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C.M.P.No.1969 of 2025
in C.M.A.No.264 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2025

CORAM

THE HONOURABLE MR.K.R.SHRIRAM, CHIEF JUSTICE
AND
THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

C.M.P.No.1969 of 2025
in C.M.A.No.264 of 2025

Anugraha Castings
2/21-B, 2/21-C MGR Nagar,
No. 4, Veerapandi Village,
Coimbatore 641 019 and another

Appellant(s)

Vs

Anugraha Valve Castings Limited
Rep by its Chairman and Managing Director
Mr.R.Baskaran S/o. Shri Rathinam,
having its Regi office at 391/2,
Sengoda Gounden Pudur, Arasur Village,
Coimbatore 641 407

Respondent(s)

For Appellant(s):

Mr.G.K. Muthukumar

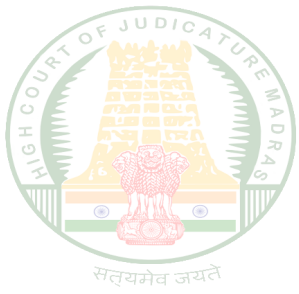
For Respondent(s):

Mr.H.Karthik Seshadri

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

Shri H.Karthik Seshadri takes notice on behalf of respondent.



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2. The appeal impugns an order dated 20.1.2025 passed by the Commercial Court, Coimbatore, at the ad-interim stage, in a suit filed by respondent (original plaintiff) against appellants (original defendants), where the main relief sought was permanent injunction restraining appellants from using the registered trademark or the deceptively similar trademark as that of the respondent company. Respondent has also sought reliefs of rendition of accounts, damages, etc.

3. Respondent functions in the name of “Anugraha Valve Castings Limited” and allegedly holds a registered trademark in its name. Respondent is in the business of making and selling castings in the registered name of respondent company. It is respondent's case that appellants are using deceptively similar trademark unauthorisedly and are also in a business similar to that of respondent. Respondent, therefore, sought temporary injunction restraining appellants from selling its products under the mark “Anugraha Castings”.

4. By the impugned order, the trial court has proceeded beyond the



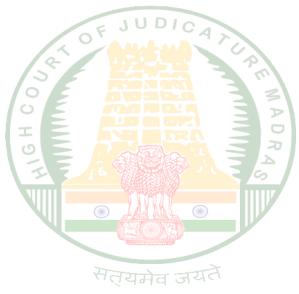
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relief sought and has granted an order restraining appellants from manufacturing goods or rendering services using the word “Anugraha”.

5. According to appellants, the trade name of first appellant is “Anugraha Castings” and has been in use since 2018. The GST registration certificate, the pan card, the electricity connection, quality approvals, Engineering Export Promotion Council of India (EEPC Certificate), Licence under Factory Act and all other mandatory and legal certifications and approvals have been issued only in the name of “Anugraha Castings”. Moreover, in view of the operation of the *ex parte* interim injunction, the entire business of appellants has come to a grinding halt. Appellants state that it would take quite some time before the interim order may be vacated and great and irreparable loss and hardship would be caused to them.

6. Though the impugned order was to be effective only till 3.2.2025, it being an *ex parte* order, in our view, is an extremely harsh order, where even no case is made out for an *ex parte* order.

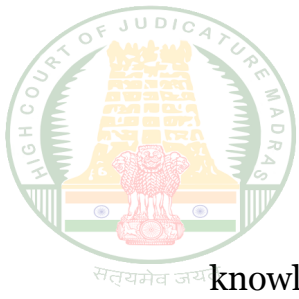


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7. We are not, at this point, going into the merits of the matter, but only considering whether such an *ex parte* order without notice to appellants (original defendants) could have been passed, particularly when the cause of action itself has arisen, according to respondent, way back in June, 2024 and respondent was aware that appellants have been carrying on business in the name of “Anugraha” even before September, 2021.

8. In our view, there was absolutely no need to pass harsh *ex parte* order, because it is respondent's case in paragraph 14 that appellant No.1, Anugraha Castings, is an entity started by appellant No.2 and it appears that this entity itself was started to defraud members of the trade and public in the year 2018. Thereafter, it is stated in paragraph 17 that respondent issued a caution notice dated 27.09.2021 to appellant Nos.1 and 2 and the same was delivered on 29.09.2021. In paragraph 19, details of the documents relating to defendants, who are appellants herein, have been referred, one of which is the purchase order dated 22.11.2021. In paragraph 32, it is averred that appellants have been using the trademark and trade name. It is stated in paragraph 33 that the cause of action is the



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knowledge derived through emails dated 15.06.2024. There is absolutely no requirement to pass such harsh *ex parte* order without notice to appellants.

9. There shall be a stay of the impugned order dated 20.01.2025.

10. We only hope that courts exercise restraint while passing such orders. An *ex parte* order can have disastrous consequences and should be passed only in case of real emergency and there are averments to that effect in the plaint or affidavit and after adverting to those averments. It should not be done in a routine manner as it has been done in this case. By virtue of such *ex parte* injunction orders, it is possible that a party's business would come to a grinding halt. By the time the party is heard and order is vacated, lot of time would be lost and that would result in great and irreparable loss and hardship not only to the party, but also its customers. The very existence of some parties may be destroyed.

11. The Apex Court in ***Maria Margarida Sequeira Fernandes v.***



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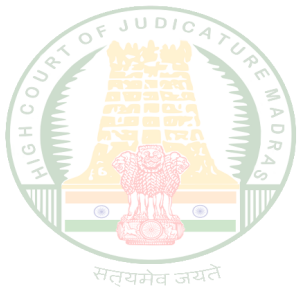
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Erasmo Jack De Sequeira, (2012) 5 SCC 370, accentuated the principles qua grant or refusal of an injunction. It is worthwhile to reproduce the observations contained in paragraphs 83 to 86 of the said decision hereunder:

“83. Grant or refusal of an injunction in a civil suit is the most important stage in the civil trial. Due care, caution, diligence and attention must be bestowed by the judicial officers and Judges while granting or refusing injunction. In most cases, the fate of the case is decided by grant or refusal of an injunction. Experience has shown that once an injunction is granted, getting it vacated would become a nightmare for the defendant.

84. In order to grant or refuse injunction, the judicial officer or the Judge must carefully examine the entire pleadings and documents with utmost care and seriousness. The safe and better course is to give a short notice on the injunction application and pass an appropriate order after hearing both the sides. In case of grave urgency, if it becomes imperative to grant an ex parte ad interim injunction, it should be granted for a specified period, such as, for two weeks. In those cases, the plaintiff will have no inherent interest in delaying disposal of injunction application after obtaining an ex parte ad interim injunction.

85. The court, in order to avoid abuse of the process of law may also record in the injunction order that if the suit is eventually dismissed, the plaintiff undertakes to pay restitution, actual or realistic costs. While passing the order, the court must take into consideration the pragmatic realities and pass proper order for mesne profits. ***The court must make serious endeavour to ensure that even-handed justice is given to both the parties.***



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86. Ordinarily, three main principles govern the grant or refusal of injunction:

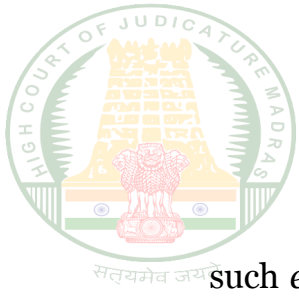
- (a) *prima facie* case;
- (b) balance of convenience; and
- (c) irreparable injury;

which guide the court in this regard.

In the broad category of prima facie case, it is imperative for the court to carefully analyse the pleadings and the documents on record and only on that basis the court must be governed by the prima facie case. In grant and refusal of injunction, pleadings and documents play a vital role.”

In the case on hand, it is beyond any cavil that the cause of action arose way back in June, 2024 and respondent was aware that appellants have been carrying on business in the name of “Anugraha” even before September, 2021. The impugned order does not contain any reason as to the compelling urgency to injunct the appellants *ex parte*. Moreover, the order passed by the trial court is unconditional and no undertaking was obtained from respondent (original plaintiff) to pay restitution, actual or realistic costs, if the suit is eventually dismissed.

12. The courts across the State must bear in mind the aforesaid principles enunciated by the Apex Court and ensure that only in case of grave urgency, after considering the principles governing the grant or refusal of injunction and analysing the pleadings and documents on record,



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such *ex parte* orders are passed, that too, for a specified period. The court should also take an undertaking from plaintiff that, if the suit is eventually dismissed, plaintiff undertakes to pay restitution, actual or realistic costs. The courts must endeavour to ensure that even-handed justice is given to both the parties.

13. Stand over to 10.03.2025.

Registry is directed to circulate a copy of this order to all the subordinate courts in the State.

(K.R.SHRIRAM, C.J.)

(SENTHILKUMAR RAMAMOORTHY, J.)

28-01-2025

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