

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

Date: 17.06.2026

Time: 03.09 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:

Q115: I put it to you that you are selling your products through the same distributor and retail outlets as that of the petitioners so by just seeing that the public are being deceived and purchase your product thinking that it is that of the petitioners.

A: I deny.

Q116: (Exs.R20 & R21 are shown to the witness.) I put it to you that Exs.R20 & R21 only shows business registration under the name Ashtavaidya Herbal Pharma and not any right to use the mark Ashtavaidya.

A: I deny. These are tax registration certificates and hence the firms name is mentioned.

Q117: Is it correct to state that all the drug licenses produced by you are issued to your firm Ashtavaidya Herbal Pharma?

A: Yes, it is correct that the drug license issued in the name of Ashtavaidya Herbal Pharma.

Q118: Does this license permits to sell any products under the mark Ashtavaidya?

A: Yes.

Q119: I put it to you that in the drug licenses it is nowhere mentioned that you are permitted to sell products under the mark Ashtavaidya and so, your answer to Q.No.118 is false.

A: I deny.

Q120: (Ex.R25 is shown to the witness.) Have you filed the actual advertisements showing the use of the mark Ashtavaidya before this Hon'ble Court?

A: I have not filed the actual advertisements.

Q121: (Ex.R25 is shown to the witness.) Who has issued Ex.R25?

A: The Regional Manager of Mathraboomi issued this Ex.R25 to show that I have advertised the products in the name of Ashtavaidya.

Q122: I put it to you that since you do not possess and have a valid trademark registration for your products, you have not chosen to file the original advertisements as otherwise, it will be adverse to you.

A: I deny.

Q123: (Ex.R27, R28, R32, R33, R34, R36, & R38 are shown to the witness.) I put it to you that these invoices only shows the use of your trade name Ashtavaidya Herbal Pharma and does not prove the use of the trademark Ashtavaidya.

A: Yes.

Q124: Have you filed the sales turn over certificate and the advertisement expenditure certificate issued by your chartered accountant in respect of sales and promotion of the products alleged to be in the trademark of Ashtavaidya?

A: I have not produced. Witness adds: But I have filed the balance sheet for the year 2011 & 2012 reflecting the same.

Q125: (Ex.P29 is shown to the witness.) Have you received this Ex.P29 notice issued by the petitioners company?

A: I have received the notice dated 01.07.2021.

Q126: In para 11 of Ex.P29, it is specifically stated about the registered application Nos.1215649, 1215650 registered in the name of the petitioners company with regard to the word Ashtavaidya as a brand name for the products and also it contains device marks belonging to the petitioners family. Have you sent any reply or objection to this?

A: No.

Q127: Are you aware that the petitioners family are running institutions like colleges, hospitals and museum in various parts of Kerala?

A: I am not aware.

Q128: Are you aware that the petitioners have more than 10 outlets and clinics in and around Kottayam?

A: I do not know about the petitioners family. But I know that Vaidyaratnam has got outlets.

Q129: Is it correct to state that since the petitioners are using their trade name from the year 1941 onwards, they are prior adopters and users of the trade name Ashtavaidya along with prefix or suffix and nobody else including yourself can use the said name Ashtavaidya and do the business?

A: I deny.

Q130: Have you received any awards or recognition for the products manufactured and sold by you in the name of Ashtavaidya, if so, have you produced before this court?

A: Yes. I got award from Dhanam Publishers for top 10 brands in Kerala. But I have not produced. If necessary, I can produce the same.

Q131: I put it to you that your registration is liable to be canceled under section 9, 11 & 57 of the Trademark's Act, 1999. Do you agree?

A: I deny.

Time : 04.20 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