



2026:KER:63061

FAO No.81 of 2026

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE S.MANU

FRIDAY, THE 14TH DAY OF AUGUST 2026 / 23RD SRAVANA, 1948

FAO NO. 81 OF 2026

AGAINST THE ORDER DATED 28.03.2026 IN IA 6/2025 IN OS
NO.20 OF 2025 OF ADDITIONAL DISTRICT COURT-II, ERNAKULAM

APPELLANT/PETITIONER/PLAINTIFF:

AJITH. K. JOY
AGED 55 YEARS
S/O. LATE DR. JOY JOSEPH K., RESIDING AT
NO.XIX/326, KIZHAKKEBHAGAM GARDENS, PUTHIYAKAVU,
THRIPUNITHURA, ERNAKULAM-682301 REPRESENTED BY
HIS POWER OF ATTORNEY HOLDER, MS. ELSY JOSEPH,
AGED 75 YEARS,
W/O LATE MR. JOY JOSEPH, RESIDING AT NO.30/586,
KIZHAKKEBHAGAM GARDENS, PUTHIYAKAVU,
THRIPUNITHURA, ERNAKULAM

BY ADVS.
SRI.VIJAY V. PAUL
SHRI.AJAY V.ANAND
SRI.ALPHIN ANTONY
SHRI.ROJIT ZACHARIAH
SMT.RADHIKA PRASAD
SMT.RAZANA
SHRI.MOHAMMED AZIF S.
SHRI.P.B.KRISHNAN (SR.)



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RESPONDENTS/RESPONDENT/DEFENDANT:

- 1 AGILUS DIAGNOSITCS LIMITED
A COMPANY INCORPORATED UNDER THE COMPANIES ACT
1956 HAVING ITS REGISTERED OFFICE AT FORTIS
HOSPITAL,
SECTOR 62, PHASE VIII, MOHALI PUNJAB, PIN -
160062.
- 2 DDRC AGILUS PATHLABS LIMITED (FORMERLY KNOWN AS
DDRC SRL DIAGNOSTICS LIMITED)
EXPRESS HOUSE, SECOND FLOOR, OPP.POTHYS SILKS,
BANERJEE ROAD, KALOOR, ERNAKULAM-682017; ALSO AT:
4TH FLOOR, PRIME SQUARE BUILDING, PLOT NO. 1,
GAIWADI INDUSTRIAL ESTATE, S.V. ROAD, GOREGAON
WEST, MUMBAI, MAHARASHTRA, PIN - 400062
- 3 ASIANET NEWS NETWORK PRIVATE LIMITED
COMPANY INCORPORATED
THE COMPANIES ACT 1956 HAVING ITS REGISTERED
OFFICE AT 2ND FLOOR, JAY CHAMBERS, B-WING,
SERVICE ROAD,
VILLE PARLE EAST, MUMBAI, MAHARASHTRA, PIN -
400057

BY ADVS.
SMT.ASHWATHI SHYAM
SHRI.SHYAM PADMAN (SR.)
SHRI.C.M.ANDREWS
SMT.SWATHY SUDHIR
SHRI.SHIMLEEL IBRAHIM T.
SMT.S.ANUPAMA
SHRI. RAM MOHAN
SHRI.SIDHARTH G.

THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY
HEARD ON 31.07.2026, THE COURT ON 14.08.2026 DELIVERED THE
FOLLOWING:



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S.MANU, J.

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Dated this the 14th day of August, 2026**JUDGMENT**

This FAO has been filed assailing the order dated 28.3.2026 in I.A.No.6/2025 in O.S.No.20/2025 of the Additional District Court-II, Ernakulam. Appellant is the plaintiff in the suit, and the respondents are the defendants.

2. In the suit several reliefs have been sought. The prime relief is to restrain the respondents 1 and 2 from using the tagline 'since 1983' or indicating, in any manner whatsoever, that the business of the 2nd respondent commenced in 1983 or that the 2nd respondent has been operating its business for 42 years.

3. Appellant states that his father late Joy Joseph.K established 'DDC' or Doctors Diagnostic Center in Ernakulam in the year 1983. The banner/logo of DDC widely used the term 'since 1983'



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and that became an indelible part of the DDC trademark and also of its identity and goodwill. The trademark application of DDC was approved on 22.5.2007. A device mark was also approved and registered on 23.3.2007. Another chain of pathology laboratories was started by the appellant's family under the name and style of 'DDRC' or Doctors Diagnostic and Research Centre on and from 1.4.1991. The DDRC label was also registered as a trademark. Registration was granted on 6.6.2007 under Class 42. Another logo of DDRC was also registered and the registration was granted on 19.1.2007. Later, the appellant, his late father and Mrs.Elsy Joseph constituted a company called DDRC Wellspring Path Labs Private Limited on 28.4.2006. All rights relating to the DDRC trademark, together with its assets and liabilities, were transferred to the said company on 15.6.2006.

4. It is a case of the appellant that DDC and DDRC were two separate entities. The tagline 'since 1983' was never used in connection with the business of DDRC. In 2006 DDRC Wellspring



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Path-labs Private Limited decided to join with the 1st respondent which was then known as NPIL Laboratory and Diagnostics Private Limited to form a joint venture to run the business of DDRC. An agreement was executed on 6.7.2006 by which the 2nd respondent was formed. The 1st respondent also held a 50% shareholding. Later, the name of the joint venture was changed from DDRC Wellspring Path Labs Private Limited to DDRC SRL Diagnostics Private Limited. Subsequently, in 2021 parties decided to discontinue the joint venture. A share purchase agreement was executed on 24.3.2021 by which the 1st respondent purchased the shares of the appellant and Mrs.Elsy Joseph in the joint venture. On 5.4.2021, another agreement was executed to terminate the joint venture. On the same day, a deed of assignment was executed assigning the trademarks over DDRC in favour of the 1st respondent. On assignment of all trademarks of DDRC, the 2nd respondent changed its name from DDRC SRL Diagnostics Private Limited to DDRC Agilus Path Labs Limited. The 1st respondent changed its name from SRL Diagnostics



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Private Limited to Agilus Diagnostics Limited.

5. According to the appellant, appellant applied for registration of its trademark DDC as a word and device mark including the logo. Applications were filed in 2023 and 2024. While so the 2nd respondent issued a notice dated 6.1.2025 to the appellant alleging that he infringed the trademark of the 2nd respondent. Later, on 21.03.2025, the appellant noticed an advertisement of a programme to be telecast by the 3rd respondent, which included interviews with a Director of respondents 1 and 2, as also the Vice President and Business Head of the 2nd respondent, who represented that the 2nd respondent's business, DDRC, had commenced in the year 1983. Advertisement of the programme was widely circulated by the respondents 1 and 2 claiming that the business was started in the year 1983 and has been operating for the last 42 years. Appellant protested by issuing notices to the respondents. Nevertheless, the programme was aired on 23.3.2025.



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6. Appellant alleges that the DDRC despite having commenced only in the year 1.4.1991, the 1st respondent is abusing its connection with the DDC by claiming that the DDRC commenced operations in the year 1983 to exploit the goodwill of DDC. They have no right to make any such false representation. They are attempting to pass off their services under the goodwill earned by the DDC. The suit was filed in these circumstances. For interim reliefs, I.A.Nos.6 and 7 of 2025 were filed. In I.A.No.6/2025 temporary injunction was sought to restrain respondents 1 and 2 from directly or indirectly making claims that the business of DDRC commenced in the year 1983. I.A.No.7/2025 was filed to restrain respondents 1 to 3 from re-broadcasting the programme aired on 23.3.2025 or publishing any material of whatsoever nature showing that the business DDRC as having commenced in 1983. By order dated 19.4.2025 the learned Additional District Judge granted ex parte interim injunctions in both applications. Thereafter, respondents 1 and 2 entered appearance and filed written statements as also counter affidavits in



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the interim applications. Subsequently, the learned Judge heard the parties and passed the impugned order on 28.3.2026 dismissing both interim applications. Aggrieved by the said order the appellant approached this Court in the case at hand.

7. Heard Sri.P.B.Krishnan, learned Senior Counsel for the appellant and Sri.Syam Padman, learned Senior Counsel for the respondents 1 and 2.

8. Learned Senior Counsel for the appellant submitted that the impugned order was rendered by the learned Additional District Judge without properly appreciating the contentions of the appellant as also the facts and circumstances of the case. He submitted that DDC was established in the year 1983 and there is no dispute pertaining to the said fact. He further submitted that the entity DDRC was established only in the year 1991 and this is also indisputable. The learned counsel referred to document Nos.13 and 15 produced before the Additional District Court and submitted that



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the sale of DDRC happened on 5.4.2021. Thereafter, respondents 1 and 2 resorted to unethical and illegal practice of claiming that DDRC is in existence since 1983 with the sole intention to seize the goodwill of DDC. The learned Senior Counsel submitted that DDRC having been established only in the year 1991, using the tagline 'your lab partner since 1983' by the respondents 1 and 2 is not only a false claim but a deliberate attempt to pass off their services misusing the goodwill of DDC. The learned Senior Counsel submitted that if any other year was used in the tagline even prior to 1983 to claim that DDRC has a long presence in the field, it could have been treated only as a false claim. Nevertheless, when the year 1983 is specified, the mischievous intention of the respondents 1 and 2 gets exposed. He submitted that though the tagline 'since 1983' is not registered, it has become an integral part of the trade name of DDC and hence respondents 1 and 2 are liable to be restrained from using the same. The learned Senior Counsel submitted that the learned Additional District Judge had passed ex parte interim injunction



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orders on 19.4.2025 and the orders remained in force till 28.3.2026, nearly for a year. He therefore submitted that the learned Additional District Judge ought not to have rejected the interim applications since the orders were in force for a considerable time. He submitted that it would have been proper to keep the orders in force till the disposal of the suit, taking into account the prima facie case established by the appellant and the other relevant factors. He referred to an affidavit filed by the appellants in I.A.No.12/2025 wherein they had stated that they stopped using the tagline in view of the interim injunction orders. He submitted that since the respondents had already stopped using the tagline, the learned Judge ought to have affirmed the orders passed on 19.4.2025.

9. The learned Senior Counsel for the respondents per contra submitted that there is no reason to interfere with the impugned order. He contended that the suit is not maintainable before the District Court. He argued that the suit is not filed under



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Section 134 of the Trade Marks Act. Therefore, it should have been filed before the lowest forum in view of Section 15 of the C.P.C. He submitted that the averments in the plaint would not constitute a case falling under clauses (a) and (b) of Section 134(1) of the Trade Marks Act, 1999 and hence the suit would not lie under Section 134. He therefore submitted that in a suit which is not prima facie maintainable, no interim injunction can be granted and this Court would not be justified in granting any reliefs in this appeal, as the respondent has a formidable case regarding the maintainability of the suit. He also submitted that I.A.No.1/2026 filed by the respondents 1 and 2 to raise maintainability as a preliminary issue is pending consideration. The learned Senior Counsel further contended that 'since 1983' is a generic term and there is no averment in the plaint that it has acquired any secondary meaning. Therefore, the appellant cannot claim any exclusive right to use the said tagline. He also submitted that, admittedly, no registration for the said tagline has been obtained under the provisions of the Trade



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Marks Act. Referring to the reliefs sought in the plaint he submitted that several reliefs sought are redundant. No relief is incorporated pertaining to passing off. He hence argued that the suit is not a properly constituted and instituted one. He also submitted that, since the appellant has no case that any secondary meaning has developed in relation to DDC in respect of the tagline 'since 1983', the said tagline has no special significance. Assertion that the respondents are attempting to exploit the goodwill is not sufficient to maintain a suit before the District Court. He also raised a serious challenge against the locus standi of the appellant, who, according to the learned Senior Counsel, is not even a director or an authorised person to sue on behalf of DDC. The learned Senior Counsel made specific reference to different clauses in Ext.B1, wherein it is mentioned that DDRC had been functioning for 23 years. He pointed out that Ext.B1 was executed on 06.07.2006 and that, by stating that DDRC had been functioning for 23 years, the appellant had represented that DDRC had been functioning since 1983. Having



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done so, it is not open to the appellant to object to the using of the tagline 'since 1983' by the DDRC. He also referred to various clauses in documents marked as Exts.A13 and A15 and submitted that goodwill of DDRC was also specifically transferred and there was no reservation pertaining to the tagline now in dispute. He also argued that the tagline 'since 1983' cannot be a trademark in view of the definition of trademark in the Trade Marks Act. With regard to the contention of the learned Senior Counsel for the appellant that the order of ex parte interim injunction remained in force nearly for a year, the learned Senior Counsel for the respondents submitted that respondents 1 and 2 had entered appearance before the District Court immediately on receipt of notice and filed written statement as also counter affidavits in the interim applications. Though they sought to vacate the interim orders, the matter was not heard. He pointed out that the respondents 1 and 2 filed an FAO before this Court challenging the ex parte interim injunction and a report was called for by this Court. Only thereafter the learned Additional



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District Judge heard the interim applications and passed the impugned order. He hence submitted that there is no merit in the contention that the order of injunction passed on 19.4.2025 remained in force for a considerable period and for that reason the order of injunction should be extended till the disposal of the suit.

10. In reply to the submissions made by the learned Senior Counsel for the respondents 1 and 2, it was argued on behalf of the appellant that respondents 1 and 2 got annoyed when the appellant attempted to expand the business after the expiry of the non-compete period of three years. It was also submitted that as evident from Ext.A18, DDC uses the tagline 'since 1983' in all its boards. It was also argued that in view of clause 2.9 of the deed of assignment, Ext.A15, every right other than those were specifically assigned was reserved with the appellant. It was also argued that though the respondents filed C.S.No.65/2025 before the Commercial Court against the appellant alleging infringement of trademark, interim



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injunction was refused by the court. Further, it was submitted that the suit filed by the appellant is maintainable in view of the averments in the plaint.

11. On hearing the respective Senior Counsel for the parties, it is observed that there is no quarrel about many of the factual aspects. The dispute is precisely as to whether the respondent should be prevented by way of interim injunction from making it appear that it has been functioning since 1983 on the ground that same would amount to passing off. I find so for the reason that admittedly the tagline in dispute 'since 1983' is not registered as part of the trademark of the appellant. I also noted that the learned Senior Counsel for the appellant, during the arguments, made it clear that the grievance is regarding passing off and exploitation of the goodwill of the appellant.

12. I should remind myself about the ambit of the jurisdiction of the appellate court to interfere with an interim order.



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In **Aysha Jasmitha.T.M. v. C.P.Abdul Rasheed** [2021 KHC 2057] a learned Single Judge of this Court held as under:-

“32. Regarding the scope of the power of the appellate court to interfere with an interim order passed by the court of first instance, the Apex Court has held in a catena of decisions that, in such appeals, the appellate court will not interfere with the exercise of discretion of the court of first instance and substitute its own discretion except where the discretion has been shown to have been exercised by the trial court arbitrarily or capriciously or perversely or where the trial court had ignored the settled principles of law regulating grant or refusal of interlocutory injunctions. An appeal against exercise of discretion is said to be an appeal on principle. Appellate court will not reassess the material and seek to reach a conclusion different from the one reached by the court below if the one reached by the court below was reasonably possible on the material. The appellate court would normally not be justified in interfering with the exercise of discretion under appeal solely on the ground that if it had considered the matter at the trial stage it would have come to a contrary conclusion. If the discretion has been exercised by the trial court reasonably and in a judicial manner, the fact that the appellate court would have taken a different view, may not justify interference with the trial court's exercise of discretion. Once the court of first instance exercises its discretion to grant or refuse to grant relief of temporary injunction and the said exercise of discretion is based upon objective



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consideration of the material placed before the court and is supported by cogent reasons, the appellate court will be loath to interfere simply because on a de novo consideration of the matter it is possible for the appellate court to form a different opinion on the issues of prima facie case, balance of convenience, irreparable injury and equity (See Esha Ekta Apartments v. Municipal Corporation of Mumbai AIR 2012 SC 1718)."

13. The learned Additional District Judge observed in the impugned order that the appellant has no case that the respondent is infringing his registered trademark. It was also observed that the appellant and the respondent are rendering services under two different trademarks. Learned Judge also took note of the submission of the respondent that in Ext.B1 joint venture agreement it was stated by the appellant that the DDRC group had been functioning for the past 23 years. Such a statement implies that DDRC commenced operations in the year 1983. Learned Judge also noted that the slogan 'trusted since 1983' has been registered along with the registered trademark DDC. However, the tagline adopted by the respondents is different. They use the catchphrase 'your lab partner



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since 1983'. Learned Judge was of the view that two tags are distinct and not deceptively similar. Finally, the learned Judge concluded that the appellant failed to establish a prima facie case of passing off and hence injunction was denied.

14. Whether the above conclusions of the learned Additional District Judge are perverse is the question. The learned Senior Counsel for the respondent had referred to the joint venture agreement wherein it was mentioned about DDRC that it was functioning for last 23 years. The learned Senior Counsel, with specific reference to the agreements between the parties submitted that the goodwill of DDRC was also specifically acquired by the respondents 1 and 2. He also submitted that a huge amount was paid by respondents 1 and 2 and that it was done since the goodwill was also acquired by them. He hence submitted that the respondents 1 and 2 had the right to use the tagline 'your lab partner since 1983'. Submissions were made on behalf of the appellant controverting



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these contentions. However, on a perusal of the documents, I am of the prima facie view that it was stated in the joint venture agreement that DDRC had been functioning for 23 years. Undoubtedly, goodwill of DDRC was also transferred for sufficient consideration.

15. As rightly noted by the learned Additional District Judge, the tagline/slogan adopted by the respondents 1 and 2 is materially different from the slogan used by the appellant. It is also to be noted that no case of infringement of trademark is made out. It has not been pleaded and prima facie established by the appellant that the tagline 'since 1983' has acquired any secondary meaning. In these circumstances, conclusions recorded in the impugned order by the learned Additional District Judge are reasonably possible conclusions on the basis of materials. It cannot be held that the exercise of discretion by the learned Additional District Judge was perverse.

16. Learned Senior Counsel for the appellant submitted that



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the order of interim injunction remained in force for about a year and therefore it will be equitable to maintain the same till the disposal of the suit. However, it was pointed by the learned Senior Counsel for the respondents 1 and 2 that the respondents had entered appearance and sought vacating of the interim order as soon as they received notice. Learned Senior Counsel for the respondent is correct in pointing out that the interim application was finally heard and disposed only after an appeal was filed before this Court. Hence, the submission made by the learned Senior Counsel in this regard cannot be accepted.

17. The respondents have raised serious dispute regarding maintainability of the suit before the District Court. Appellant attempted to justify filing of the suit before the District Court. As the respondents have filed an application to consider the issue of maintainability as a preliminary issue before the District Court, I do not find it appropriate to analyse the issue of maintainability in this



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appeal or to make any comments thereon. I hope that the learned Additional District Judge will consider the preliminary issue expeditiously.

On a careful appreciation of the rival contentions and perusal of the impugned order as also the relevant materials, I concur with the conclusion of the learned Additional District Judge that the appellant have not established a *prima facie* case for interim injunction. I hence conclude that there is no scope for interference in this appeal. Appeal is dismissed. No costs.

Sd/-

**S.MANU
JUDGE**

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APPENDIX OF FAO NO. 81 OF 2026

APPELLANT' S ANNEXURES

Annexure A

THE CERTIFIED COPY OF THE COMMON ORDER
DATED 28.03.2026 PASSED BY THE
ADDITIONAL DISTRICT JUDGE-II,
ERNAKULAM, IN I.A. NO. 6 OF 2025 AND
I.A. NO. 7 OF 2025 IN O.S. NO. 20/2025.