

**Order Below Exh. 15 in**  
**Trade Mark Suit No. 1/2023**

(Application for rejection of plaint under Order VII, Rule 11 of  
CPC)

1. Read the present application. Heard, learned advocates for both the parties.
2. The defendants have filed the present application Exh. 15 requesting to this Court to reject the plaintiff's suit at the threshold. The defendants argued that the suit is "barred by law" primarily because it fails to follow the mandatory pre-institution mediation required by the Commercial Courts Act, 2015, lacks territorial jurisdiction and is barred by the law of limitation and acquiescence.
3. The plaintiff filed a detailed reply at Exh. 17, asserting that the suit is a Trademark Suit governed by the Trade Marks Act, 1999 and that all procedural requirements for such a suit have been duly met.
4. The defendants contend the suit must be rejected for non-compliance with Section 12-A (Pre-institution Mediation) and Section 12 (Specified Value) of the Commercial Courts Act. On perusal of the record, it is observed that this suit is instituted and registered as a Trademark Suit under the Trade Marks Act, 1999. It is not registered as a "Commercial Suit." Therefore, the special mandates of the Commercial Courts Act do not apply to these proceedings.

A suit cannot be rejected for failing to comply with a law under which it was not even filed.

5. The defendants challenge the jurisdiction of this Court under Section 20 of the CPC. This issue is decided earlier in this suit at Exh. 14 and therefore, it is not necessary to discuss furthermore.
6. The defendants argued that the plaintiff knew of the mark since 2005 and is therefore barred from suing now. The rejection under Order VII, Rule 11 is only permissible if the suit is clearly barred based on the statements in the plaint. The plaintiff alleges they discovered the infringement in 2018 and asserts a "recurring cause of action." Whether the plaintiff had knowledge in 2005 is a mixed question of fact and law that requires evidence. It cannot be decided at this preliminary stage and must be resolved at trial.
7. The defendants alleged undervaluation and improper signing of the suit. The plaintiff has demonstrated the payment of the maximum court fee of Rs. 75,000/- applicable in the State of Gujarat. Furthermore, the suit is signed by an authorized Power of Attorney holder supported by a Board Resolution. These grounds do not warrant a rejection of the plaint.

8. Under Order VII, Rule 11 of the CPC, a plaint can only be rejected if it fails to disclose a cause of action or is clearly barred by law on its face. In the present case, the plaintiff has disclosed a prima facie case of trademark infringement. The objections raised by the defendants are either legally inapplicable or are matters to be proved during the trial.

**::Final Order::**

1. The present application Exh. 15 is hereby rejected.
2. No order as to costs.

Signed and pronounced in the open Court on this 9th day of January, 2026.

Place: Porbandar.  
Date : 09.01.2026.

(Pravinkumar H. Sharma)  
Additional District Judge,  
Porbandar.  
*UID Code No.GJ00701.*