

BEFORE THE ADDITIONAL MASTER-IV
HIGH COURT, MADRAS.

OP(TM).No. 36 & 41 OF 2024

Date: 16.06.2026

Time: 02.32 P.M.

Name : Mr. A.V. Sankaran Namboothiri (RW1)

Continuation of cross examination by Mr. Jaison S. Rozario for M/s. Shivakumar and Suresh, Counsel for the petitioner.

Solemnly Affirmed:

Q91: I put it to you that after filing your trademark application the Registrar of Trademark has raised an objection under Section 9 of the Trademark's Act and stating that your alleged trademark is not distinctive.

A: I deny.

Q92: I put it to you that in reply to the examination report issued by the Registrar of Trademark you have stated that you are the proprietor of the mark Ashtavaidya and the mark Ashtavaidya is a distinctive mark.

A: Yes. Witness adds: I have given a reply and in that reply, I admitted that I am the proprietor of the trademark Ashtavaidya and it is a distinctive mark.

Q93: Does your firm Ashtavaidya Herbal Pharma diagnose and prescribe medicines to patients on the basis of eight branches of Ayurvedha?

A: No. Ashtavaidya Herbal Pharma is only manufacturing medicines on the basis eight or more branches of Ayurvedha.

Q94: I put it to you that since you are a manufacturer and sells Ayurvedic medicine you are an ayurvedic manufacturer or ayurvedic pharmacists.

A: I am only an ayurvedic manufacturer and seller.

Q95: I put it to you that you not being a physician and not having expertized in all the eight branches of ayurvedha, you are not entitled to use the name Ashtavaidya to your firm.

A: I deny.

Q96: In your website, you have already mentioned about the eight families who are practicing ayurvedha. What was the necessity to mention only the eight families specifically in your website?

A: I have stated about 5000 years old practice of Ayurvedha and particularly these eight families are following the ayurvedha practice but I have not told only these eight families are practicing eight branches of ayurvedha. I have emphasized about these eight families because I know that they are practicing.

Q97: Have you filed any opposition proceedings or rectification proceedings against the trademark registrations of the petitioners or their family members which are registered under the trademark No.4873072, 1215649 & 1215650?

A: I have to see the documents.

Q98: I put it to you that since you know that the petitioners have got a prior right, you have purposefully not filed any opposition proceedings and rectification proceedings for the registered trademark No.4873072, 1215649 & 1215650.

A: I deny. Witness adds: I have objected every trademark which has come under the name Ashtavaidya.

Q99: Have you produced any documents before this Hon'ble Court to show that you have objected other persons using the name Ashtavaidya?

A: I have opposed but I have not filed any documents before this Hon'ble Court. If necessary, I will produce it.

Q100: Despite, you not belonging to the Ashtavaidya family, how can you actually prevent the actual Ashtavaidyans from using the mark Ashtavaidya?

A: As I have registered the trademark in the name of Ashtavaidya, I can prevent the actual Ashtavaidyans.

Q101: Do you prepare medicines using traditional Ashtavaidya methods passed down through generations?

A: No. I am preparing the medicines as per the guidelines prescribed by the government and from the ayurvedic text like any other manufacturer.

Q102: So, you are not preparing medicines using traditional Ashtavaidya methods passed down through generations, is it correct?

A: Yes. I am preparing medicines as per the government guidelines. For example, Ashtangahiradyam, Chakradhata, Charika Samhitha.

Q103: If you are not preparing medicines using traditional Ashtavaidya methods, how do you claim that your products are Ashtavaidya products?

A: "Ashtavaidya: is only the trademark registered by me. Hence, I can claim under the trademark.

Q104: So, your products are not Ashtavaidya products, is it correct?

A: No. All are Ashtavaidya products.

Q105: Do your products contain any unique ingredients of formulation that are the secrets of Ashtavaidya families?

A: No.

Q106: If not, then what is the Ashtavaidya element in your product?

A: Since I am using eight branches of Ayurvedic medicines, I am producing Ashtavaidya classical products.

Q107: Have you seen the documents filed by the petitioners?

A: Yes.

Q108: Can you name the person who was awarded the Vaidya Ratnam title in 1924 and his relationship with the petitioners?

A: Yes, I know that P.S. Variyar from Kottaikal Ariya Vaidya Shala has got that award. The petitioners do not have any relationship with Mr. P.S. Variyar.

Q109: (Ex.P2 is shown to the witness.) In page No.83, para 2 of Ex.P2 states that Ashtavaidyan Thaikkattu Narayanan Moose of Samajam was given the second Vaidya Ratnam title who was petitioners great great great grandfather, what do you say?

A: Ex.P2 is not an authorized document. Witness adds: I do not know who was been awarded the second Vaidya Ratnam title and further these petitioners are not related to Ashtavaidyan Thaikkattu Narayanan Moose of Samajam.

Q110: (Ex.P4 is shown to the witness.) In page No.65, chapter 79 of Ex.P4 states that Eledathu Thaikkattu is the family medicos diademed as one among the families of Ashtavaidyas “An ashtavidyan is one who is the master Ashtanga Hirdaya and authoratative work on ayurvedha authored by Vaghbhatacharia. There are 18 families of Ashtavaidya across Kerala. The families is based in a place called Thaikkattusstry, near Ollur Railway Station in Trissur District of Kerala, what do you say?

A: The book Ex.P4 is not an authorized publication. To my knowledge, thykkattussery is the name of the place and Many families are practicing Ashtavaidya in Thykkattussery apart from these families there are two more families there. 1) Kottayam Vayskara Mooss family and 2) Kottayam Olassa Mooss.

Q111: Have you gone through the contents of the documents filed by the petitioner especially books filed by the petitioners?

A: No. I have not gone through the contents of all the documents (books).

Q112: Is it correct to state that without going through the contents of the documents (books), you had filed affidavit denying the documents filed by the petitioners as irrelevant?

A: All these books are not authorized and recognized. So, I have not gone through it and I have denied in the affidavit.

Q113: According to you, why do you say that it is not authorized and not recognized books?

A: Some of the books are authorized by the family members of petitioners but others are traditional stories.

Q114: Can you point out what are the books authorized by the family members of the petitioner?

A: The witness has gone through the name of the publisher, name of the books and the name in each and every exhibit books shown to him and has stated as follows, and he has taken 15 minutes time to answer this question.

Ex.P5 is written by petitioner's family members.,

Ex.P4 is the traditional story.

Ex.P35 is the document of the petitioner's family.

Ex.P37 is written by petitioner's family members.

Ex.P38 is also written by petitioner's family members.

Ex.P8 is also written by petitioner's family members.

Ex.P10 is also written by petitioner's family members.

Ex.P13 – I do not know about this book.

Ex.P34 is a weekly magazine.

Ex.P36 is published by a Thrissur publisher.

Time : 04.45 P.M.

Taken down in open Court, with the assistance of Malayalam Advocate Commissioner as translator read over and explained to the witness in Malayalam and the same is admitted by the witness to be correct and signed before me.

ADDITIONAL MASTER-IV