrained by way of an interim injunction till the disposal of the main suit.

5. In support of his arguments, the learned counsel for the petitioner has relied on the following rulings:

(1) AIR 2002 SC 275 in the case of Laxmikant V. Patel vs. Chetanbhat Shah and Ors.

(2) MANU/SC/0186/2004 in the case of Midas Hygiene Industries P. Ltd., and Ors. vs. Sudhir Bhatia and Ors.

(3) MANU/DE/0797/2009 in the case of Clinique Laboratories LLC and Ors. /v/ Gufic Limited and Ors.

(4) MANU/DE/1000/2014 in the case of Abbott Healthcare Pvt. Ltd. /v/ Raj Kumar Prasad and Ors.

(5) MANU/TN/6172/2021 in the case of N.Ranga Rao & Sons Private Limited /v/ Koya's Perfumery Works.



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(6) 2019 SCC OnLine Del 8252 in the case of Anil Verma /v/ R.K.Jewellers SK Group and Ors.

(7) MANU/DE/0011/2017 in the case of FDC Limited vs. Docsuggest Healthcare Services Pvt. Ltd., and Ors.

(8) MANU/DE/2235/2011 in the case of Greaves Cotton Limited /v/ Mohammad Rafi and Ors.

(9) MANU/DE/2118/2019 Max Healthcare Institute Ltd. /v/ Sahrudya Health Care Pvt. Ltd.,

(10) MANU/DE/3612/2022 in the case of Minda Spectrum Advisory Limited and Ors. /v/ Minda Oils India Pvt. Ltd., and Ors.

(11) MANU/SC/1095/2025 in the case of Pernod Ricard India Pvt. Ltd. /v/ Karanveer Singh Chhabra.

6.Per contra, the learned counsel for the respondent vehemently contended that the word RIO was founded in the 15th Century, the word RIO denotes a River. In 1890, the RIO was used by the Regional Institute of Orthopedics. There are two RIO Hospitals in the USA, i.e., RIO Grandi Hospital and RIO Olympic. So RIO is descriptive and generic. The petitioner has not established its *prima facie* case for granting an interim injunction. The petitioner has not marked any vital document to show its usage from



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2013. The respondent has also registered the trademark in its name.

The respondent is running only a diagnosis centre, whereas the petitioner is claiming medical treatment. The respondent has been using the trade name from 2016, but the petitioner used the trade name in scans from the year 2019. The petitioner has filed the suit in 2022 without complying with Section 12A of the Commercial Court Act and so the suit itself is liable to be rejected by relying on the ruling of the Hon'ble Supreme Court in **Civil Appeal No.6846 of 2025** in the case of **M/s.Dhanabad Fuels Private Ltd., /v/ Union of India**. The petitioner has also filed Trade Mark Original Petition No.64 of 2025 to cancel the respondent's registration and the same is pending adjudication. Suppressing the same, the petitioner filed the suit and also moved this Civil Miscellaneous Appeal. The petitioner does not deserve to seek any interim injunction until it is decided whether the trade name is generic or it is the petitioner's exclusive trade mark, which can be done only by a trial court after letting in evidence. Therefore, the trial Court's order need not be interfered and the civil miscellaneous appeal may be dismissed.

7.In support of his argument the learned counsel for the respondent relied on the following rulings:

**(1) AIR 2001 SC 1952 in the case of
Cadila Healthcare Ltd., /v/ Cadila**



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Pharmaceuticals Ltd.

(2) Order of the Hon'ble Supreme Court in Civil Appeal No.5375-5377 of 2017 in the case of Toyoto Jidosha Kabushiki Kaisha /v/ M/s Prius Auto Industries Ltd.

(3) 2022 Live Law (SC) 678 in the case of M/s.Patil Automation Private Ltd., and Ors. /v/ Rakheja Engineers Pvt. Ltd.,

(4) 2025 Live Law SC 579 in the case of M/s. Dhanabad Fules Pvt. Ltd., /v/ Union of India and Ors.

8.On hearing both sides and on perusal of records, it is clear that the petitioner and the respondent made rival claims over the trade name RIO. The petitioner claims the name RIO is their exclusive corporate name and the same is not generic or descriptive. Whereas the respondent urges that the word RIO is a global name that has been used since 1890 by various companies internationally. From perusal of records, it is clear that both parties have registered the name RIO in respect of their respective firms. The provisions of Section 28 of the Trade Marks Act read as follows:

(1) Subject to the other provisions of this Act, the registration of a trade mark shall, if valid, give to the registered proprietor of the trade mark the exclusive right to the use of the trade mark in relation to the goods or services



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in respect of which the trade mark is registered and to obtain relief in respect of infringement of the trade mark in the manner provided by this Act.

(2) The exclusive right to the use of a trade mark given under sub-section (1) shall be subject to any conditions and limitations to which the registration is subject.

(3) Where two or more persons are registered proprietors of trade marks, which are identical with or nearly resemble each other, the exclusive right to the use of any of those trade marks shall not (except so far as their respective rights are subject to any conditions or limitations entered on the register) be deemed to have been acquired by any one of those persons as against any other of those persons merely by registration of the trade marks but each of those persons has otherwise the same rights as against other persons (not being registered users using by way of permitted use) as he would have if he were the sole registered proprietor.”

From a mere reading of the above section, it is very clear that “where two or more persons are registered proprietors of trade marks, which are identical with or nearly resemble each other, the exclusive right to the use of any of those trade marks shall not be deemed to have been acquired by any



one of those persons as against any other of those persons merely by registration of the trade marks but each of those persons has otherwise the same rights as against other persons as he would have if he were the sole registered proprietor.

9. Moreover, the **Hon'ble Supreme Court in Pernod Ricard India case (supra) clearly held in its judgment in Page No.39 in Paragraph No. 34** that

“34.It is a well established principle of trademark law that generic, descriptive or laudatory terms – particularly those commonly used in a given trade – cannot be monopolized by any one proprietor. Even where such terms form part of a registered trademark, protection does not extend to those elements per se unless it is affirmatively shown that they have acquired secondary meaning ie., that the term has come to be exclusively and distinctively associated with the plaintiff's goods in the perception of the consuming public.”

10. From a careful perusal of material records, it is very clear that both sides have not marked any of the documents to establish their *prima facie* case. The petitioner admits that it has been using the trade name since 2013



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and the respondent has been using the trade name from 2016. The present suit was filed in the year 2022. It is the specific contention of the respondent that they have also registered their trade name and the petitioner's registration of trade name RIO for RIO Children's Hospital in applications Nos.5399956 and 5399957 are pending with the registration authorities concerned. It is also the case of the respondent that the petitioner filed Trade Mark OP.No.65 of 2025 to cancel the respondent's registration. For the above facts, the petitioner has not come forward to deny the aforesaid arguments of the respondent's side.

11. Therefore, as rightly observed by the trial Court, whether the petitioner has acquiesced right as per Section 33 of the Trade Mark Act or whether the trade mark of the respondent is identical and deceptive, which is an infringement of the petitioner's mark as per Section 29(1) of the Trade Mark Act, can be decided only after a full-fledged trial. It is once again pertinent to note here that both parties have not marked any of the documents to substantiate their rival claim. Therefore, in the light of the above facts and circumstances and the decision of **Hon'ble Supreme Court in Pernod Ricard India case (MANU/SC/1095/2025)** and bearing in mind the provisions of Section 28 of the Trade Mark Act, this Court is of the considered view that the Trial Court has correctly appreciated the available



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materials on record and has correctly passed the impugned order considering the facts and circumstances of the *prima facie* case of both sides.

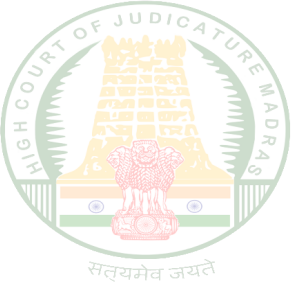
12.Therefore, this Court has not found any irregularity or infirmity in the impugned order of the trial Court and the same is upheld. This Civil Miscellaneous Appeal fails. Both parties made rival claims over the usage of the trade name. The suit has been pending since 2022 and hence, this Court deems it fit to direct the trial Court to dispose of the suit within the stipulated period.

13. In the result, this Civil Miscellaneous Appeal is dismissed. At this juncture, considering the urgency of both sides suit claim over the trademark, the trial Court is directed to dispose of the suit in O.S.No.302 of 2022 within a period of five months from the date of receipt of a copy of this order. Both parties are directed to co-operate for trial without seeking any unnecessary adjournments. No costs.

01.06.2026

NCC : Yes / No
Index : Yes / No
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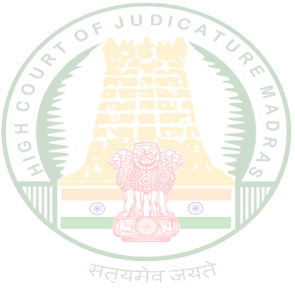
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To

- 1.The Principal District Judge,
Madurai.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

Pre - Delivery Judgment made in
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01.06.2026