

BEFORE THE ADDITIONAL MASTER IV,
HIGH COURT, MADRAS
OP (TM).No. 36 & 41 OF 2024

Date: 22.08.2025
Time : 12.39 P.M.

Name : Ashtavaidyan Dr. E.T. Yadu Narayanan Mooss (PW1)

Continuation of cross examination by Mr. W.M. Abdul Azeez, Counsel
for the 1st respondent.

Solemnly affirmed:

Q294: Please see Ex.P19, these pages in Ex.P19 are managed by you and the other petitioner, is it correct?

A: Not only us. There is a third party also.

Q295: Is it correct that the official pages in the social media showed in Ex.P19 were named as “Vaidyaratnam”?

A: Yes.

Q296: (Exs.P20 and P21 are shown to the witness.) The products mentioned in Exs.P20 & P21 are named after “Vaidyaratnam”, is it correct?

A: Yes. Witness adds: Every product label carries the trade mark.

Q297: (Exs.P29 & P30 are shown to the witness.) Both the notices were issued by “Vaidyaratnam Oushadhsala Pvt Ltd”, is it correct?

A: Yes. Ex.P29 was issued by “Vaidyaratnam Oushadhasala Pvt Ltd” and Ex.P30 was issued on behalf of “Vaidyaratnam Oushadhasala Pvt Ltd” by Veritae Legal.

Q298: Please see Ex.P31. What is the name of the company of the 1st respondent in Ex.P31?

A: Ashtavaidya Herbal Pharma.

Q299: Whether your company name has been mentioned in Ex.P31?

A: No. But our web page is mentioned.

Q300: Please see Ex.P32, to whom this document Ex.P32 is addressed?

A: To Vaidyaratnam Oushadhsala.

Q301: Please see Ex.P33, whether Ex.P33 relates to your company?

A: Yes.

Q302: Please see Ex.P33 and say, whether the permission to manufacture Ayurvedic medicines was granted to Vaidyaratnam Oushadhsala in Ex.P33?

A: License is granted to my grandfather. The name and the address of the factory is mentioned as Vaidyaratnam Oushadhsala.

Q303: Who had translated the document Ex.P33 from Malayalam to English as you have provided a translation copy of Ex.P33?

A: It is notarized by Bejoy Cheriyan, Advocate and Notary.

Q304: Please see the translation at page No.8 of Ex.P33, English translation was done by the notary, is it correct?

A: I am not sure. But the seal is affixed by the notary.

Q305: Then, who translated Ex.P33 from Malayalam to English?

A: I do not remember. I have not translated.

Q306: I put it to you that the translation version filed in Ex.P33 is not correct and genuine.

A: I deny.

Q307: Is the document, Ex.P33 has been translated by an official translator?

A: I do not remember.

Q308: I put it to you that since the translation of Ex.P33 is not correct and genuine, the document in Ex.P33 has to be discarded.

A: I deny. Witness adds: If required, I can re-submit the translation with the name of the translator.

Q309: Please see Ex.P34, who had translated the relevant portion in the document, Ex.P34 from Malayalam to English?

A: I do not remember. It was notarized by Bejoy Cheriyan.

Q310: Please see the translation of Ex.P34, English translation was done by the notary, is it correct?

A: I am not sure. But the seal is affixed by the notary.

Q311: Then, who translated Ex.P34 from Malayalam to English?

A: I do not remember.

Q312: I put it to you that the translated version filed in Ex.P34 is not correct and genuine.

A: I deny.

Q313: Is the document, Ex.P34 translated by an official translator?

A: I do not remember.

Q314: I put it to you that since the translation of Ex.P34 is not correct and genuine, the document in Ex.P34 has to be discarded.

A: I deny. Witness adds: If required, I can re-submit the translation with the name of the translator.

Q315: Please see the relevant portion of Ex.P34. Whether the stockist mentioned in Ex.P34 was in Bombay?

A: Yes.

Q316: Whether it is a Bombay edition of the magazine, Ex.P34?

A: I am not sure.

Q317: Whether it is an advertisement in Ex.P34 of "Vaidyaratnam Oushadhasala"?

A: Yes, in page No.20.

Q318: Please see Ex.P35, Who is the author of this book, Ex.P35?

A: It is published by the Rashtrapathi Bhavan.

Q319: How do you know about this book, Ex.P35?

A: It was received by my grandfather when he got Padma Bhushan Award.

Q320: Have you stated so in your proof affidavit?

A: No. It is mentioned that as it is published by the Ministry of Home Affairs.

Q321: Has any one suggested you this book, Ex.P35?

A: No.

Q322: Will you bring the publisher of Ex.P35 as a witness before this Hon'ble Court?

A: I can request him.

Q323: Have you verified the correctness of the contents in Ex.P35?

A: Yes, about my grandfather.

Q324: Then, how do you know that the contents in Ex.P35 are correct?

A: It is published by the Ministry of Home Affairs which itself is a reputed office of the Government.

Q325: Whom do you want to refer in Ex.P35?

A: My grandfather, Ashtavaidyan E.T. Narayanan Mooss.

Q326: Please see the relevant portion of Ex.P36. Whether the stockist mentioned in Ex.P36 was in Bombay?

A: Yes.

Q327: Whether it is a Bombay edition of the magazine, Ex.P36?

A: No. It is a Kerala edition 1985 mentioned in the 1st page.

Q328: Then, why the Bombay Stockist's name has been mentioned in the relevant portion of Ex.P36?

A: It is an advertisement about the company primarily done to make the public aware of the company. The availability of products in Bombay is also mentioned since many people from Kerala live in Mumbai.

Q329: Whether it is an advertisement of Vaidyaratnam Oushadhasala in Ex.P36?

A: Yes. Company name is mentioned as Ashtavaidyan Thaikkattu Mooss Vaidyaratnam Oushadhasala.

Q330: Whether it is mentioned in Ex.P36 as Ashtavaidyan Thaikkattu Mooss's Vaidyaratnam Oushadhasala?

A: Yes.

Q331: Please see Ex.P37, Who is the author of this book, Ex.P37?

A: There are 53 articles authored by 53 different authors.

Q332: Would you bring those authors as a witness to this Hon'ble Court?

A: Whoever is alive, I can request them.

Q333: Whom do you want to refer in this book, Ex.P37?

A: I want to refer to my great grandfather, Ashtavaidya Tradition and the messages sent to my great grandfather by respected people which includes the Governor of Kerala and the Union Ministry of Defence.

Q334: Whether the original book of Ex.P37 is in Malayalam?

A: Yes.

Q335: Have you filed the translation copy of Ex.P37?

A: Yes. Relevant pages of Ex.P37 is filed.

Q336: Who had translated the relevant pages of Ex.P37?

A: I am not sure.

Q337: I put it to you that there is no official translation of Ex.P37.

A: I deny. As it is notarized by Bejoy Cheriyan, Advocate and Notary.

Q338: Can a notary translate the document in Ex.P37?

A: I am not aware about the legal side of it.

Q339: I put it to you that the notary cannot translate any document except the official translator.

A: I deny. As I am not aware of the legal side.

Q340: I put it to you that the translation submitted by you in Ex.P37 is not correct and genuine.

A: I deny. As it is notarized by Bejoy Cheriyan, Advocate and Notary.

Q341: Whether the relevant portions in Ex.P37 refer to an advertisement of Vaidyaratnam Oushadhasala?

A: Yes.

Time: 01.27 P.M.

Time: 03.09 P.M.

Q342: Please see Ex.P38, who is the author of the book, Ex.P38?

A: It is edited by N.S. Mooss.

Q343: Do you personally know the editor of this book, Ex.P38?

A: No.

Q344: How do you know about this book, Ex.P38?

A: From the archives in our museum.

Q345: Have you stated so in your proof affidavit?

A: No.

Q346: Will you bring the editor of this book, Ex.P38 as a witness before this Hon'ble Court?

A: He is no more.

Q347: Have you verified the correctness of the contents in Ex.P38?

A: Yes, regarding our family.

Q348: I put it to you that the verification of the contents in Ex.P38 is your assumption.

A: I deny.

Q349: Are you referring about Vaidyaratnam Oushadhasala in Ex.P38?

A: Yes and also about the Ashtavaidya tradition of our family.

Q350: Please see Ex.P38. Whether it is mentioned that Mr. E.T.N. Mooss is the proprietor of Vaidyaratnam Oushadhasala?

A: Yes.

Q351: Please see Ex.P39. Have you marked the photocopy of this book, Ex.P39?

A: Four pages have been submitted.

Q352: Are those four pages photocopies?

A: Yes.

Q353: Where is the original of Ex.P39?

A: I am not sure.

Q354: Have you filed the translated version of Ex.P39 since it is in Malayalam?

A: No. Witness adds: If required, I can produce the translation of the relevant portions.

Q355: Do you know the photocopies are not primary evidence under the Evidence Act?

A: I am not aware.

Q356: How are the petitioners related to Vaidyaratnam Oushadhasala?

A: Both petitioners are executive directors and shareholders of the company.

Q357: Have you produced any authenticated document to prove your above relationship with Vaidyaratnam Oushadhasala?

A: No. Witness adds: If required, I can produce.

Q358: The certificates issued by you along with Exs.P2, P3, P6, P7, P9, P11, P12, P16 to P28 and P31 is under Section 63(4)(c) of BSA Act?

A: Yes.

Q359: The above said act came into force on 01.07.2024, are you aware?

A: I am not aware.

Q360: You should have produced a certificate under Section 65B of the Evidence Act, is it correct?

A: I do not know about it.

Q361: I put it to you that you have provided an invalid certificate before this court.

A: I deny.

Q362: I put it to you that the exhibits marked by you are not sufficient to prove your claim before this Hon'ble Court.

A: I deny.

Re-Examination by Mr. K. Balamurali, Counsel for the plaintiff.

Q1: Can you tell me, what is the trademark mentioned in Exs.R1 to R4?

A: The trademark mentioned is Ashtavaidyan Thaikkattu Mooss Vaidyaratnam.

Q2: Apart from these products, how many products do you produce under the said trademark?

A: More than 500 products.

Q3: In your answer to Q.No.296, you have stated that “every product label carries the trademark”. What is the trademark mentioned in the labels?

A: Ashtavaidyan Thaikkattu Mooss Vaidyaratnam.

Further cross examination with permission:

Q1: Have you filed any document to prove that your trademark is registered?

A: No. I can submit if required.

Q2: Please see Ex.P23. Is this the registration of your trademark?

A: This is the application, we submitted but was rejected because of the respondent's opposition.

Time: 03.45 P.M.

Taken down in open Court, read over and explained to the witness and the same is admitted by the witness to be true and correct and signed before me.

ADDITIONAL MASTER-IV