

THE INDIAN ASSOCIATION OF PHYSIOTHERAPISTS

Registered under Societies Act XXI of 1860 No. 3376 of 1955-56



NEWS LETTER

www.physiotherapyindia.org

December 2022

Saved Profession and Association from tsunami (True Facts)

- **Saved from Fraud & Cheating**
- **Saved from Snatching Logo**
- **Saved from Hacking Bank Accounts**
- **Saved the profession from Theft & Getting Hacked**

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FREE CIRCULATION TO MEMBERS OF THE INDIAN ASSOCIATION OF PHYSIOTHERAPISTS



Glimpse of Kolkata Conference 2022

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If any member is having any objection regarding views on matter printed in this news letter it should be given in writing to General Secretary's office within 15 days.

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**Minutes of Kolkata
Special GB
held on 6 May 2022**



**Kolkata General Body
minutes of meeting
held on 7th May 2022**

Minutes of Kolkata Special GB held on 6 May 2022

The meeting started with the welcome speech of Dr Sanjeev Jha and he stressed the importance of changing the memorandum of IAP as it is important due to various taxation and government laws and also as most of the people and associations across the world are using annual membership as their main protocol and there is also a need to change many clause and rules and regulations of our association and it is important to note here that most of us have already agreed in previous meetings that the memorandum needs to be updated and should be following the norms prevailing across the world and also it is important to make it updated as per the government laws and taxation.

Further Dr Sanjiv Jha has explained the need of for all of you to contribute in this preparation so that we all can make a nice memorandum which is up to date as per the current situation.

Dr Sanjeev Jha started explaining the need of changing the life membership to annual membership and he also stressed that changing the life membership into annual membership does not mean that the speed the people with life membership will lose their membership once it is converted into annual membership but rather when this memorandum is complete the aim is that after after completion of this memorandum most of the people and members will be intimated along with the new copy of memorandum through our official website that is WW.W.physiotherapy India.org and the members as to update their data like email address phone number current address and current qualification so that the main members should be in direct touch with the association and also the functioning of the association will become easy as we will not need to print and do the difficult and old-fashioned work that is printing and sending the newsletters through post.

He further stressed that we all need to be active to be active member and need to update the whole data every year. On our official website or a suitable communication through Google form or any other method release from the association from time to time.

He said that on this topic of converting the life members into active members and annual membership will be applicable from the day this memorandum is finally adopted and it is also important to note here that those who are life member will be considered as an active member only when they will update the data every year on official website and Google form which will be communicated to the members through official website to update the data.

Once they update the data their membership will be considered active and they will be eligible for various privileges given by the association from time to time. Those members who will not update their data will not be considered for any privileges of the association under any circumstances so it is important to note here that like members who only updated data will be considered active members.

It is also important to note that once this new set of membership is finally approved the annual membership will be for 10 years and the members has to renew their membership after every 10 years by paying a minimum amount of rupees hundred, and that is only for keeping a track that the member is he is in good standing with the current law and having a valid bank accounting process.

Dr Sanjeev Jha after a discussion said everyone to give their opinion.

Dr Arindam said that so what will happen to all the members who will not update their data or will try to claim the privileges of the association without being in good standing and updating their data.

Dr Sanjeev Jha said that it is important to note here that under any circumstances the members without updating their data will not be considered for any privileges of IAP if they don't do the data update every year and it is not only important for the election process of IAP but also it is important that all of the people who are there as active member should show every year that their active member and let me tell you that most of us has to do this and so that we are active and method is important to enable us to understand who are active and who are not and it is also important when we pay our fee to WCPT it is important to note here that most of the Association in physiotherapy across the world validate annual membership only and when we are changing the method from life membership to annual membership it is important that we adopt this procedure to make the functioning smooth and also to make it updated as per the required tax norms and other legal purposes.

Dr Ali Irani said that it is important that we do this process as early as possible so that we can adopt a proper payment method to WCPT and also keep IAP functioning as per the world norms it is also important to note here that WCPT has stressed that we should have an annual membership and not a life membership and if you go and find out 90% of the world physiotherapy Association works on the basis of annual membership not life membership so the suggestion given by Dr Sanjeev Jha, I totally agree with that and it is important that the house passes this with their suggestions as they want to give.

Dr Anand Mira said that it is important to do this amendment as early as possible so that we should not pay the fee of members again and again to WCPT as we keep doing since years and that's why it is important that we save our money and try to convert the life membership process into into a annual membership and it is also important that we adopt a proper procedure which is suggested by John Sir and we need to do it as per the requirement of government taxes and legal norms.

After a long discussion with many members it was decided to change the life membership into annual membership however the members earlier who were granted a life membership will remain a life member without paying any fee but they have to update their data every

year so that they will be counted as a annual active member.

After further discussions this agenda was passed that the life membership will be converted into our annual active membership and that will be termed as active annual membership and will be named as a annual membership in IAP.

DrJha thanked the all members and contributors for adopting this part of the memorandum and moved on the next agenda which was important and that is international membership he said that we need to adopt final agenda on international membership and we need to frame a certain rules and regulations on international membership and he further stressed that we will give in international membership to only those physiotherapist who have completed at least four years of professional physiotherapy study anywhere in the world through a recognised university .

The next agenda of memorandum and said it is important to discuss here body the process of election is adopted in the previous special General and also it is important to note that the whole election process will be conducted by online method so that we can save on the election expenditure and also the process of election will be more smooth and easy to operate along with having savings on lot of money which we spent last time.

Dr Jha also said that it is important to note that most of the people after losing the election keeps blaming the others and it is not a right way of taking the election in a right spirit and let's keep this in mind that if we know how to win we should also know and take it in right manner if we lose the election let's make all the process to expedite the process of election and make it as transparent as possible.

The general body unanimously accepted all the clauses of process of election of election and also emphasised that it is important to take the elections in sportsman spirit and thereby after the losing election unless and until there is any strong evidence of any malpractice we should not blame the entire process which ultimately tries to damage the association and also the profession because association is the prime mover on every aspect of moving the profession ahead in the country.

Dr Arindam asked whether there is a change in number of CEC in central election and what is the status on that.

Dr Jha replied that there is no change in the number of CEC at central team or at the state team and it is the same as it was in the last election so let's understand this that apart from apart from not doing the election by postal ballot it will be done by electronic and online method let's prepare for this and it needs lot of technical assistance to conduct the election online method but once it is established it will be very fruitful as far is as far as saving the money is concerned and also it will save a lot of time and increase the transparency in the election process.

Moving on to next next point that is branches Dr Jha said that we have done our elaborate work on making memorandum of the state and district branches along with women cell and the student wing in the memorandum and it is also important to note that these all branches will have a clear letter of establishment from the Central CEC to be recognised as a valid branch of IAP.

Dr Kaushik day asked whether the branches will have separate accounts and how we are going to operate it as after GST implication lot of problems are there in operating the State branch account same question was asked other members of West Bengal IAP it is important that the branches should have a separate account and a lot of implications of GST should not be there to operate it smoothly.

Dr Jha replied that yes the state the district branches women cell and all other operating wing of IAP can have a separate account but they should be approved by the Central IAP and they should work strictly in accordance with the memorandum and under the guidance and control of Central IAP it is also important to note here that most of the branches and not submitting their audit report and they are not able to take the central fund due to lack of doing proper accountancy.

Dr Jha further said it is important that we will have state and other accounts separately without GST implication and we are working with the CA and the legal team and will try to resolve it as early as possible and suitable amendment and arrangement is done in the memorandum to facilitate these opening of accounts.

Moving on to the next point Dr Jha said it is important to see the disciplinary action para in memorandum.

Dr Sumanth asked that we agree with the points of disciplinary action but so it is important to note that many time we are not able to take the actions as required when somebody is doing the work against the association even the person is a member of our association it is important that CEC should act very strongly on the step of people whether they are member or not so that a proper discipline should be maintained and the person should be taught a proper lesson of defying with the association and the profession as a whole.

Dr Indranil asked what action we have taken against SIP and other people who have filed cases against IAP and also made fraud IAP and tried to deceive the members and general people as a whole and thereby damaging the reputation of IAP and the profession.

Dr Jha replied that we have already suspended Dr Mohanty and Dr Prabhat for doing anti Association work and they tried to damage the association and profession by various means.

The whole general body said that yes it is important that we all should take a strong action against such people who are not following the memorandum and the associations norms.

Overall there was a strong feeling in general body and the general body passed that the conflict of interest of any person, association or organisation which is there directly in relation with the interest of IAP and our profession we need to act very strongly against these people to keep every thing in order and in discipline.

Dr Jha read all the articles from clause 4 to clause 10 and asked whether the general body has got any suggestion on the remaining aspects of the memorandum the discussion was on the full memorandum and it was decided that the memorandum is accepted and also endorsed by the GB and it is also important to note here that GB has given approval to take appropriate legal and financial advice and incorporate all the parameters so that the memorandum is up to the mark legally and also financially so that IAP should not have any taxation or legal hassles in future.

Dr Jha said that it is very important and we have discussed most and almost every point in the proposed memorandum and so many important points have come out which we will incorporate and we will also take the help of lawyers and chartered accountants so that the memorandum is framed as per the right norms and we able to work in a very strong manner whether it is legally or financially.

CEC thanked all the members present in the special general body and also everyone who contributed in formation of the memorandum and Dr Jha specially thanked all the CEC and also all the members present in the special general body for their valuable contribution and suggestions.

Thank you all and please attend the general body tomorrow we are going to conduct at the conference venue thanks again, all the best.

Kolkata General Body Minutes of Meeting held on 7th May 2022

The meeting started with the welcome address by the President Dr Sanjeev K Jha and he welcomed all the delegates and the members who are present in the meeting and thank God for serving of Covid period which is still going on.

I thank God that we could cross this difficult time and we all are here again gathering for general body and conference after lot of difficulties, we are here again to do our professional work I sincerely pray to God that all of you should remain safe and we can do something good for our profession.

Dr Jha said that let's celebrate this and thank the present central government who has passed the NCAHP act and the most important part the demand of physiotherapist since last six decades was fulfilled and now physiotherapist are considered as independent practitioner all over India the act is passed and we all should know now that the physiotherapy definition what we have got after long struggle and during the Covid time also we all worked hard and I should thank to my few CEC who worked very hard and During covid i also once some relaxation was given I travelled to Delhi more often to bring this council with a great definition of physiotherapy for all of us let me tell you that our hard work has paid and now no one will come to our clinic and say that how we are practising independently let's thank all the cabinet ministers especially Dr Harshvardhan Ji Dr Ashwini Choubey Ji and our honourable Prime Minister Shri Narendra Modi Ji who were instrumental and who helped us to bring this act and I really thank all of them and also the opposition leaders especially Shri Ram Gopal Yadav Ji who has patiently listened our grievances and gave us the due respect and regards what physiotherapist needs in our society please stand up and give a big round of applause is to all of the ministers, the MPs and also the secretaries and officer at Delhi who could make this law and now it is enacted and we all are very proud and happy about it.

Dr Jha said now let's move on to secretary report please Dr. Annamalai Sir present your report sir.

Dr Annamalai Dear members we all are very happy that the NCAHP act is enacted and very soon interim commission will come into place to take the charge and start functioning on the fact we all are very happy about it and let me tell you that we all want a good council to be in place so that physiotherapist gets a proper recognition in the society and also we will be able to stop quackery in our profession I should thank the honourable Prime Minister Shri Narendra Modi Ji and also the two ministers Dr Harshvardhan Ji and Dr Ashwini Choubey Ji who gave us this strong platform to build the profession now in India we all will work hard

and slowly one by one the states will start implementing council and let's see it's a time to work hard and see to it that we all do good so that this NCAHP act become a milestone in the development of physiotherapy professor in all over India I think my CEC and also my president for helping me out day night to bring this council which was a dream for all of us, thanks to all of you thanks again.

Dr. Jha : now let's move on to treasurers report and I request all the members to see the audit report which was prepared in such a difficult time even during all odds which we are facing outside and also by few of our suspended members, I don't want to repeat the names again but it was a very difficult time that during all odds we could make our audit in time and now please go through the audit report it is there on the floor and if anyone is having any question you can please let us know.

Dr Indranil said this is okay but when will we will get the State chapter bank accounts open again as per the GST act as there are lot of problems in the state accounts.

Dr Jha, Dr Indranil we are already discussing all this and we are in consultation with the lawyers and the tax consultants and very soon we will be able to implement it as you know that it takes long time to go ahead with such a task which is a difficult one as far as taxation part is concerned but we are working hard on it and I think we will be able to do it very nicely as soon as possible. Anybody who is having any other proposal in on treasurers report or any other suggestion please let me know.

The whole general body accepted the treasurers report and also praised the CEC and praised for doing such a wonderful work during this difficult time of Covid, Dr Arindam Seth has proposed to pass it and Dr Sumant has seconded it. The treasurers report is passed by unanimous decision and the treasurers report is accepted.

Dr Jha: now let me inform you that any difficulty always comes out with lot of opportunities during Covid we were not able to meet in person to each other but we were able to do lot of meetings online and let me tell you that we have a plan to incorporate as many as office bearers in our working team so that we can work at the grassroot level with full dedication and we should have a time where when we call for anything at least 4 to 5000 people should be there at any place to make our any demand successful all over India and for that we have started lot of subcommittees which includes infrastructure committee, disciplinary committee fund raising committee and so on and all these we all together will do wonderful work and for sure we will make this profession proud by doing a team and collective effort, let me tell you that on Facebook we have thousands of followers we have also started Instagram, our YouTube channel and we are doing lot of low cost and free seminars or small workshops online and doing lot of benefits for our students who are studying in physiotherapy it is a great opportunity for the teachers for the clinicians and for all the people who are willing to do it. We are trying to do our best to take physiotherapy to each and every individual who are in need of physiotherapy all over India let me tell you that we

all will make a difference and we are going in the right direction to see to it that we will be one of the best healthcare profession in India in coming years.

NEXT AGENDA

Let me move on to next agenda that is legal issues let me tell you that during this difficult time of Covid also our opponents who lost in the election and the election was duly and transparently conducted we are facing two cases at Delhi, we are facing one case at Mumbai and also it is important to note that two bunch of people who has got wasted interest they tried to make a fraud organisation and floated in the name of Indian Association of physiotherapy, trying to show the public that they are also IAP and we went to High Court of Mumbai and Mumbai High Court has given a very strong order to stop this and organisation, such type of people who has vested interest and highhandedness and very strongly I can say this that these type of people who once was saying that IAP so good after losing the election or losing their vested interest they started destroying their own parental organisation, it is very frustrating and very painful but we all will fight and we are fighting to keep this profession this association which is the mother Association of physiotherapy and keep your head high so that our physiotherapist should not suffer anywhere and all over India, let me tell you all these cases we will fight with a strong intention so that nobody can destroy our association in anyway by any means.

We are having one more case at Ranchi which is also going on but let me assure you since the CEC has authorised me for all the legal work and I can assure you that we will fight this type of elements at any cost and the will not win anywhere whether it is Ranchi whether it is Delhi or whether it is Mumbai we all will surely win the cases and I know that truth and justice will prevail.

The general body was very upset and directed the CEC to take all the steps so that these type of elements should not take their head high and fight and destroy our association and a noble profession which is growing at such a high good speed all over India. The general body has directed the CEC that you should take all the steps wherever and whatever possible to stop this immoral irresponsible and high-handed people who are trying to destroy our profession it was decided to terminate the memberships of Dr Mohanty and Dr Prabhat Ranjan so that people should have a strong message that such type of illegal act will not be tolerated it is also important to note here that General body unanimously decided that we all will fight and you all will take such type of elements out of the box and teach them what is justice and what not.

Let the honourable court decide but we have already a strong decision in our favour from honourable Mumbai High Court we know that we will win and justice will prevail.

Dr Jha, now we are moving to next agenda that is international affairs and WCPT membership Dr Ali Irani please present your report,

Dr Irani; I think all the members present here and I request to pay your attention about WCPT membership it was a very difficult time for all of us and during difficult Covid time also somehow we could manage to pay the membership and it was a tough time because banks were not working and we had to pay a huge sum of amount which was previous year's penalty and also the new membership reinstatement and it was a tough time we had a lot of meeting with the CEO Dr Jonathan and also with the WCPT president and after hard struggle we could reinstate our membership at WCPT and I should thank our President Dr Sanjeev Jha who supported for this membership and we were there in Geneva and tried our best to get this membership back let's congratulate all the members and we will do our best to keep India's flag high and our professions flag high at the international level. Thank you

Dr Anand Mishra yes it was a tough time and I should thank CEC for getting back the WCPT membership but we also understand that we need to move on to annual membership to save the money on WCPT payment and it is not worthwhile to pay such a huge amount for this membership and the CEC and specially I request to the President that please see to it that we change it to our annual membership so that we can save a lot of money for our members.

Dr Sanjeev Jha thank you Dr Mishra we are going in that direction which you have suggested and as you are the previous treasurer you know each and every bit of it and I really thank you and everyone. Doing such a work that we can now get our membership reinstated and we will try our best to take India and our members to present our presence at various platforms of WCPT and in the other international arena thank you.

Dr Sanjeev Jha said now let's move on to another agenda that is U.G. report Dr Sohail please present your report.

Dr. Mohammad Sohail Presented his report then Dr Reshma, Dr Vivek and Dr Joji John has presented there is report respectively for UG report, PG report, endorsement committee report and branch report.

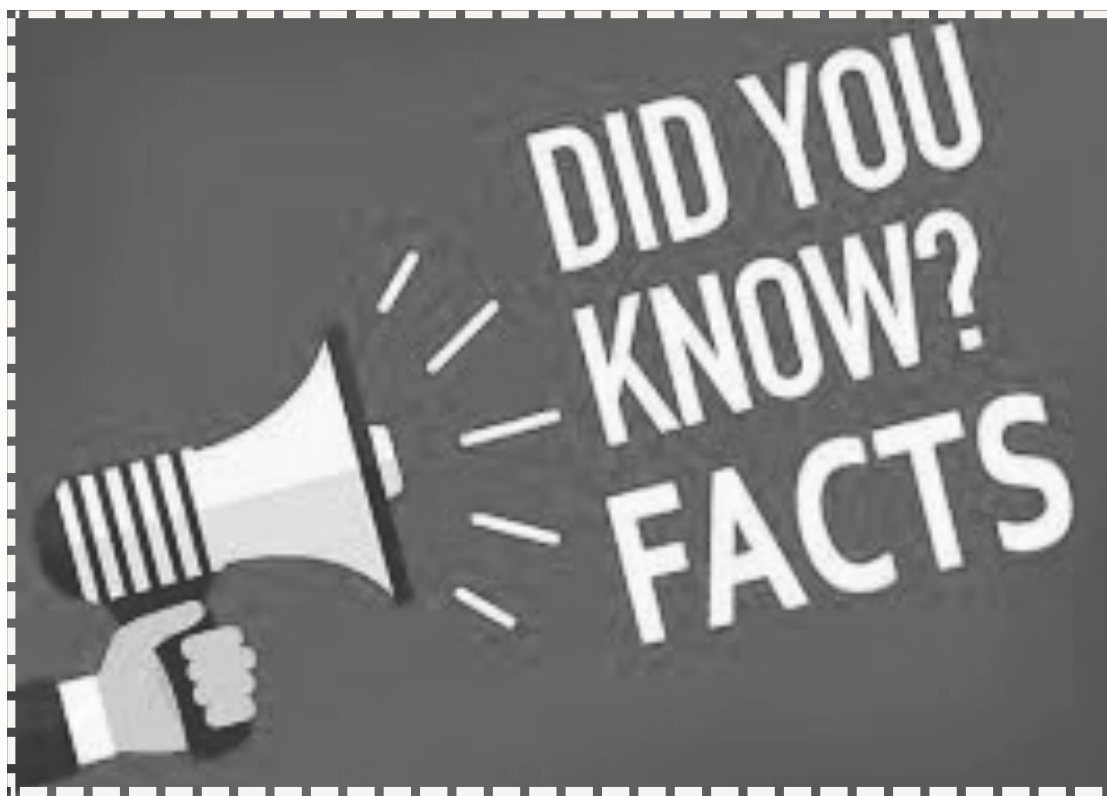
All these reports were presented by the respective chairpersons and accepted by the general body.

Dr Jha thanked Dr Suhail, Dr Reshma, Dr Vivek and Dr Johu for presenting the report and also thanked for giving valuable contribution to CEC work. Now let's move towards next agenda that is new IAP memorandum and as we have already discussed in length yesterday, yesterday point wise and para wise all the points and articles of the memorandum today just for the information for the all the new members were present today in general body and also those who were present yesterday we are going to put this memorandum on our website for everyone's feedback and who ever wants to give a feedback and a correction if any please report it to President office and now on my email within 15 days from today so that we will be able to do necessary correction and will try to incorporate whatever part is possible to incorporate legally and financially in consultation with lawyers and tax consultant thank

you for giving such your wonderful opinions to make our memorandum more better and more effective and also more extendable as far as legal and tax norms are concerned.

Dr Jha said thanks we are almost over with our today's general body and our agendas and for your information we have a team from Kerala and in Trivandrum we are going to have our second corporate conference and we will request everyone to join at Trivandrum at second corporate conference and I request Dr Sreejith and Dr. Jim to present their presentation about the second corporate conference to be held at Trivandrum. of course we all know that Covid is still not over so we will definitely will have a challenge but wherever whatever possible we will try our best to conduct the conference and of course with due legal permissions and we will try to make this coming conference a successful one I really thank all of you for joining this general body and also I thank my CEC and everyone who has contributed in a such a difficult time especially the West Bengal team who had a tough time in conducting this conference and I really thank Dr Aridum, Dr Indranil and the President of West Bengal team who all have contributed along with the whole team I cannot take the name of everyone here but very impressive hard work and dedicated work from everyone and each one of you thank you all of you let's clap for them who has given such a nice conference in such a difficult Time for all of us.

Thanks again to all of you and see you all in Trivandrum.



A FACT - A DARK ERA



COURT ORDER

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
INTERIM APPLICATION (L) NO. 8412 OF 2020
IN
COMMERCIAL IP SUIT (L) NO. 8409 OF 2020**

The Indian Association of Physiotherapists ... Plaintiff
Versus
Indian Association of Physiotherapy & Ors ... Defendants

**Dr V Tulzapurkar, Senior Advocate, with Mr Amit Jamsandekar,
i/b Sunil Nair, for the Plaintiff.
None for the Defendants.**

**CORAM: G.S. PATEL, J
(Through Video Conference)
DATED: 15th December 2020**

PC:-

Shephali
Mormare

Digitally signed
by Shephali
Mormare
Date: 2020.12.16
10:44:08 +0530

1. Heard through video conferencing.
2. The Plaintiff is a society registered under the Societies Registration Act 1860. The 1st Defendant is apparently a company under the Companies Act 2013 with its registered office in Delhi. Defendants Nos. 2 and 3 are individuals and are said to be directors of the 1st Defendant. They too have their offices in Delhi.

3. Dr Tulzapurkar, learned Senior Advocate for the Plaintiffs, moves after notice. I am permitting the application to be made since the Defendants have been served some time ago. The first notice was given on 11th December 2020. A second notice followed on 12th December 2020. On 14th December 2020, the Defendants were provided on email a link for today's hearing.

4. The Plaintiff is a non-governmental organization. It represents the physiotherapy profession at the national and international level. It was registered as a society in 1955. Its various objects are said to be for public purposes improving the education and practice of physiotherapy in India, promoting that practice and so on.

5. The Suit is an action in infringement, passing off, misrepresentation and unfair trading.

6. I will, at the head of this order, turn immediately first to the question of jurisdiction and the necessary pleadings in paragraph 49 of the plaint. Here, the Plaintiffs say that the Defendants are using the impugned marks, to which I will turn shortly, in Mumbai. The Defendants are also inviting and enrolling members in their organization inter alia by using the impugned marks. There is an assertion of confusion and deception having taken place in Mumbai. Hence, the claim for jurisdiction, which I will accept.

7. A short narrative of the facts will be necessary. The Plaintiff, the Indian Association of Physiotherapists or IA, is an apex body that represents the interests of both physiotherapists and physiotherapy

patients in India. In 1955 or 1956, the Plaintiff adopted the trade name, trade mark and service mark '**The Indian Association of Physiotherapists**'. Those marks have been used extensively, continuously and without interruption since then.

8. In 2014, the Plaintiffs sought registration of the trade mark '**The Indian Association of Physiotherapist-IAP**' by application No. 2793229 in class 41. In this application, the Plaintiff claimed use since 9th December 1955. The application was allowed and the registration is valid and subsisting. Copies of the status report from the official website as also of the registration certificate are annexed.

9. Clearly, the words or phrase '**The Indian Association of Physiotherapists**' is not only the essential and prominent feature of the name of the Plaintiff Association but it uniquely identifies the Plaintiff. It is a house mark and it is combined with a device which is described a little later in the plaint. 'IAP' is nothing but an acronym of the mark '**The Indian Association of Physiotherapists**'.

10. In early 2001 the Plaintiff adopted another trade mark '**Physiotherapy India**' and then in 2014 sought registration of this mark under Application No. 2793230 in class 41. For this mark, the Plaintiff claimed used since 8th February 2001. That mark also proceeded to registration. Copies of the status report and registration certificate are also annexed.

11. Thus both marks are registered to the Plaintiff and are valid, subsisting and binding. This registration give the Plaintiff exclusivity in use of the mark.

12. The Plaintiff claims to be the leading and best known association of practitioners and patients in this field. There is a description in the plaint of the very many activities the Plaintiff has undertaken — convening conferences, organizing seminars, workshops, camps and so on. There are also publications. In addition the Plaintiff provides advisory services to both Government and non-government organizations on policy issues that affect the practice of physiotherapy. The Plaintiff is duly registered under the Mumbai Public Trusts Act with the Office of the Charity Commissioner, Mumbai. It has five zones, North, South, East, West and a Central Zone. There is some material annexed to the plaint of various newsletters, websites and similar material.

13. As to the question of members, the Plaintiff says that it represents over 100,000 physiotherapists and 50,000 physiotherapists are actually members. There is also a women's cell that grants special recognition to the female practitioners and gives them a special platform.

14. It is not necessary at this stage to go into the other activities of the Plaintiff. Paragraph 13 has a short listing of various Awards and recognitions that the plaintiff has secured in India. There is also a mention of the international recognition in paragraph 14 of the plaint.

15. All this material, including details of the conferences, seminars, website publications, print publications etc , is not such as can be easily or readily denied. This is more than sufficient written material at least at this prima facie stage. Copies of the relevant financial documents are also annexed.

16. Further the Plaintiff states that it has been vigilant in protecting its rights including a filing writ petitions and issuing public notices. It has filed some writ petitions before the Delhi High Court. Some details are provided.

17. All this material and work has always carried the marks and name in question.

18. All of this is stated of course for the fundamental purpose of establishing that the Plaintiff has acquired reputation and goodwill in the words '**The Indian Association of Physiotherapists-IAP**'. Prima facie this appears to be correct. The trademarks and the words '**The Indian Association of Physiotherapists-IAP**' can at least prima facie be said on the basis of this material to have become distinctive of the Plaintiff and no one else. There is in addition, of course, the statutory protection that goes along with the registration of the two marks.

19. Very recently, around 14th November 2020 the Plaintiff through some of its members came across the social media page of the 1st Defendant's President, announcing the launch of the 1st Defendant. The Plaintiff took search. It then found that the 2nd and

3rd Defendants had registered the 1st Defendant in November 2019 under the trade name and trading style of the '*Indian Association of Physiotherapy*'. The services said to be offered or proposed to be offered by the 1st Defendant are indistinguishable from those of the Plaintiff. Perhaps only the corporate structure differs. Interestingly, Defendant No. 2 has been a member of the Plaintiff since 2015. He cannot have, therefore, been unaware of the name, trade name, trading style or the registration of the Plaintiff's marks.

20. In addition, the Rules and Regulations of the Plaintiff would bind the 2nd Defendant. The 2nd Defendant must be held prima facie to have had constructive, if not express, notice of the Plaintiff's statutory and common law rights in the two registered marks.

21. I can think of no conceivable reason why the 1st Defendant should have been incorporated with what is, for all intents and purposes, an identical and not just similar name. The only difference seems to be that instead of Physiotherapists, the Defendants have chosen to use the word 'Physiotherapy'. Indeed, read as a whole, the Defendants mark makes no linguistic sense at all. There cannot be an 'association' of physiotherapy. The word 'association' connotes a group of people. In this case, that group would be physiotherapists. Physiotherapy is a calling, a practice or a profession. To say "association of physiotherapy" is to say "group of a particular profession", which is simply incomprehensible. Prima facie this would lead to the conclusion that the entire adoption of the mark by the Defendants is not only dishonest but is deliberately so and meant only to cash in and trade on the reputation and goodwill of the

Plaintiff. This is quite apart from the matter of infringement. There, a very strong prima facie case has been made out for there can be no doubt that the Defendants mark is in every way — structurally, visually and phonetically — almost identical to the mark of the Plaintiffs.

22. But that is not all. The Defendants are apparently using the acronym IA, also an integral part of the Plaintiff's mark, as part of their email addresses. Now this email address is said to be on the Gmail platform. This means that the Defendants could have adopted almost any unique name of choice preceding the @ symbol. The preceding part is distinctive of the email id. What the Defendants have done is to adopt the email address iapindiaoffice@gmail.com. This is not only apt to cause confusion but is very likely intended to deceive, by conveying convey to recipients of emails sent from this address that the Defendants represent the India operations of the Plaintiff.

23. The Plaintiffs have also taken a search in the Trade Mark Registry and have found that the 1st Defendant has applied for registration of the mark "Indian Association of Physiotherapy" under Application No. 4543833 as recently as on 25th June 2020 in class 44. This is on a proposed-to-be-used basis. There is another mark 'I.A.P. Indian Association of Physiotherapy' of which registration is also sought under Application No. 4625842 even later on 26th August 2020 in class 41 — the very class in which the Plaintiffs already have prior registration. The Defendants marks are both pending

3rd Defendants had registered the 1st Defendant in November 2019 under the trade name and trading style of the '*Indian Association of Physiotherapy*'. The services said to be offered or proposed to be offered by the 1st Defendant are indistinguishable from those of the Plaintiff. Perhaps only the corporate structure differs. Interestingly, Defendant No. 2 has been a member of the Plaintiff since 2015. He cannot have, therefore, been unaware of the name, trade name, trading style or the registration of the Plaintiff's marks.

20. In addition, the Rules and Regulations of the Plaintiff would bind the 2nd Defendant. The 2nd Defendant must be held prima facie to have had constructive, if not express, notice of the Plaintiff's statutory and common law rights in the two registered marks.

21. I can think of no conceivable reason why the 1st Defendant should have been incorporated with what is, for all intents and purposes, an identical and not just similar name. The only difference seems to be that instead of Physiotherapists, the Defendants have chosen to use the word 'Physiotherapy'. Indeed, read as a whole, the Defendants mark makes no linguistic sense at all. There cannot be an 'association' of physiotherapy. The word 'association' connotes a group of people. In this case, that group would be physiotherapists. Physiotherapy is a calling, a practice or a profession. To say "association of physiotherapy" is to say "group of a particular profession", which is simply incomprehensible. Prima facie this would lead to the conclusion that the entire adoption of the mark by the Defendants is not only dishonest but is deliberately so and meant only to cash in and trade on the reputation and goodwill of the

registration and no doubt the Plaintiffs will be opposing those registrations.

24. As it happens the Registry has cited the Plaintiffs mark as a conflicting mark.

25. Coming now to the visual look of the trademarks, Exhibit 'P' (at page 200) shows the rival marks. On the left is the Plaintiff's mark. This is a large red cross in which there is set a circular device with another circular device within it. The inner circular device is divided into four quadrants. The lower right has a design of waves. The lower left has a raised wrist. The top right has a depiction of a lamp and top left has a sun device. The Defendant's mark is also an red cross (and by this I mean the kind of cross that is seen as used by the Red Cross society and ambulances). Within this there is a white circle with the legend 'Indian Association of Physiotherapy'. This is also divided into four quadrants. In the lower left is a symbol of a person in a wheelchair. On the top right is a symbol of a rising sun held between two upturned palms and in the top left and bottom right are the letters I.A.P.

26. There is not a slightest doubt in my mind that this is a clear case of both infringement and passing off. The very use of the letters I.A.P. is enough apart from the distinct similarity of the two devices which I will reproduce below.



27. There is an overwhelming prima facie case for the grant of ad-interim relief. The balance of convenience is clearly with the Petitioners as the foregoing narrative shows. There is no doubt that the Plaintiffs will be put to enormous loss and hardship if relief is denied.

28. There will, therefore, have to be an ad-interim order in terms of prayer clauses (a) and (b) of the Interim Application, which read as follows:

“(a) that pending the hearing and final disposal of the Suit, that the Respondents by themselves, their Directors, servants, employees, agents, assignees, licensees and all persons acting on their behalf or connected or associated with them and the like be restrained by a temporary order of injunction from using in any manner in relation to any of its services, the impugned marks “**The Indian Association**

of **Physiotherapists-IAP**” & **PHYSIOTHERAPY INDIA**’ as a mark or service mark, trade name, trading style or domain name or email ID or any mark containing the word **‘The Indian Association of Physiotherapists-IAP’** together or by themselves or with any other word or device and/or any other deceptively similar marks or the impugned marks being Exhibit N (colly) to the Plaint and/or the words **‘The Indian Association of Physiotherapists-IAP’** by itself or in combination with any other word or device or any other deceptively similar mark containing the impugned mark written in a stylized manner or in any manner which is identical with and/or deceptively similar to the prior adopted and registered **‘The Indian Association of Physiotherapists-IAP’** trademark bearing Registration No. 2793229 & trademark **‘PHYSIOTHERAPY INDIA’** bearing registration No. 2793230 or parts thereof so as to infringe the Applicant’s said registered trademarks or parts thereof.

(b) that pending the hearing and final disposal of the Suit, that the Respondents by themselves, their Directors, servants, employees, agents, assignees, licensees and all persons acting on their behalf or connected or associated with them and the like be restrained by a temporary order of injunction from using in any manner in relation to any of its services, the impugned marks **‘The Indian Association of Physiotherapists-IAP’** & **PHYSIOTHERAPY INDIA**’ as a mark or service mark, trade name, trading style or domain name or email ID or any mark containing the word **‘The Indian Association of Physiotherapists-IAP’** together or by themselves or with any other word or device and/or any other deceptively similar marks or the impugned marks being Exhibit N (colly) to the Plaint

and/or the words '**The Indian Association of Physiotherapists-IAP**' by itself or in combination with any other word or device or any other deceptively similar mark containing the impugned mark written in a stylized manner or in any manner which is identical with and/or deceptively similar to the prior adopted and registered '**The Indian Association of Physiotherapists-IAP**' trademark 'bearing Registration No. 2793229 & trademark '**PHYSIOTHERAPY INDIA**' bearing registration No. 2793230 or parts thereof, so as to pass off and/or enable others to pass off the Respondents' services as and for the services of the Applicant or in some way connected with the Applicant;”

29. Since this application is made after notice, there is no question of time-limiting the injunction. The ad-interim injunction will continue until further orders of the Court.
30. Affidavit in Reply is to be filed and served on or before 15th January 2021. Affidavit in Rejoinder may be filed and served on or before 29th January 2021.
31. List the Interim Application for hearing and final disposal on 12th February 2021.
32. In the meantime, liberty to the Defendants to apply for a variation, modification and recall of this order but only after five clear working days' notice to the Advocates for the Plaintiffs.
33. The Defendants are denied liberty to move the Vacation Judge.

34. This order will be digitally signed by the Private Secretary of this Court. All concerned will act on production of a digitally signed copy of this order.

(G. S. PATEL, J)



FRAUD

Receipt No.: 2496319
Date: 08/05/2020
Amount: Rs.4500/-
Application No: 4497465

FORM TM- A


The Trade Marks Act, 1999

Application For Registration Of a Trademark

**On application to register a trade mark for a specification of goods or services
included in one class [section 18(1)]**

Temp. Ref. No: 4418591

NATURE OF APPLICATION:	TRADE MARKS APPLICATION
APPLICATION FILED AS:	Individual/Sole Proprietor
FEE:	4500
APPLICANT	
Applicant No.	1
Name	UMASANKAR MOHANTY
Address	Flat No 806, Vajreshwari Apts, Vithoba Temple Road, Near Car Street, Mangalore, Dakshina Kannada, Karnataka - 575001
Country	India
Jurisdiction	CHENNAI
Address for Service	Umasankar Mohanty, Flat No 806, Vajreshwari Apts, Vithoba Temple Road, Near Car Street, Mangalore, Dakshina Kannada, Karnataka - 575001
Mobile No.	
Email Address	ipr@startupwala.com
Nature of Applicant	Single Firm
Legal Status	Individual
APPLICANT'S AGENT (If Any):	
Name	NADAR VENNILA
Address	C-102, Calypso, Bloomfield, Amit Enterprises Housing, Nr. Gold Gym, NH-4, Mumbai-Bangalore Highway, Sinhgad Road, Ambegaon (BK), Pune-411 046
Nature of Agent	Advocate
Registration No.	
MARK DETAILS	
Category of Mark	DEVICE
Trade Mark	THE INDIAN ASSOCIATION OF PHYSIOTHERAPISTS (With Device)

Image Description	Image consists of wordmark with Cross Sign, one Sun, Lamp, Water and Hand with Dumbbell.
Trademark Image:	
	
IF MARK IN A LANGUAGE OTHER THAN HINDI OR ENGLISH	
Language	English
CONDITIONS OR LIMITATIONS TO USE THE TRADEMARK, IF ANY	
CLASS OF GOODS OR SERVICE	
Class: 44	Description: Physiotherapy [physical therapy].
STATEMENT AS TO USE OF MARK	The mark is used by the applicant or its predecessor in title since 01/01/2008 in respect of the goods and service mentioned in the application.
ANY OTHER IMPORTANT INFORMATION OR STATEMENT	
VERIFICATION	<i>I hereby verify that above mentioned facts are true to best of my knowledge and belief.</i>
Date	07-05-2020 04:16 PM

Digitally Signed By
Vennila Balamurugan Nadar

for NADAR VENNILA



सत्यमेव जयते

INDIA NON JUDICIAL

Government of Karnataka

Rs. 100

e-Stamp

Certificate No. : IN-KA38366936967471S
 Certificate Issued Date : 04-May-2020 12:25 PM
 Account Reference : NONACC (FI)/ kacrsf08/ KARANGALPADY/ KA-DK
 Unique Doc. Reference : SUBIN-KAKACRSFL0884371227315661S
 Purchased by : UMASANKAR MOHANTY
 Description of Document : Article 4 Affidavit
 Description : AFFIDAVIT
 Consideration Price (Rs.) : 0
 (Zero)
 First Party : UMASANKAR MOHANTY
 Second Party : N A
 Stamp Duty Paid By : UMASANKAR MOHANTY
 Stamp Duty Amount(Rs.) : 100
 (One Hundred only)
 सत्यमेव जयते



IN THE MATTER OF THE TRADE MARKS ACT 1999 AND TRADE MARKS RULES 2002
 AND
 IN THE MATTER OF TRADE MARKS APPLICATION FOR REGISTRATION OF
 TRADE MARK "THE INDIAN ASSOCIATION OF PHYSIOTHERAPISTS (With Device)" IN
 THE CLASS 44
 AND

of Errors/Conventions *all*
umasankar Mohanty

Statutory Note:
 1. The authenticity of this Stamp Certificate should be verified at www.MoStamps.gov.in. Any discrepancy in the details on this Certificate will be available on the website under the 'Verify' link.
 2. The duty of checking the legitimacy is on the users of the certificate.
 3. In case of any discrepancy please inform the Competent Authority.

IN THE MATTER OF APPLICANT- UMASANKAR MOHANTY

I, **Umasankar Mohanty**, aged 44 about years, S/o. Golak Bihari Mohanty, Citizen of India having address at **Flat No 806, Vajreshwari Apts, Vithoba Temple Road, Near Car Street, Mangalore, Dakshina Kannada, Karnataka - 575001**, do hereby solemnly and sincerely state and affirm as follows:

1. I **Umasankar Mohanty**, having my present business address at **Flat No 806, Vajreshwari Apts, Vithoba Temple Road, Near Car Street, Mangalore, Dakshina Kannada, Karnataka - 575001** (hereinafter referred to as "I am /me/ my").
2. I am authorized and competent to make this affidavit. The statements made herein under are partly based on my personal knowledge, partly on information derived by me from the records of my mark to which I have full access and which I believe to be true, and partly these are my submissions.
3. I am engaged as SERVICE OF **Physiotherapy [physical therapy]** (hereinafter referred to as "said Goods/Services"), which are provided under the said Trademark "**THE INDIAN ASSOCIATION OF PHYSIOTHERAPISTS (With Device)**".
4. The said Trade Mark **THE INDIAN ASSOCIATION OF PHYSIOTHERAPISTS (With Device)** was conceived and adopted by me and has been continuously used since **01/01/2008** in connection with the said goods/services.
5. And by reason of such use, the said goods/services bearing the Trade Mark **THE INDIAN ASSOCIATION OF PHYSIOTHERAPISTS (With Device)** have come to be understood as being goods/services being provided by me. The said mark is prominently displayed on each of my goods/services and the same has been seen and/or known to considerable people in the industry/market in which I am operates.

There is a good demand for my goods/services under the said Trade mark

I have affected considerable sales/business under the said Trade mark and from the date of commencement of the use of the said mark, sales have amounted to approximately Rs. 5,00,000.

I have also advertised/popularized the said Trade mark by various media and from the date of commencement of use of the mark.



Umasankar Mohanty

9. My firm's/ the company's said goods/services are of high standard and by reason of such use of Trade Mark **THE INDIAN ASSOCIATION OF PHYSIOTHERAPISTS [With Device]** in relation to said goods/services; the Trade Mark **THE INDIAN ASSOCIATION OF PHYSIOTHERAPISTS [With Device]** denotes to those trade a distinctive symbol of the goods/services provided by my firm/ the company. I believe that I am entitled to the registration of the Trade Mark **THE INDIAN ASSOCIATION OF PHYSIOTHERAPISTS [With Device]** in respect of the goods/services, the subject of this application.
10. The said Trade mark is known as indicating and exclusively referring to the goods/services by My mark. In my opinion the said trade mark identifies and distinguishes the services by other firms and the said mark is entitled for registration.

Umasankar Mohanty

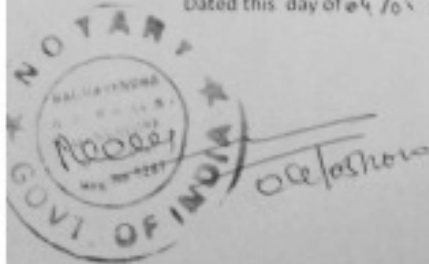
**Umasankar Mohanty
DEPONENT**

VERIFICATION

I, **Umasankar Mohanty** hereby verify that the statements made in paragraph 1, to 10 are true to the best of my knowledge, information and belief.

Solemnly Affirmed at *Karagala*

Dated this day of *04/10* /2020.



BEFORE ME

NOTARY PUBLIC

H.V. Raghavendra
H.V. RAGHAVENDRA, B.A., LL.B.
ADVOCATE & NOTARY
Dist. 854-124-3
Ground Floor, R.R. Complex
Lakshmi Vyas Bank, Karagala
MANGALORE - 575 003

NOTARIAL REG. NO. *223/horo*



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INDIA NON JUDICIAL

Government of Karnataka

Rs. 100

e-Stamp

Certificate No. : IN-KA38364492123538S
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 Description of Document : Article 12 Bond
 Description : TRADEMARK REGISTRATION
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 (Zero)
 First Party : UMASANKAR MOHANTY
 Second Party : ADV VENNILA NADAR
 Stamp Duty Paid By : UMASANKAR MOHANTY
 Stamp Duty Amount(Rs.) : 100
 (One Hundred only)

सत्यमेव जयते



Please write or type below this line

FORM TM - 48

The Trade Marks Act, 1999

Form Of Authorisation Of An Agent

(See Sec. 145; Rule 21)

I, **Umasankar Mohanty**, an Indian National residing at **Flat No 806, Vajreshwari Apts, Vithoba Temple Road, Near Car Street, Mangalore, Dakshina Kannada, Karnataka - 575001**, hereby authorize **ADV. VENNILA NADAR**, (Advocate) having his/her/their address

Umasankar Mohanty

Warning Alert!

1. The authenticity of this e-Stamp Certificate should be verified at www.eStamping.com. Any discrepancy in the details on this Certificate will be reported to the relevant authorities.
2. The issue of e-Stamping for registration is on the part of the certificate.
3. In case of any discrepancy please inform the Competent Authority.


at **Calypto-102, Bloomfield, Amit Enterprises, Nr. Gold Gym, Ambegaon, Pune-411046, INDIA**, to act as my (or our) agent for registration of our trade mark(s). I hereby revoke all previous authorizations, if any, in respect of the above proceeding.

All communications relating to this application may be sent to the following address in India:

Umasankar Mohanty
Flat No 806, Vajreshwari Apts, Vithoba Temple Road, Near Car Street, Mangalore,
Dakshina Kannada, Karnataka - 575001

Dated this 04/05/2020

To,
The Registrar of Trade Mark,
The Office of the Trade Marks Registry,
Chennai



Umasankar Mohanty

Applicant



भारत सरकार / GOVERNMENT OF INDIA
 ब्रह्मचरि चिह्न नजिददी / TRADE MARKS REGISTRY
 औद्योगिक नगराका भवन ती पुरा ती वेद नगरादी, चेन्नई-600032
 Intellectual Property Building, G. S. T. Road, Guindy, Chennai-600032



THE TRADE MARKS ACT, 1999.
 (ACT 47 OF 1999)
 (SECTION 137)
 (FOR USE IN LEGAL PROCEEDINGS ONLY)
 (as per data available on computer as on today.)

No. TM-46/70/ 959/10/2020

In the matter of Registered No.4497465 in
 Class- 44

IT IS HEREBY CERTIFIED THAT

The annexure hereto is the True
 copy/Photo copy of the entry in Register
 of Trade Marks relating to Registered
 Trade Marks No.4497465 in Class- 44



Sheela Anoor
 08/12/2020
 SHEELA ANOOR
 Examiner of Trademarks & GI
 (Authorised Under Section 3(2)
 of the Trade Marks Act, 1999)
 Intellectual Property Building, G. S. T. Road, Guindy,
 Chennai-600032, Tamil Nadu, India

Dated this Tuesday 08th day of December 2020

TO
 M/S: KRISHNA KUMARAN U G MENON
 302, gurudham CHS LTD, PLOT NO.65/66, SEC - 4. NEW PANVEL(E)410206



भारत सरकार /GOVERNMENT OF INDIA
उद्योग चिन्ह रजिस्ट्री /TRADE MARKS REGISTRY
बौद्धिक सम्पदा भवन, जी एस टी रोड गुन्दी, चेन्नई - 600032
Intellectual Property Building , G. S. T. Road, Guindy, Chennai-600032



Trade Mark Application Number : 4497465

TradeMark NO: 4497465

Proprietor Details:

Name: UMASANKAR MOHANTY

Category: Single Firm

Partnership Firm Details :

Trading As:

Trade Description:

Proprietor Address: Flat No 806, Vajreshwari Apts, Vithoba Temple Road, Near Car Street, Mangalore, Dakshina Kannada, Karnataka - 575001

Address For Service: NADAR VENNILA ,
Umasankar Mohanty, Flat No 806, Vajreshwari Apts, Vithoba Temple Road, Near Car Street, Mangalore, Dakshina Kannada, Karnataka - 575001

Email: ipr@startupwala.com

Country: India

Details:--

TM Application Date : 08/05/2020

Certificate No:

Journal No : 1976-0

Status:Accepted & Advertised

Used Since: 01/01/2008

Trade Mark Type: DEVICE

Word Mark: THE INDIAN ASSOCIATION OF PHYSIOTHERAPISTS (with Device)

Goods & Descriptions: [Class : 44] Physiotherapy [physical therapy].



Sheela Anoor
08/12/2020
SHEELA ANOOR
Examiner of Trademarks & GI
Government of India
Trademarks Registry
Intellectual Property India, G.S.T. Road, Guindy
Chennai - 600 032, Tamil Nadu, India



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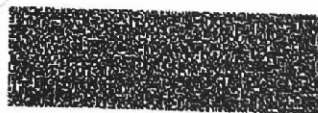
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Government of Karnataka

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 Purchased by : UMASANKAR MOHANTY
 Description of Document : Article 4 Affidavit
 Description : AFFIDAVIT
 Consideration Price (Rs.) : 0
 (Zero)
 First Party : UMASANKAR MOHANTY
 Second Party : N A
 Stamp Duty Paid By : UMASANKAR MOHANTY
 Stamp Duty Amount (Rs.) : 100
 (One Hundred only)

MOHANTY
08/12/2020
SHEELA ANOOR
 Examiner of Trademarks & GI
 Government of India
 Trademarks Registry
 Intellectual Property India, G.S.T. Road, Guindy
 Chennai - 600 032, Tamil Nadu, India



Please write **AFFIDAVIT** on this line

THE MATTER OF THE TRADE MARKS ACT 1999 AND TRADE MARKS RULES 2002
 AND
 IN THE MATTER OF TRADE MARKS APPLICATION FOR REGISTRATION OF
 TRADE MARK "THE INDIAN ASSOCIATION OF PHYSIOTHERAPISTS (With Device)" IN
 THE CLASS 44
 AND

of Sworn/Corroborated *all*

umasankar Mohanty

Statutory Alert:

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2. The onus of checking the legitimacy is on the users of the certificate.
3. In case of any discrepancy please inform the Competent Authority.



IN THE MATTER OF APPLICANT- UMASANKAR MOHANTY

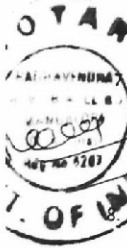
I, **Umasankar Mohanty**, aged 44 about years, S/o. Golak Bihari Mohanty, Citizen of India having address at **Flat No 806, Vajreshwari Apts, Vithoba Temple Road, Near Car Street, Mangalore, Dakshina Kannada, Karnataka - 575001**, do hereby solemnly and sincerely state and affirm as follows:

1. I **Umasankar Mohanty**, having my present business address at **Flat No 806, Vajreshwari Apts, Vithoba Temple Road, Near Car Street, Mangalore, Dakshina Kannada, Karnataka - 575001** (hereinafter referred to as "I am /me/ my"),
2. I am authorized and competent to make this affidavit. The statements made herein under are partly based on my personal knowledge, partly on information derived by me from the records of my mark to which I have full access and which I believe to be true, and partly these are my submissions.
3. I am engaged as **SERVICE OF Physiotherapy [physical therapy]** (hereinafter referred to as "said Goods/Services"), which are provided under the said Trademark **"THE INDIAN ASSOCIATION OF PHYSIOTHERAPISTS (With Device)"**.
4. The said Trade Mark **THE INDIAN ASSOCIATION OF PHYSIOTHERAPISTS (With Device)** was conceived and adopted by me and has been continuously used since **01/01/2008** in connection with the said goods/services.
5. And by reason of such use, the said goods/services bearing the Trade Mark **THE INDIAN ASSOCIATION OF PHYSIOTHERAPISTS (With Device)** have come to be understood as being goods/services being provided by me. The said mark is prominently displayed on each of my goods/services and the same has been seen and/or known to considerable people in the Industry/market in which I am operates.

There is a good demand for my goods/services under the said Trade mark

I have affected considerable sales/business under the said Trade mark and from the date of commencement of the use of the said mark, sales have amounted to approximately Rs. 6,00,000.

I have also advertised/popularized the said Trade mark by various media and from the date of commencement of use of the mark.



Umasankar Mohanty
28/12/2020

SHEELA ANOOR
Examiner of Trademarks & GI
Government of India
Trademarks Registry,
Intellectual Property India, G.S.T. Road, Guindy
Chennai - 600 032, Tamil Nadu, India

of Errors/Correction

- 9. My firm's/ the company's said goods/services are of high standard and by reason of such use of Trade Mark **THE INDIAN ASSOCIATION OF PHYSIOTHERAPISTS (With Device)** in relation to said goods/services; the Trade Mark **THE INDIAN ASSOCIATION OF PHYSIOTHERAPISTS (With Device)** denotes to those trade a distinctive symbol of the goods/services provided by my firm/ the company. I believe that I am entitled to the registration of the Trade Mark **THE INDIAN ASSOCIATION OF PHYSIOTHERAPISTS (With Device)** in respect of the goods/services, the subject of this application.
- 10. The said Trade mark is known as indicating and exclusively referring to the goods/services by My mark. In my opinion the said trade mark identifies and distinguishes the services by other firms and the said mark is entitled for registration.

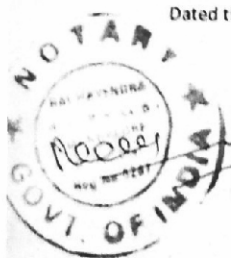
umasankar mohanty
 Umasankar Mohanty
 DEPONENT

VERIFICATION

I, **Umasankar Mohanty** hereby verify that the statements made in paragraph 1, to 10 are true to the best of my knowledge, information and belief.

Solemnly Affirmed at *Chennai*

Dated this day of *04/01* /2020.



BEFORE ME



NOTARY PUBLIC

Sheela Anoor
 SHEELA ANOOR
 Examiner of Trademarks & GI
 Government of India
 Trademarks Registry
 Intellectual Property India, GST Road, Guindy
 Chennai - 600 032, Tamil Nadu, India

H.V. Raghavendra
 H.V. RAGHAVENDRA, B.A., LL.B.
 ADVOCATE & NOTARY
 Off. #14/144-3
 Ground Floor, H.R. Complex
 1st Floor Lakshmi Vilas Bank, Karangalpadu
 MANGALURU - 575 003

NOTARIAL REQ. *222/2020*
04/01/2020



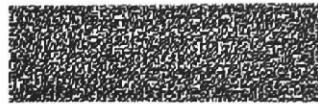
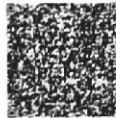
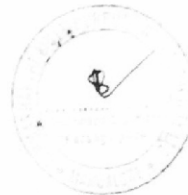
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INDIA NON JUDICIAL

Government of Karnataka

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Account Reference	: NONACC (FI) kacrs1108/ KARANGALPADY/ KA-DK
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Purchased by	: UMASANKAR MOHANTY
Description of Document	: Article 12 Bond
Description	: TRADEMARK REGISTRATION
Consideration Price (Rs.)	: 0 (Zero)
First Party	: UMASANKAR MOHANTY
Second Party	: ADV VENNILA NADAR
Stamp Duty Paid By	: UMASANKAR MOHANTY
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



Srinivas
08/12/2020

SURESH ANAND
Examiner of Trademarks & GI
Government of India
Trademark Registry
Intellectual Property India, C.I.T. Road, Guindy
Chennai - 600 092, Tamil Nadu, India

Please write or type below this line:

FORM TM - 48

The Trade Marks Act, 1999

Form Of Authorisation Of An Agent

(See Sec. 145; Rule 21)



I, **Umasankar Mohanty**, an Indian National residing at **Flat No 806, Vajreshwari Apts, Vithoba Temple Road, Near Car Street, Mangalore, Dakshina Kannada, Karnataka - 575001**, hereby authorize **ADV. VENNILA NADAR**, (Advocate) having his/her/their address

Umasankar Mohanty

Statutory Alert

The authenticity of this Stamp Certificate should be verified at www.stampsapp.com. Any discrepancy in the details on this Certificate may be reported to the website www.stampsapp.com.

The use of this Stamp Certificate is subject to the terms and conditions of the certificate.

For more information, please contact the Competent Authority.

at **Calypso-102, Bloomfield, Amit Enterprises, Nr. Gold Gym, Ambegaon, Pune-411046, INDIA**, to act as my (or our) agent for registration of our trade mark(s). I hereby revoke all previous authorizations, if any, in respect of the above proceeding.

All communications relating to this application may be sent to the following address in India:

Umasankar Mohanty
Flat No 806, Vajreshwari Apts, Vithoba Temple Road, Near Car Street, Mangalore,
Dakshina Kannada, Karnataka - 575001

Dated this 04/05/2020

To,
The Registrar of Trade Mark,
The Office of the Trade Marks Registry,
Chennai

Umasankar Mohanty

Umasankar Mohanty

Applicant

श्रीमान्
 उमासंकर मोहंती
 एम्.ए. 806, वाज्रेश्वरी अपार्टमेंट्स,
 विठोबा मंदिर रोड, कार स्ट्रीट,
 मंगलूर, दक्षिण कर्नाटक,
 कर्नाटक - 575001



SHEELA ANOOR
 08/12/2020
SHEELA ANOOR
 Examiner of Trademarks & GI
 Government of India
 Trademarks Registry
 Intellectual Property India, G.S.T. Road, Guindy
 Chennai - 600 032, Tamil Nadu, India

To,
The Registrar of Trademark,
Trademark Registry, CHENNAI

Date: 20/07/2020

Sub: REPLY TO EXAMINATION REPORT(MIS-R) Dated on: 22/06/2020 16:18:07
Ref: Application Number: 4497465
In case of hearing, your preferred mode of attending the hearing is: PHYSICAL

Sir,
With reference to the above application, the point wise reply is as under: -

Reply attached separately

NADAR VENNILA
Attorney [4118]



S. Anoor
20/07/2020
SHEELA ANOOR
Examiner of Trademarks & GI
Government of India
Trademark Registry
Intellectual Property India, G.S.T. Road, Guindy
Chennai - 600 032, Tamil Nadu, India

GOVERNMENT OF INDIA
TRADE MARKS REGISTRY



12

LOCATION: Chennai WORD MARK SEARCH REPORT USER : HIP
SECTION: EXM APPLICATION NUMBER: 4497485 PAGE:1
REPORT: EXM007 TRADEMARK: 'THE INDIAN ASSOCIATION OF PHYSIOTHERAPISTS (With Device)' DATE: 22/06/2020

APPL NO	CLASS	CONFLICTING MARK	JOURNAL No	PROPRIETOR NAME	PROPRIETOR ADDRESS	STATUS	TM IMAGE
GOODS SERVICES							

HIMALI S PATIL
For REGISTRAR OF TRADE MARKS

Exit Print



S. Anoor
28/11/2020
SHEELA ANOOR
Examiner of Trademarks & GI
Government of India
Trademarks Registry
Intellectual Property India, G.S.T. Road, Guindy
Chennai - 600 052, Tamil Nadu, India



IN THE MATTER OF OBJECTION RAISED BY
THE REGISTRAR OF TRADE MARKS FOR
ACCEPTANCE OF TRADE MARK
REGISTRATION FILED VIDE APPLICATION
NO. 4497465 IN CLASS 44, BY THE
APPLICANT MR. UMASANKAR MOHANTY

For and on behalf of our client, Mr. Umasankar Mohanty, having his/her/its address at-
**Flat No 806, Vajreshwari Apts, Vithoba Temple Road, Near Car Street, Mangalore,
Dakshina Kannada, Karnataka - 575001** submits this response/ submission to your
objection-

1. Our client carries on an established business of **Physiotherapy [physical therapy]**.
Our client is a **SERVICE PROVIDER** of above mentioned services. Our client is doing
said business since long & adopted '**THE INDIAN ASSOCIATION OF
PHYSIOTHERAPISTS (WITH DEVICE)**' as his/her/its trade mark from **01/01/2008**.
2. Our client applied for registration of the said mark as his/her/its trademark vide
application No. **4497465** The trade mark registry has raised an objection stating that
" The objection is raised under S 9(1) (a) of the Trade Marks Act 1999, as the mark is
non-distinctive and as such it is not capable of distinguishing the services of one
person from those of others. The objection is raised under S 9(1) (b) of the Trade
Marks Act 1999, as the mark consists exclusively of words or indications which may
serve in trade to designate the intended purpose or other characteristics of the
service."
3. Our client states and humbly submits that "the distinctiveness though a necessary
condition for registration is not by itself sufficient to qualify for registration. The

Page 1 of 3



A-201, 2nd Floor, Galore Tech Lohia-Jain Bldg., Chandni Chowk, Road Opp. to HP Petrol Pump
Behind Maratha Mandir Hall, Bavdhan, Pune-411 021, Maharashtra, India

• Email : ipr@bmcgroup.in • www.bmcgroup.in

SHEELA ANOOR
Examiner of Trademarks & GI
Government of India
Trademarks Registry
Intellectual Property India, G.S.T. Road, Guindy
Chennai - 600 032, Tamil Nadu, India



applicant's chance of success in obtaining registration of a mark would largely depend upon whether other traders in the ordinary course of business and without any improper motive desire to use the same mark. Where the inherent unsuitability of the mark is evident, no degree of distinctiveness can tilt the balance in favor of Registration of the mark. The applicant does not admit his/her/its/their trademark designates the kind, quality, quantity, intended purpose, values, geographical origin or the time of production of the goods or rendering of the service or other characteristics of the goods or service. Therefore the objection raised by Examiner does not survive hence the objection may please be set aside and the matter may be proceeded.

4. Our client further states and humbly submits that - There can be cases where all the component parts of a trademark are separately common, to the trade, yet, the mark as a whole may be considered distinctive, if combination gives distinctiveness, which is the applicant's case. Our client states and submits that it is the unique arrangement and writing style of the said mark & this combination in totality satisfies the pre-conditions for registration of any mark. Because distinctiveness has to be considered on the basis of impression the mark creates as a whole. A mark does not become non-distinctive by virtue of the only fact that it includes a mark or a word which is not separately registrable. Not only this, combined features of the mark together constitute a distinctive entity different in feature.
5. **PRAYER:** The applicant humbly prays that considering the above mentioned facts, circumstances and gist of provisions of the law, – the objection raised by the registry may please be set aside and application may please be allowed and further be processed for registration.

HENCE THIS SUBMISSION.

For & On behalf of Mr. Umasankar Mohanty
Constituted Attorneys for the Applicant
ADV. VENNILA NADAR

Page 2 of 3

A-201, 2nd Floor, Galore Tech Lohia-Jain Bldg., Chandni Chowk, Road Opp. to HP Petrol Pump,
Behind Maratha Mandir Hall, Bavdhan, Pune-411 021, Maharashtra, India

• Email : jpr@bmcgroup.in • www.bmcgroup.in



SHEELA ANOOR
08/12/2020
SHEELA ANOOR
Examiner of Trademarks & GI
Government of India
Trademarks Registry
Intellectual Property India, G.S.T. Road, Guindy
Chennai - 600 032, Tamil Nadu, India

Adv. Vennila Nadar
B.Com, LL.M
Advocates & Trademark Attorney



Calypso-102, Bloomfield, Amit Enterprises Housing,
Nr. Gold Gym, Ambegaon, Pune-411046, INDIA

DATE: 17/07/2020

To,
The Registrar of Trade Marks
Trade Marks Registry,
Chennai



SHEELA ANOOR
08/07/2020
SHEELA ANOOR
Examiner of Trademarks & GI
Government of India
Trademarks Registry
Intellectual Property India, G.S.T. Road, Guindy
Chennai - 600 032, Tamil Nadu, India

Page 3 of 3

A-201, 2nd Floor, Galore Tech Lohia-Jain Bldg., Chandni Chowk, Road Opp. to HP Petrol Pump,
Behind Maratha Mandir Hall, Bavdhan, Pune-411 021, Maharashtra, India

• Email : ipr@bmcgroup.in • www.bmcgroup.in

Tuesday, May 20, 2014

Social media mismanagement - Good Bad Ugly of Facebook - Improper use gives bad reputation

Facebook Page is similar to your legacy website

Do not give the Facebook management in hands of college kids who are masters in copy - paste culture

This Doctor who is the national President of the Indian Association of Physiotherapists (IAP) is an ugly example of the most immature way of handling social media marketing

Cheap publicity - Adobe Photoshop is an amazing software - Picture shows Mr. Narendra Modi picture before and after editing. Dr Umashankar Mohanty obviously denies that he has done this!



Controversy-mired Dr Umashankar Mohanty courts yet another one.

The nation became coloured in a single swathe of tsunami over the weekend and indeed provided an opportunity for a multitude of Indians to get into celebration mode. It also elicited, in equal proportion, a rash of warring comments on social networking sites.

A photoshopped picture of the national president of the Indian Association of Physiotherapists (IAP), Dr Umashankar Mohanty, on his Facebook homepage is one such, which has elicited strong reactions from within the fraternity.

Medical practitioners have not taken too kindly to this exhibitionism displayed by the head of IAP, and have voiced their displeasure on Dr Mohanty's facebook *timeline*. While one picture shows Dr Mohanty greeting the PM-designate warmly, another shows him in a cozy tete-a-tete with him.

A physiotherapist from Aundh, Pune, India, was quick to share these images on his timeline to "show other members the level to which Dr Mohanty can stoop to garner eyeballs".

His fetish for publicity has put us all to shame.

This is simply embarrassing," he said. "He is our national president. He should be aware of the pros and cons of such an act. He can come under the IT and cyber crime scanner."

Other physiotherapists from all over the country have posted comments varying from — 'it's a heinous act' to 'he is defaming IAP' to 'leave physiotherapy and look at *photoshopping* as an alternate career'. When Mirror spoke to some of the professionals, they reacted in unison to what they term an exceptionally childish act. "It takes away from his equity as a leader," said one.

This does not befit the stature of the president of IAP." Dr Mohanty's career is dogged by controversy, one of them, said the physiotherapist from Sancheti, was when the election for the term of 2010-14 was declared invalid as Dr Mohanty had managed to fake votes and pump up the numbers in his favour. A case was registered against him at the Mumbai Branch of IAP and an inquiry is currently underway.

The newest turn on Facebook has simply added fuel to the fire. On the other hand, Dr. Bhanwar Singh Takhar, the national vice president, IAP, decided to make light of the issue. "I have not been on *Facebook* for the last two days. But I must see this. It's funny how he did not waste any time to speak his mind on the just concluded elections in such a manner.

However, he must also realise that he should not be copying and pasting such images as it could lead to serious offences too." In his defence, Dr Mohanty said, "It wasn't me who posted those photographs. My account must have been hacked." He cut the conversation short and refused to pick up our calls thereafter.

"We would have been happy to arrange a meeting with Modi if the national president of a medical fraternity so desired. There was no need for a cut-paste job," offered Rajesh Pande, general secretary, BJP, Pune city.

We would have been happy to arrange a meeting with Modi if IAP's national president so desired.

Source: Times of India.



CHEATING

11/18/2020

Examination Report



No: TMR/DELHI/EXM/2020/
भारत सरकार / GOVERNMENT OF INDIA
ब्राह्मण विज्ञान प्रविष्टि / TRADE MARKS REGISTRY
Intellectual Property Division, Plot No.32, Sector 14, DDA, New Delhi-110078 त्रिनः 28082015,28082916,28082917
Intellectual Property Division, Plot No.32, Sector 14, DDA, New Delhi-110078 त्रिनः 28082015,28082916,28082917



From : The Registrar of Trade Marks, DELHI

Date: 22/07/2020 19:00:34

To,
INDIAN ASSOCIATION OF PHYSIOTHERAPY
QTR.NO PVT-I PLOT NO PVT 9 KH.NO. 480 & 481 2ND FLOOR SHAKTI ENCLAV STREET NO 6 LAL DORA VILLAGE BURARI North Delhi DL 110084

Application No: 4543833 in Class/Classes : 44
In the name of M/s: INDIAN ASSOCIATION OF PHYSIOTHERAPY

Gentlemen/Madam,

The above mentioned application has been examined under the provisions of Trade Mark Act,1999 and Trade Mark Rules,2002 and the trade mark applied for is open to objection under the following sections :

1. The objection is raised under S 9(1) (b) of the Trade Marks Act 1999, as the mark consists exclusively of words or indications which may serve in trade to designate the intended purpose of the service or other characteristics of the service.

Hence, the above application is liable to be refused. Accordingly, you are requested to submit your response/submissions, if any, along-with supporting documents, with in One Month from the date of receipt of this Examination Report or you may apply for a hearing.

Please Note that if no reply is received or a request for a hearing is applied for within the above mentioned stipulated time, the said application shall be treated to have been abandoned for lack of prosecution under Section 132 of the Trade Marks Act,1999 and there after the status of applications in the computer database shall reflect the factual position.

Note: The reply should be submitted online through Comprehensive e-filing services or through email at parm.tmr@nic.in. With the subject as REPLY TO EXAMINATION REPORT.

Yours faithfully,
KARTIKI KHAPEKAR
For Registrar of Trade Marks

Search Report

11/18/2020

Examination Report

GOVERNMENT OF INDIA
TRADE MARKS REGISTRY



LOCATION:
SECTION: EXM
REPORT: EXM007

WORD MARK SEARCH REPORT
APPLICATION NUMBER: 4543833
Class : ---
TRADEMARK: 'INDIAN ASSOCIATION OF PHYSIOTHERAPY'

USER : KDK
PAGE:1
DATE: 21/07/2020

APPL NO	CLASS	CONFLICTING MARK	JOURNAL No	PROPRIETOR NAME	PROPRIETOR ADDRESS	STATUS	TM IMAGE
GOODS SERVICES							

KARTIKI KHAPEKAR
For REGISTRAR OF TRADE MARKS

Exit Print



COURT ORDER

AS PER THE ORDER OF CIVIL COURT GR.MUMBAI SUSPENSION OF DR.UMASANKAR MOHANTY IS CORRECT AND CEC DECISION IS UPHELD BY THE HON.COURT.

THE DISHONESTY AND ILLEGALITY DONE BY DR.MOHANTY IS MORE CLEAR NOW.

THE MAIN POINTS FROM ORDER AS FOLLOWS.

The defendant contended that the Association came to be registered with the office of the Charity Commissioner at Mumbai in 1955 and plaintiff conceived and adopted the trade mark of The Indian Association of Physiotherapist(with device) and has been continuously using since 01/01/2008. Thus due to above act of the plaintiff, he was suspended.

8. Prima facie from the document filed by the defendant, it appears that name of the defendant was registered under Trade Marks Act, 1999 and the same has been known as 'The Indian Association of Physiotherapists-IAP' and certificate was issued on 03/08/2017. The contention of the plaintiff is that plaintiff prepared the application in March-2020 but due to COVID-19 his application was not processed and same was filed in May-2020. On perusal of the document, it appears that IAP was already registered and therefore there was no occasion for the plaintiff to again register the same. The plaintiff, from the plaint averments continued as a President of (National Affair) of IAP till March, 2020, then for what reason the plaintiff has signed the affidavit on 04/05/2020 and under what capacity is not coming forward. The person who seeks equity must come with clean hands. The explanation of the plaintiff is that the procedure for trade mark registration was started on 14/03/2020 and due to Covid-19, affidavit could not be signed. The said explanation is not plausible. At that time, the plaintiff was not authorised by the defendant to process the application for registration of Trade Mark. Even when in the year 2017, defendant was registered under Trade Mark Act, then again there was no need for registration. Prima facie this conduct of the plaintiff cannot be ignored for grant of equitable relief. Be that as it may, whether the act of the plaintiff is detrimental to the interest of the defendant, inquiry to that effect is initiated and therefore finding in

that regard would not be proper. Article-6 of the Memorandum of Association and the rules and regulations of the defendant contemplated disciplinary action. The same is reproduced as under:-
"Disciplinary action-The Central executive committee of IAP shall be competent to initiate appropriate disciplinary action against a District

branch/member for a violation of the rules & regulations of the associations or for any unethical, defamatory, malicious, fraudulent behaviour or may gross professional misconduct on the part of the member of the association. The punishment therefore may be suspension for a fixed period or expulsion by the approval of CEC.”

The power as to punish the member for violation of the rules and regulations or any unethical, fraudulent and misconduct on the part of the members leads to suspension. The action of the defendant is supported by article-6 which does not contemplate that before the suspension the plaintiff is required to be heard. The contention of the defendant is that inquiry has been initiated and show cause notice has been issued to the plaintiff and therefore it cannot be said that the act

of the defendant is against the principle of natural justice. The

defendant found that act of the plaintiff is ex facie gross

misconduct. The suspension notice shows that the meeting was held on 20/11/2020 and plaintiff was immediately suspended for 10 years. The action was within the framework of Memorandum of Association. Therefore, when the inquiry has been initiated and the plaintiff has received communication in that regard, it would not be proper to stay the suspension of the plaintiff. There is no material to show that any defamatory article was published against the plaintiff by the defendant.

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The publication of the suspension order on the website cannot be said to be defamatory article and it is for the knowledge of members of association. Therefore, there is nothing to show that the defendant has defamed the plaintiff. Thus, the plaintiff has not made out prima facie case for grant of interim relief. The inquiry for the act and omission of the plaintiff initiated and is in progress, therefore the needle of balance of convenience does not tilt in favour of the plaintiff. The plaintiff has opportunity to address his issue before the inquiry officer and in that eventuality no irreparable loss would be caused to the plaintiff if the interim relief is not granted.

Hence, I answer point
nos.1 to 3 in the negative.
Point No.4

9. In view of the above discussion, the notice of motion
needs no consideration. Hence, it is expedient to pass following order:-

ORDER

1. N/M No.111/21 stands rejected.
2. Costs in the cause.

01/02/2021 M.SALMAN AZMI

**CITY CIVIL COURT,
GR.MUMBAI**



WEB COPY

Cr.L.R.C.No.1629 of 21



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2022

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Cr.L.R.C.No.1629 of 2022

The Indian Association of Physiotherapists,
(A Society Registered under the Societies
Registration Act, 1860).
6/4 Co.Work,7th & 8th Floor,
Times Square Building,
Western Express Highway, Andheri East,
Mumbai, Mharastra 69
through its Joint Secretary
Dr.Joji M John

.. Petitioner

/versus/

Dr.Umashankar Mohanty

.. Respondent

Prayer : Criminal Revision Petition filed under Section 397 r/w Section 401 of Cr.P.C., to set aside the order dated 18.07.2022 passed by the learned Judicial Magistrate (JM-1), Alandur in Cr.L.M.P.No.3325 of 2021 by allowing this Criminal Revision.

For petitioner

...Mr.B.Kumar, Senior counsel for
Mr.G.Mani Prabhu

<https://www.mhc.tn.gov.in/judis>

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Crl.R.C.No.1629 of 21



ORDER

WEB COPY This Criminal Revision Case is filed against the impugned order passed by the learned Judicial Magistrate No.1, Alandur in Crl.M.P.No.3325 of 2021, dated 18.07.2022.

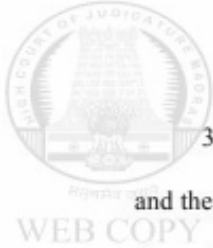
2. The learned counsel appearing for the petitioner submitted that the complainant is the Indian Association of Physiotherapists registered under Societies Registration Act, 1860 bearing Reg.No.3376 of 1955-56. One Mr.Joji M.John is the Joint Secretary of the Central Executive Committee. The accused/respondent was a Member of the complainant's Association from 1999. He fraudulently filed an application No.4497465 dated 08.05.2020 for registration of the trade mark "The Indian Association of Physiotherapists" with device under the Trade Marks Act, 1999 before the Registrar of Trade Marks, Intellectual Property Building, GST Road, Guindy, Chennai. The said device is identical with the trade mark. The said identical trademark of the complainant as claimed by the accused as his own for its registration under the Trade Marks Act, 1999 was already adopted and used by the complainant from 1955-56.

<https://www.mhc.tn.gov.in/judis>

2/7

NEWS LETTER - THE INDIAN ASSOCIATION OF PHYSIOTHERAPISTS - DEC, 2022

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Crl.R.C.No.1629 of 21



3. The accused was being member of the petitioner Association and the President of Central Executive Committee had known the facts about the certificate of registration of trademark by the Association. Therefore, he fraudulently filed an application No.4497465 before the Registrar of Trade marks, Chennai. Further, by his own affidavit, he admitted that using the trade mark prior with device from 2008 to2020, which is violated the provisions under Sections 102 and 103 of the Trade Marks Act, 1999 and also committed the offence punishable under Sections 191, 192 and 193 of IPC. Therefore, the complainant filed a private complaint. The learned Judge has dismissed the complaint on the ground that the accused withdrew his application, which was filed by him before the Registrar of Trade Mark. Further, the trial Court has misconceived the provisions of Sections 191 to 193 of IPC and Sections 102 and 103 of the Trademarks Act, since the application has been withdrawn by the accused, the offence is not made out. But, contrary to the facts, the accused himself admitted that he had used the name of the Association and earned money. The trial Court failed to consider the above said statement of the accused, which was filed before the Registration Authority. In his affidavit, para Nos.3 to 10 reveals that he gained name and money by using the trade mark "Indian Association of Physiotherapists". Hence, he violated the trademark provisions and he is

<https://www.mhc.tn.gov.in/judis>

3/7

NEWS LETTER - THE INDIAN ASSOCIATION OF PHYSIOTHERAPISTS - DEC, 2022

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Cr.L.R.C.No.1629 of 21



attracted under Sections 102 and 103 of the Trade Marks Act, besides for the offence punishable under Sections 191 to 193 of IPC. He further submitted that the Court below, without sending process under Section 203 of Cr.P.C., only after recording sworn statement of the complainant, has dismissed the complaint.

4. I have considered the submissions made on the side of the petitioner and perused the documents available on record.

5. On perusal of the records, it reveals that the private complaint filed by the petitioner has been dismissed without sending process under Section 203 of Cr.P.C. Hence, this Court has not ordered notice before deciding this revision.

6. The accused himself in the supportive affidavit filed in Doc.No.1 at para Nos.3 and 7 has stated as follows:-

“3. I am engaged as service of Physiotherapy (Physical therapy) (hereinafter referred to as “said Goods/services”), which are provided under the said Trademark “THE INDIAN ASSOCIATION OF PHYSIOTHERAPISTS (With Device)”.

7.I have affected considerable sales/business under the said Trade mark and from the date of commencement

<https://www.mhc.tn.gov.in/judis>

4/7



WEB COPY

Cr.L.R.C.No.1629 of 21



of the use of the said mark, sales have amounted to approximately Rs.6,00,000.”

7. This affidavit of the accused shows that he had used the name of the Indian Association of Physiotherapists as trademark for service and sales. Therefore, prima facie, the offence is made out to be taken for violation of Sections 102 and 103 of the Trademarks Act and Sections 191 to 193 of IPC. Therefore, just withdrawing his application for registration of trademark under the Trade Mark Act, 1999, will not absolve the statement of accused and there is a prima facie cognizable offence made out for issuing process.

8. The allegation in the complaint besides the affidavit filed by the accused before the Trade Mark Registrar may sufficient ground for proceeding against the accused for the alleged offence under Sections 102, 103 of the Trade Marks Act along with Sections 191 to 193 of IPC. Hence, The order impugned is liable to be set aside. Accordingly, this Criminal Revision Case is allowed with a direction to the Judicial Magistrate No.1, Alandur for taking cognizance of the complaint and issue process to the accused and to dispose of on merits and in accordance with law.

21.12.2022

ari
Index:yes/no

<https://www.mhc.tn.gov.in/judis>

5/7

NEWS LETTER - THE INDIAN ASSOCIATION OF PHYSIOTHERAPISTS - DEC, 2022

-- 60 --



To:
The Judicial Magistrate (JM-1), Alandur

WEB COPY

CrI.R.C.No.1629 of 21



V.SIVAGNANAM,J.

<https://www.mhc.tn.gov.in/judis>

6/7



ari

Crl.R.C.No.1629 of 2022

21.12.2022

IX METROPOLITAN MAGISTRATE COURT, SAIDAPET, CH-15
PRESENT. Tmt. S. Mohanambal, M.A., B.Ed., M.L.,
IX METROPOLITAN MAGISTRATE,
Crl.M.P.NO.367/2021,
Dated 27th September 2021

The Indian Association of Physiotherapists,
A society registered under the Societies
Registration Act 1860,
Registered Address No. 6/4 Co. Work,
7th and 8th Floor, Times Square Building,
Western Express Highway, Andheri East,
Mumbai 69, Maharashtra,
through its Joint Secretary
Dr. Joji M John residing at
Ayur Hut, Opp hare Krishna Temple,
Gaziabad.

..... Complainant

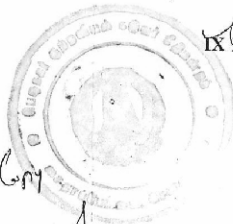
-Vs-

Dr. Umashankar Mohanty,
Aged about 45 Years,
Occupation : Physiotherapists
Resident of flat No. 806,
Vajreshwari Apartment,
Vithoba Temple Road, Near Car Street,
Mangalore, Karnataka 575 001

..... Accused

ORDER

Complainant present and heard. Documents perused. Forwarded to the
Assistant Commissioner of Police , U/s. 202(1) Cr.P.C. to enquire the matter and to
get the opinion of the concerned Registrar of Trade Marks, Guindy and to file the
report regarding the Commission of offences alleged against the accused, on (or) before
18.10.2021



S. Mohanambal
IX Metropolitan Magistrate,
Saidapet, Chennai - 15.

Received Copy

X.B.R.
21/10/21

J3 x
01.10.21

IDENTIFIED XEROX COPY

22/10/21
22/10/21

CA no. 2266/21
Cm.m.p no. 367/21
METROPOLITAN MAGISTRATES COURT
SALDAPET, CHENNAI - 15.
APPLICATION MADE ON..... 30/9/21
STAMP PAPERS DEPOSITED ON..... 22/10/21
STAMP PAPERS CALLED ON..... 12/10/21
COPY READY ON..... 22/10/21
COPY STAMP PAPERS DELIVERED ON..... 22/10/21

1/2

22/10/21
SUPT. OF COPYIST
COPYIST SEC

Certified that the 8 pages of copies
are contained in this C.A. and Court Fees of
Rupees 8/10 is paid and same is sufficient

Examiner
Pr.C.J.A. JMFC, Mangaluru

IN THE COURT OF THE IV ADDL.CIVIL JUDGE & J.M.F.C.,
MANGALURU, D.K.

PRESENT: Sri. Guruprasad C.,B.A.L., LLB.,
IV Addl.Civil Judge & JMFC.,
Mangaluru.

Dated on this 10th day of March, 2022

ORIGINAL SUIT No.219/2021

Between:

Dr. Umasankar Mohanty,
Aged 44 years,
S/o. Mr. Golak Bihari Mohanty,
MPT Ph.d., 301-302,
3rd Floor, Janvi Plaza,
Bunts Hostel Road,
Mangaluru - 575 003.

... **Plaintiff**

(By Adv.: Sri K.S.R.)

-And-

1. Dr. Joji Mo John, Adult,
HOD, Physiotherapy Department,
Yashoda Hospitals,
Nehrunagar, Ghaziabad - 201 001,
Uttar Pradesh (India).

Dr. Stiti Pragyan Dalbchera, adult,
HOD, Physiotherapy Dept.,
IMS SUM Hospital, (SOA deemed to
be university), Bhubaneswar,
Odisha.

... **Defendants**

Adv. Sri R.K.G./SAPM.



Signature

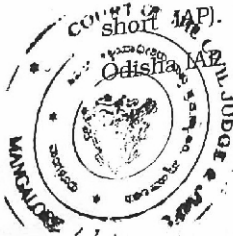
In I.A. No.2Dr. Umasankar Mohanty ... **Applicant****-And-**Dr. Joji M. John and another **Opponents****ORDERS ON IA .No.2 FILED UNDER ORDER XXXIX RULE
1 AND 2 R/W. SECTION 151 OF C.P.C.**

The plaintiff has filed this I.A. seeking an order of temporary injunction restraining the defendants from making any libelous, slanderous or any defamatory statements against him, till the disposal of the suit.

2. The suit is one for damages and permanent prohibitory injunction.

3. In the affidavit annexed to the application, the plaintiff avers that he is a physiotherapist. He has got Ph.d. from Mangaluru University. He has trained more than 25,000/- physiotherapists around the world. He has established a great reputation not only in India, but also abroad.

4. It is further averred that defendant NO.1 is the Joint Secretary of Indian Association of physiotherapists (in short IAP). The defendant NO.2 is the State President of Odisha IAP. They have ramped up to attack on the reputation



Pro/John

of the plaintiff. They are trying to spoil the reputation of the plaintiff by using social media like Whatsapp and facebook by forwarding messages defaming him.

5. It is further averred that the plaintiff being the President of IAP has never used his position to mock, belittle, suspend or punish the defendants. He had submitted an affidavit after his presidency in order to complete the last step of obtaining copyright and trademark for the IAP. He has signed an affidavit in good faith for the benefit of IAP. For the said reason, the defendants are defaming him though he has not acted against the IAP. If the defendants are not restrained, they will spread and ill things about the plaintiff. Therefore, the plaintiff had to file this suit as well as I.A. for the above said reliefs.

6. The plaintiff pleaded that he has prima facie case, balance of convenience lies in his favour and an irreparable loss will be caused to him if I.A. is rejected. Hence, prayed to allow the application.

7. The defendants have appeared before the court through their counsel and filed counter to the I.A. as well as written statement. In the counter, they deny the averments made in the affidavit. They aver that they have filed detailed written statement dealing with the factual aspects and the same may be treated as the reply to the application. They contend that they have not made any illegal acts as alleged by



Handwritten signature

the plaintiff. The plaintiff has been suspended on true and correct facts. He has not come to the court with clean hands. He has suppressed the actual facts and misrepresented the court. Accordingly, prayed to dismiss the application.

8. Heard both sides.
9. Perused all materials available on record.
10. Now the points that arise for consideration are as follows;
 1. Whether the plaintiff has made out prima-facie case?
 2. Whether the balance of convenience lies in favour of the plaintiff?
 3. Whether irreparable loss or hardship would be caused to the plaintiff, if the injunction is not granted in his favour?
 4. What order?
11. My answers to the above points are as under:

Point No.1 : In the Negative

Point No.2 : Does not survive for consideration

Point No.3 : Does not survive for consideration

Point No.4 : As per final order for the following:



REASONS

12. **Point No.1:-** The plaintiff alleges that the defendants No.1 and 2 are spreading rumors and harming his

Prakash

reputation on the ground that he has been suspended from IAP. He has a good reputation in the society. He is an academician. He had filed affidavit in support of IAP in order to benefit the IAP and he has not misused his power as a President of IAP. In order to show that he is a reputed personality, the plaintiff has filed various documents such as, his convocation certificate for having completed doctor of Philosophy, invitations for various conferences, correspondences made by different colleges calling him as guest of honorer. These documents would prima-fecie show that the plaintiff is a reputed personnel. However, the defence of the defendants is that the plaintiff being the President of IAP has misused his position and filed false affidavit before the trade mark authority.

13. Admittedly, the plaintiff has been suspended by IAP. In the plaint, he avers that he has filed an other suit against IAP before the City Civil Court, Mumbai challenging his suspension. Thus, the legality of suspension of the plaintiff is pending consideration before a different court. Though he has pleaded that another suit has been filed against the IAP, he has suppressed fact that he had already filed a similar application restraining the officials and office bearers of IAP from publishing articles or circulating it against his reputation. Copy of the order of the Hon'ble I Addl. Sessions Judge of Mumbai in Suit No.77/2021 produced by the defendants show that the plaintiff had already filed a similar



Prakash

application to restrain the office bearers of IAP from circulating any article against the plaintiff which are defamatory in nature. The said application has been dismissed by Hon'ble I Addl. Sessions Court, Mumbai.

14. The said order was dated 01.02.2021. This suit is filed on 20.02.2021. Thus, this suit is filed after an order of dismissal of the similar I.A before the City Civil Court, Mumbai. The plaintiff had the knowledge that the Mumbai Court has dismissed his application for temporary injunction. He has suppressed the dismissal of the application and filed this application before this court. Therefore, the plaintiff is guilty of *suppresio veri and suggestion falsi*.

15. It is well settled that the person who claims equity has to come with clean hands before the court. The plaintiff having suppressed the dismissal of I.A., has not come with clean hands. Hence it cannot be said that the plaintiff has made out prima facie case.

16. Further, the plaintiff himself admits that after his Presidency, he has filed affidavit claiming that he is the president, but he canvases that only to benefit the I.A.P, he had filed such affidavit. Whether the plaintiff has filed the affidavit for the benefit of IAP in good faith or not, has to be decided by Hon'ble Court of Mumbai, wherein that question is pending consideration and the suspension of the plaintiff on the ground of filing false affidavit has not been lifted.

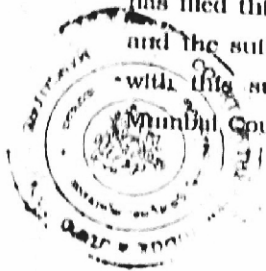


Golshan

Therefore, the plaintiff cannot say that publishing or circulating articles on his suspension are defamatory.

17. Further, the plaintiff has produced whatsapp messages stating that defendants No.1 and 2 are spreading ill facts against him. Careful perusal of above messages would reveal that they are the conversations of office bearers/members of IAP. They have conversed about the suspection of the plaintiff as well as the order passed by the Hon'ble Sessions Court of Mumbai. Those conversions cannot be said to be defamatory as they are relating to facts. Furthermore, it has to be taken note that in those conversations not only the defendants No.1 and 2, but other members of IAP are also involved. The plaintiff choose to file the suit seeking an order of injunction only against the defendants No.1 and 2 who are none of the members/office bearers of the association. Thus, I feel that plaintiff laks bonafide.

18. It is the argument of the learned counsel for plaintiff that, the plaintiff had filed suit against IAP and not against these 2 defendants. These defendants were spreading ill facts against plaintiff, hurting his reputation. Therefore he has filed this suit against these defendants before this court and the suit filed before the Mumbai court is nothing to do with this suit. It is to be noted that, though before the Mumbai Court the plaintiff has filed suit against IAP, he has



Prakash

sought for an order of temporary injunction against office bearers and other members of IAP. The defendants are one of the office bearers of IAP. It prima-facie appears that only in order to grab an order of temporary injection, the plaintiff has chosen these defendants and filed the suit. For the above said reasons, I am of the opinion that the plaintiff has failed to show the prima facie case. Accordingly, **point No.1 is answered in the Negative.**

19. Points No.2 and 3 :- Since point No.1 is answered in the Negative, question of considering balance of convenience and irreparable loss do not survive for consideration. Hence, points No.2 and 3 are answered as do not survive for consideration.

20. Point No.4: In view of my findings on Points No.1 to 3, I proceed to pass the following:

C.A.No.: 1597/22
 Case No.: OS 219/21.
 Adv. Name:

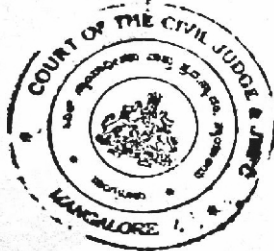
SAPM

ORDER

I.A. No.2 filed by the plaintiff under Order XXXIX Rule 1 and 2 r/w Section 151 of CPC is hereby dismissed with costs.

(Dictated to the Stenographer, transcript revised and corrected by me and pronounced in the open Court, on this 10th day of March, 2022

6. Copy filed on	17/3/22
7. Copy delivered on	30/3
8. Copy filed by	31/3
9. Examined by	1/4
	11/4/22



Guruprasad C.
 (GURUPRASAD C.)
 IV Addl. Civil Judge
 Mangaluru.

Certified that this is a true accurate copy of original, all the matters appearing in the original has been faithfully copied with no modification.

[Signature]
 Ex. Amr
 s.r.C.J. & J.M.C. Mangaluru.

MHCC010002282021



Presented on : 11-01-2021
Registered on : 11-01-2021
Decided on : 01-02-2021
Duration : 0 years, 0 months, 21 days

**IN THE COURT OF
COURT 1 ADDL SESSIONS JUDGE AT Mumbai, Mumbai
Presided Over by HHJ SHRI. M. S. AZMI**

NOTICE OF MOTION/100111/2021

**IN
SUIT NO.77 OF 2021**

Dr. Umasankar Mohanty
aged about 44 years, Hindu adult, Indian
Inhabitant, having address at 301-302,
3rd floor, Janvi Plaza, Bunts Hostel Road,
Manglore, Karnataka-575003
Mob:-9448194132 ..Plaintiff

V/s

The Indian Association of
Physiotherapists
An Association registered under the
Societies Act XXI of 1860, through its
office bearer, having office at 111-B,
Pocket-1, Mayur Vihar Phase-1
Delhi-110091. ..Defendant

Advocate for plaintiff : Kunal Tiwari
Advocate for defendant: Deepak Trivedi

ORAL ORDER
(Delivered on 01-02-2021)

1. By this notice of motion, the plaintiff seeks stay to the order dated 25/26-11-2020 of suspension of the plaintiff from defendant, restraining defendant their office bearers, servants, employees, agents, officers, representatives or persons from publishing/forwarding any content on social media and/or circulating any article against the plaintiff which are defamatory, derogatory in nature and restraining the defendant from taking any coercive action against the plaintiff.
2. In short the case of the plaintiff is that plaintiff is physiotherapist by profession and he was President in The Indian Association of Physiotherapists (hereinafter referred to as **IAP**) from 2011 to 2017 and in the year 2017, the plaintiff was President (National Affair) of IAP and continued till March 2020. The plaintiff on 25/11/2020 at about 5.30 pm, was informed by one of his friend that an article has been published on website of IAP with several allegations against the plaintiff and he was suspended from the membership of the defendant. The said article was forwarded to various social media platform and circulated on whatsapp group by the office bearers of defendant. The plaintiff came to sudden shock to know

about the same and submitted his response over his social media account with clarification. The defendant issued a show cause notice on 26/11/2020 which was received by the plaintiff through e-mail on the very same day. The plaintiff replied the said notice by his letter dated 07/12/2020. It is contended by the plaintiff that defendant with malafide intention had suspended the plaintiff. The Central Executive Committee(hereinafter referred to as **CEC**) has failed to call the General Body meeting to take the decision of suspension of the plaintiff as prescribed under rules and regulations of IAP. No CEC is called to hand over the power and hence newly elected members are powerless until and unless the power has been assigned to them under the procedure of defendant. Since the plaintiff has been raising the question on functioning and illegality committed by the committee members and for which the plaintiff has been suspended from the membership and therefore the plaintiff has filed the suit with accompanying notice of motion.

3. The defendant filed reply to the notice of motion. The contention of the defendant is that the suit is not maintainable as the plaintiff is residing and carrying on his profession from Manglore. The office of the defendant is at Delhi and application for registration of trade mark in the name of the defendant was made at Chhenai on 07/05/2020 by the plaintiff. The order of suspension was served upon the plaintiff at Manglore and reply to the

suspension order was given by the plaintiff by his letter dated 07/12/2020 at Mangalore. The meeting of CEC of the defendant was held at New Delhi on 21st and 22nd November 2020 and during the said meeting decision was taken to put the plaintiff's membership under suspension for the gross misconduct and initiate inquiry. The inquiry is initiated as per Article-6 and the disciplinary action is also contemplated under the said article. The plaintiff was called for the hearing and for explanation on 10/12/2020 at Delhi. However, the plaintiff lodged the present suit on 09/12/2020 and did not appear on 10/12/2020. The defendant prayed for dismissal of the notice of motion.

4. On the basis of rival contentions of the parties, following points arise for my determination and findings to it are recorded for the reasons stated hereinafter:-

POINTS

- (i) Whether the plaintiff has made out a prima facie case in his favour?
- (ii) Whether the needle of balance of convenience tilt in favour of plaintiff?
- (iii) To whom irreparable loss would be caused?
- (iv) What order?

FINDINGS

- (i) In the negative
- (ii) In the negative
- (iii) Not to the plaintiff

(vi) As per final order

REASONS

Point Nos. 1 to 3

5. At the outset it is to be made clear that this Court is not sitting as an Appellate Authority for any action of the defendant. Only the Court has to see whether action of the defendant is arbitrary and against the principles of natural justice. The defendant is having its own Memorandum of Association and Rules and Regulations. Those are to be strictly adhered.

6. The contention of the plaintiff is that the plaintiff was President of defendant till 2017 and since the year 2017 till March-2020, the plaintiff was President(National Affairs) of defendant. The address of President is considered to be the office of the IAP and accordingly all the formalities in favour of the defendant used to happen from office of the President of defendant. The plaintiff during his tenure proposed to register the logo in the name of defendant before the Trade Mark Registry and commenced the procedure from 14/03/2020 and due to Covid-19 there was delay in signing the affidavit and on 04/05/2020 submitted all the documents which were required for the purpose of the Trademark registration under the guidance of agency. The present committee is involved in misappropriation of funds and opened an account in the name of association with Pan card of trust which is already deregistered and power has been given to one Ms.Ruchi Garg, however there is no committee member with the same name. The

plaintiff has exposed the illegal acts of the committee members and therefore has to face the arbitrary action of the defendant. He would submit that on 25/11/2020 at about 5.30 pm, the plaintiff was informed by one of the friend that an article has been published on website of IAP with several allegations against the plaintiff and he was suspended from the membership of the defendant. The plaintiff received Show Cause notice dated 26/11/2020.

7. The contention of the defendant is that name of the defendant was registered in Society Registration Act and under Trade Marks Act, 1999 and the same has been known as The Indian Association of Physiotherapists-IAP. The registration certificate was issued on 03/08/2017. The plaintiff made application at Chennai on 07/05/2020 for issuance of the Trade Mark 'The Indian Association of Physiotherapist(with device)' without any authority, and tried to get the work mark in his sole proprietorship i.e. in the same name which was registered earlier. The plaintiff has filed the application and the address of the user is shown as of plaintiff i.e. of Mangalore. It is contended by the plaintiff in trade mark application that the trade mark is used by the plaintiff or its predecessor in title since 01/01/2008 and he has effected considerable sales/business under the trade mark and from the date of commencement of the use of the said mark, sales have amounted to approximately Rs.6 lacs. The contention of defendant is that all the information was incorrect and submitted with ulterior motive. The defendant contended that the Association came to be registered with the office of the Charity Commissioner at Mumbai in 1955 and plaintiff conceived and adopted the trade mark of The Indian

Association of Physiotherapist(with device) and has been continuously using since 01/01/2008. Thus due to above act of the plaintiff, he was suspended.

8. Prima facie from the document filed by the defendant, it appears that name of the defendant was registered under Trade Marks Act, 1999 and the same has been known as 'The Indian Association of Physiotherapists-IAP' and certificate was issued on 03/08/2017. The contention of the plaintiff is that plaintiff prepared the application in March-2020 but due to COVID-19 his application was not processed and same was filed in May-2020. On perusal of the document, it appears that IAP was already registered and therefore there was no occasion for the plaintiff to again register the same. The plaintiff, from the plaint averments continued as a President of (National Affair) of IAP till March, 2020, then for what reason the plaintiff has signed the affidavit on 04/05/2020 and under what capacity is not coming forward. The person who seeks equity must come with clean hands. The explanation of the plaintiff is that the procedure for trade mark registration was started on 14/03/2020 and due to Covid-19, affidavit could not be signed. The said explanation is not plausible. At that time, the plaintiff was not authorised by the defendant to process the application for registration of Trade Mark. Even when in the year 2017, defendant was registered under Trade Mark Act, then again there was no need for registration. Prima facie this conduct of the plaintiff cannot be ignored for grant of equitable relief. Be that as it may, whether the act of the plaintiff is detrimental to the interest of the defendant, inquiry to that effect is initiated and therefore finding in

that regard would not be proper. Article-6 of the Memorandum of Association and the rules and regulations of the defendant contemplated disciplinary action. The same is reproduced as under:-

“Disciplinary action-The Central executive committee of IAP shall be competent to initiate appropriate disciplinary action against a District branch/member for a violation of the rules & regulations of the associations or for any unethical, defamatory, malicious, fraudulent behaviour or may gross professional misconduct on the part of the member of the association. The punishment therefore may be suspension for a fixed period or expulsion by the approval of CEC.”

The power as to punish the member for violation of the rules and regulations or any unethical, fraudulent and misconduct on the part of the members leads to suspension. The action of the defendant is supported by article-6 which does not contemplate that before the suspension the plaintiff is required to be heard. The contention of the defendant is that inquiry has been initiated and show cause notice has been issued to the plaintiff and therefore it cannot be said that the act of the defendant is against the principle of natural justice. The defendant found that act of the plaintiff is ex facie gross misconduct. The suspension notice shows that the meeting was held on 20/11/2020 and plaintiff was immediately suspended for 10 years. The action was within the framework of Memorandum of Association. Therefore, when the inquiry has been initiated and the plaintiff has received communication in that regard, it would not be proper to stay the suspension of the plaintiff. There is no material to show that any defamatory article was published against the plaintiff by the defendant.

The publication of the suspension order on the website cannot said to be defamatory article and it is for the knowledge of members of association. Therefore, there is nothing to show that the defendant has defamed the plaintiff. Thus, the plaintiff has not made out prima facie case for grant of interim relief. The inquiry for the act and omission of the plaintiff initiated and is in progress, therefore the needle of balance of convenience does not tilt in favour of the plaintiff. The plaintiff has opportunity to address his issue before the inquiry officer and in that eventuality no irreparable loss would be caused to the plaintiff if the interim relief is not granted. **Hence, I answer point nos.1 to 3 in the negative.**

Point No.4

9. In view of the above discussion, the notice of motion needs no consideration. Hence, it is expedient to pass following order:-

ORDER

1. N/M No.111/21 stands rejected.
2. Costs in the cause.

01/02/2021

**M.SALMAN AZMI
CITY CIVIL COURT,
GR.MUMBAL.**

**Dictated on: 01/02/2021
Transcribed on: 03/02/2021
Signed on: 04/02/2021**

'CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER'.

04/02/2021 at 1.30 pm.

MRS.T.C.KAMBLE

Name of the Judge	HHJ SHRI M.S.AZMI, CR NO.1
Date of Pronouncement of judgment/order	01/02/2021
Judgment and order signed by P.O.	04/02/2021
Judgment/order uploaded on	04/02/2021



COURT CASES

NEWS LETTER - THE INDIAN ASSOCIATION OF PHYSIOTHERAPISTS - DEC, 2022

--83--

IN THE ESTABLISHMENT OF CIVIL JUDGE,
JUNIOR DIVISION, RANCHI
FILING NO. ____ OF 2020
IN THE COURT OF CIVIL JUDGE, JUNIOR DIVISION, RANCHI
IN THE COURT OF MUNSIF AT RANCHI
CIVIL MISCELLANEOUS PETITION NO. ____ 12020
FILING NO.
ARISING OUT OF
ORIGINAL SUIT NO. 806/2020
DIVISION, RANCHI

Dr.Ajit Kumar. .. Plaintiff/Petitioner

Versus

Indian Association Of Physiotherapists & 21 Ors..

..Defendants/ Opposite party

Reply to the Misc Petition filed

XXXIX Rule 1 and 2 of CPC rw 151

of CPC.

I, Dr. _____ aged about _____ the

Secretary of the Defendant No 1 having my office address at

PAGE 15

IN THE COURT OF LD. CIVIL JUDGE (EAST)

KARKARDOOMA COURTS: NEW DELHI.

CIVIL SUIT NO. 236 OF 2021

IN THE MATTER OF:

Dr. PRABHAT RANJAN

..PLAINTIFF

VERSUS

THE INDIAN ASSOCIATION OF
PHYSIOTHERAPISTS & ORS.

... DEFENDANTS

Affidavit in reply of Defendant No.2

I, Dr.Sanjiv K Jha, President of the Defendant No.1 having my residence at 702 /B1 Shahnai Residency A.B Road ,Indore 452010, do hereby solemnly affirm and state as under:-,

1. I have read the copy of the plaint dated 5th March 2021 and have also gone through the copy of the application made for grant of injunction dated 5th March 2021. I have perused all the available records of the defendant No.1 and I am also personally conversant with the facts of the case

Page 1 / 16

..... Affidavit in reply to oppose

**IN THE COURT OF LD. CIVIL JUDGE (EAST)
KARKARDOOMA COURTS: NEW DELHI.
CIVIL SUIT NO. 311 OF 2021**

IN THE MATTER OF:

DR. UMASHANKAR MOHANTY ...PLAINTIFF
VERSUS
THE INDIAN ASSOCIATION OF
PHYSIOTHERAPISTS & ORS. ...DEFENDANTS

AFFIDAVIT

I, Sanjiv K. Jha, S/o. Shri Suresh Jha aged about 49 years, currently serving as President, Indian Association of Physiotherapists (I.A.P.) having registered office at Mascots Cowork, 7th & 8th Floor, Times Square, Ctc 349 & 349-1, W.e.Highway, Bima Nagar, Nr Sai Service, Andheri East, Mumbai 400069, Maharashtra, do hereby solemnly affirm and state as under.: -

1. That I am the Defendant No.2 in the above captioned suit. That in my above-mentioned official capacity, I am fully conversant with the facts and circumstances of the present case based on official records as well as on the records of the case and hence competent to swear this affidavit.
2. I say that the accompanying _____ in the above-captioned suit containing pages () to (), has been drafted by my counsel, under my instructions and the contents of the same are requested to be read as part of this affidavit, as the same are not repeated herein for the sake of brevity. That the statement of facts contained therein are true and correct to my knowledge and legal submissions made therein are as per the leg. _____ e to be true and correct.

IN THE COURT OF THE IV ADDL. CIVIL JUDGE & J.M.F.C., MANGALURU, D. K.

O. S. NO. 219 OF 2021

Between:

Dr. UMASANKAR MOHANTY

..... Plaintiff

AND

1. Dr. JOJI M. JOHN,

2. Dr. STITI PRAGYAN DALBEHERA

... Defendants

**WRITTEN STATEMENT OF DEFENDANTS UNDER ORDER VII RULE 1 of
CPC.**

That the defendants named above submits as follows:

1. That the suit as filed by the Plaintiff is not maintainable either in law or on facts as the suit filed by the Plaintiff as against the defendants is false, bogus and vexatious etc .

2. With reference to paragraph 1 to 7 of the plaint these defendants are not aware whether the plaintiff is empanel independent Director of Ministry of Corporate Affairs Government of India or he is having or he is a guide at the University of Meghalaya. These defendants are not aware whether the plaintiff was invited by the Indian Council of Medical Research in their social movement or that plaintiff has authored several books. Defendants are also not aware whether plaintiff was invited to deliver lecture by various universities in India as well as abroad. As far as action against the Plaintiff which are mournfully narrated here below, these defendants are not at all interested in academic carrier of the plaintiff .The defendants are concerned with misconduct committed by plaintiff as a member of IAP. These defendants deny rest of the contentions and put the plaintiff to the strict proof thereof. This defendants submits that when the act of the Plaintiff is illegal and same is against the law , then he cannot take shelter by referring to various facts with reference to his reputation When the action of the Plaintiff is illegal under law as mentioned here below ,reputation of the Plaintiff is secondary and just because of such reputation of the Plaintiff , his illegal act will not become legal and also just because he has good reputation ,it is not free licence to do the illegal acts according to his whim and fancy .

3. With reference to paragraph 8 to 14 of the plaint these defendants deny that defendants are constantly engaged in tarnishing reputation and social respect of the plaintiff since last two years through social media campaign in Face Book and WhatsApp in ulterior motive. These defendants say that these defendants have actively supported the plaintiff when plaintiff was acting as a president of IAP and no harassment or allegation has been made against the plaintiff. But in the year 2020 when the illegal act of the plaintiff came to light, the IAP decided to initiate action against the Plaintiff. In the year 2021, the plaintiff filed a trademark filed by the plaintiff on 09/05/2020 and at paragraph no. 14 iii of the plaint it is stated by the plaintiff that the



SUSPENDED & TERMINATED FROM IAP



Glimpse of Kolkata Conference 2022



The Indian Association of
Physiotherapists
An ISO 9001:2015 Certified Association



**World
Physiotherapy**
MEMBER ORGANISATION

Central Executive Committee



Dr. Sanjiv Kr. Jha (PT)
National President, IAP



Dr. Suresh Babu Reddy (PT)
Vice President, IAP



Dr. K. M. Annamalai (PT)
General Secretary, IAP



Dr. Ruchi Varshney (PT)
Treasurer, IAP



Dr. Ali Irani (PT)
Chairperson International
affairs, IAP



Dr. Ketan Bhatkar (PT)
Ex-Office, IAP



Dr. C. K. Senthil Kumar (PT)
Joint Secretary, South Zone



Dr. Joji M John (PT)
Joint Secretary, East Zone



Dr. Nehal Shah (PT)
Joint Secretary, West Zone



Dr. Vivek Jain (PT)
Joint Secretary, Central Zone



Dr. Md. Sushail (PT)
CEC, North Zone



Dr. Masarat Safi (PT)
CEC, North Zone



Dr. A. Ranjan Samuel (PT)
CEC, South Zone



Dr. Anjani Kumar (PT)
CEC, South Zone



Dr. Rishi Raj (PT)
CEC, East Zone



Dr. Dinesh Kr. Samujh (PT)
CEC, East Zone



Dr. Reshma Khurana (PT)
CEC, Central Zone



Dr. Uma Sengupta (PT)
CEC, Central Zone



Dr. Sudeep Kale (PT)
CEC, West Zone



Dr. Achal Vash (PT)
CEC, West Zone