

**IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE – I,
N. PARAVUR**

Present:- Sri. Jayaraj M.P., Additional District Judge – I
Thursday, the 9th day of October, 2025/ 17th Aswina 1947.

I.A. No.01/2025 in O.S.No.2/2024

Petitioner/Defendant:-

Mr.Abdul Samad K.A., S/o.Ali K.S., aged 32 years,
Proprietor, Kallungal Traders, Kallungal House,
Kallungal Lane, Aluva East, Pin - 683 101.

By Advs. Abraham Cheriyan P.,Dyuthi Kurian
Jaison S.Rozario, Aravind Varghese,
Ajai Babu, Nimmy K. Joseph, Joe Joseph,
and Aashika Anil Ernezath.

Respondent/Plaintiff:-

Vadakkedath Industries Pvt. Ltd. No.10/117, Nadakkal,
Erattupetta, Kottayam District, Kerala - 686 121,
Represented by its Director, V.M.Pareeth, aged 67 years,
S/o.Mohammed, Vadakkedath House, Market Road,
Erattupetta, Kottayam - 686 121.

By Adv. Benoy K.Kadavan.

This petition filed under Section 124(1)(a)(ii) of the Trade Marks Act 1999 read with Section 151 of the Civil Procedure Code to raise as to the invalidity of the registration of the Trademark No.3071631 in class 30 in the name of the respondent/Plaintiff and to grant leave to

the petitioner/defendant to apply before Hon'ble High Court of Madras, for the rectification of the Register of Rae Marks and also adjourn the case for a period of three months to enable the petitioner/defendant to file the petition before Hon'ble High Court of Madras for the rectification of the Register of Trade Marks.

This petitions having been heard on 26.09.2025 and the Court on 09.10.2025 passed the following:-

ORDER

Petition filed under Section 124(1)(a)(ii) of the Trade Marks Act r/w Section 151 of CPC.

2. This petition is filed by the defendant in O.S. 2/2024 on the file of this court. Petition averments, in brief, are as follows :- The suit is filed by the respondent/plaintiff seeking permanent prohibitory injunction restraining the petitioner/defendant and all others acting for and on his behalf from infringing or passing off rights of the respondent/plaintiff over its registered trade mark in any manner including manufacturing, exporting, selling, advertising, using in labels, covers, packing pouches, websites as its trade name or domain name,

the respondent's trademark 'Rabbaana' with or without the picture of a woman in Niqab or any deceptively similar trade mark. The petitioner/defendant has filed written statement and challenged validity of the registration of the trademark obtained by the respondent/plaintiff, particularly in the light of respondent/plaintiff's attempt to claim monopoly right over the word 'Rabbaana'. Respondent/plaintiff's trademark contains the Arabic word 'Rabbaana, which is the beginning of 40 Dua's in Quran. It is an indistinctive word in which no one can claim to have attained a distinctive character and any sort of monopoly right. Therefore, the registration granted to the respondent/plaintiff violates Section 9(1) of the Trade Marks Act, 1999. Rabbana Duas are invocations that directly address Allah and ask for his mercy, guidance and assistance. The use of the word 'Rabbaana' for commercial activities such as sale of cardamom is likely to hurt religious susceptibilities of the citizens in India belonging to Muslim community. Therefore, registration of the trademark of the respondent/plaintiff violates Section 9(2)(b) of the Trade Marks Act. Trade Mark registration is liable to be cancelled and expunged or varied

by the imposition of the condition ‘no exclusivity over the word ‘RABBAANA’ under Section 57 of the Trade Marks Act’. This court has to raise an issue as to the invalidity of the trade mark and has to grant leave to the petitioner/defendant to approach the Hon’ble Madras High Court for the rectification of register by adjourning the case for a period of three months, in accordance with Section 124(1)(a)(ii) of the Trade Marks Act.

3. Respondent/plaintiff filed counter statement with the following contentions: The trade mark of respondent/plaintiff is distinctive and the registration was granted to them after satisfying all criteria mandated under Section 9 of the Trade Marks Act. The trade mark of the respondent/plaintiff through extensive and exclusive commercial use, sustained advertising and substantial sales figures have acquired a secondary meaning and is exclusively identified with the respondent/plaintiff company. The averment that the trade mark violates Section 9(2)(b) of the Trade Mark Act is false. Mere adoption and use of religious word as trade mark cannot in isolation be held to be offensive to religious sentiments unless the usage shown to be

derogatory, offensive or likely to cause actual unrest. The trade mark of the respondent/plaintiff is distinctive and satisfy all criteria mandated under the Trade Mark Act. Petition is filed without valid grounds. Section 124(5) provides that notwithstanding stay of suit for the infringement of a trade mark under Section 124, the court retains the authority to pass interlocutory or interim orders necessary for the protection and preservation of the party's right. The petition is to be dismissed.

4. Heard both sides.

5. The following points arise for consideration :-

- 1) Whether leave is to be granted to the petitioner/defendant to apply for rectification of the register of trade marks and the suit is liable to be adjourned for three months, as prayed for?
- 2) Reliefs and costs?

6. **Points 1 and 2** :- There is an issue raised by this court in the suit whether the trade mark No.3071631 obtained by the respondent/plaintiff is not valid. The issue was framed based on the

pleadings of the respondent and casting the burden on him to substantiate the same.

7. Respondent has taken a contention that petitioner's trade mark is invalid for the reason that the word 'Rabbaana' cannot be used for commercial activities. It is an Arabic word which is the beginning of 40 duas in Quran. It was also contended that the trade mark is devoid of any distinctive character and respondent/plaintiff can not claim monopoly over it.

8. Learned counsel for the respondent has not cited any authority indicating that the word like 'Rabbaana' or similar words cannot be used as a part of trade mark. The contention that the trade mark is devoid of any distinctive character or is customary in nature also not prima facie made out and is not acceptable.

9. The issue, whether the petitioner's trade mark is not valid, was raised on the basis of the respondent's contentions. The burden is on the petitioner herein to substantiate the contention. There is no material furnished or authority cited to prima facie show that petitioner's trade mark is not valid or that such a contention is to be

considered by the appellate authority so that the suit is to be stayed. Therefore it is not necessary to stay the suit so that respondent can approach the appellate authority for rectification of the trade mark. This petition is liable to be dismissed.

10. For the above reasons, this petition is dismissed.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in open Court, on this the 9th day of October, 2025.

Jayaraj M.P.
Additional District Judge - I

Appendix:- Nil

Additional District Judge – I

Typed by: Siji
Comp. By: Vijitha

I.A. No.01/2025 in

O.S.No.2/2024

ORDER

Dated: 09.10.2025