

W.P.(C) No.17/2026



2026:KER:76394

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2026 / 8TH ASWINA, 1948

WP(C) NO. 17 OF 2026

PETITIONER:

JOHN VADASSERY
AGED 53 YEARS, SON OF V.L. ITTIARA
ADVOCATE & TRADEMARK ATTORNEY,
OFFICE AT ROOM NO. 44/783,
FIRST FLOOR, PENTA ESTATE,
PALARIVATTOM, KOCHI,
KERALA, PIN - 682025

BY PARTY-IN-PERSON JOHN VADASSERY

RESPONDENTS:

- 1 THE REGISTRAR OF TRADEMARKS
TRADE MARKS REGISTRY, CHENNAI,
INTELLECTUAL PROPERTY OFFICE,
G.S.T. ROAD, GUINDY,
CHENNAI, PIN - 600032
- 2 UNION OF INDIA
REPRESENTED BY THE SECRETARY,
MINISTRY OF COMMERCE & INDUSTRY,
DEPARTMENT FOR PROMOTION OF INDUSTRY AND
INTERNAL TRADE (DPIIT),
NEW DELHI, PIN - 110002

BY ADV SMT.ANJU DIVAKAR, CGC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
10.09.2026, THE COURT ON 30.09.2026 DELIVERED THE FOLLOWING:

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"C.R."

BECHU KURIAN THOMAS, J.

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Dated this the 30th day of September, 2026

JUDGMENT

Is the authorisation filed by a trademark agent, under Section 145 of the Trade Marks Act, 1999, liable for payment of stamp duty? Can the authorisation filed by a trademark agent before the Trade Marks Registry be treated as a power of attorney? The above questions arise for consideration in this writ petition filed under Article 226 of the Constitution of India.

2. Petitioner is a trademark agent under the Trade Marks Act, 1999 (for short, 'the Act'). According to him, the Trade Marks Registry insists on the applicants who are represented by trademark agents, to submit an authorisation stamped as a power of attorney. According to the petitioner, the authorisation contemplated under the Act need not be stamped as a power of attorney, and an ordinary authorisation

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would suffice the requirement of the statute. Petitioner asserts that the terminology used in Section 145 of the Act is 'authorised' and not 'a power of attorney' and therefore insistence on executing a power of attorney or stamping the authorisation as that of a power of attorney, is, without authority of law.

3. A statement has been filed on behalf of the respondents pointing out that the purpose of engaging an agent is to enable that agent to do any act on behalf of the applicant. It is also stated that such authorisation will permit service of any document relating to the proceedings, service of all communications and even all appearances before the Registrar. According to the respondents, a power of attorney is required for the said purposes and the application with the power of attorney duly executed by the applicant with the prevailing stamp duty according to the particular State in India is required to be filed. It is further stated that the rate of stamp duty payable, varies from State to State and the said practice has been followed for a long time as the payment of stamp duty is a State subject which generates revenue for the particular State.

4. Sri. John Vadassery, the petitioner as party-in-person, contended that the insistence on production of a power of attorney for a trademark agent to appear before the Trade Marks Registry, is without



any authority of law. Placing reference to the authorisation given before the postal authorities for collecting a postal article, petitioner submitted that a stamped power of attorney is not contemplated by law and on the other hand, an authorisation as prescribed, if submitted on a plain paper, should suffice the requirement. Referring to Section 145 of the Act and Rule 19 of the Trade Marks Rules, 2017 (for short 'the Rules'), the petitioner contended that since the Rules contemplate presentation of application through authorisation, the statutory framework under the Act cannot be interpreted as mandating a compulsorily stamped power of attorney. It was further contended that the authorisation contemplated under the Act and Rules is not an instrument, unlike a power of attorney, and therefore, a stamped authorisation is not contemplated by the statute.

5. Smt. Anju Divakar, the learned Central Government Counsel, on the other hand, contended that the practice followed all along, before the Trade Marks Registry was by accepting a stamped power of attorney indicating the authority to represent a party. It was submitted that to enable a person to act on behalf of another, an authorisation as prescribed is required. It was also submitted that the authorisation enables the agent to act or do various things before the Registry and hence must require a stamp as that of a power of attorney as per the



relevant Stamp Act.

6. I have considered the rival submissions.

7. Section 3 of the Act provides for the power of the Central Government to appoint a person as the Registrar of Trade Marks and such other persons, to discharge the functions prescribed under the Act. The Registrar is neither a Court nor a Tribunal. At this juncture, it needs to be noted that, generally, the provisions of the various statutes relating to court fees have no application to documents presented or to be presented before an officer serving under the Central Government. Reference to section 2(1) of the Kerala Court Fees Act, 1959 and section 2(1)(b) of Tamil Nadu Court-fees and Suits Valuation Act, 1955 are examples. Since the Registrar of Trade Marks is not a Court or a Tribunal and is an Officer appointed by the Central Government, the Kerala Court Fees Act and Suits Valuation Act, 1959 has no application to the documents presented therein.

8. The Act permits an applicant to be represented before the Registrar by an Agent as per section 145. The said provision reads as below:

"Section 145:-Where, by or under this Act, any act, other than the making of an affidavit, is required to be done before the Registrar by any person, the act may, subject to the rules



*made in this behalf, be done instead of by that person himself,
by a person duly authorised in the prescribed manner, who is-*
(a) a legal practitioner, or
*(b) a person registered in the prescribed manner as a trade
marks agent, or*
(c) a person in the sole and regular employment of the principal."

9. The manner of authorisation is prescribed in Rule 19 of the Rules, which stipulates that the authorisation shall be executed in Form TM-M and specifies that, service on the agent will be deemed to be service on the person so authorising.

10. A perusal of the above mentioned provisions indicate that three categories of persons are permitted to appear before the Registry on behalf of another person, provided they submit an authorisation in the prescribed form. Those three categories of persons will, by virtue of the authorisation, be entitled to act on behalf of another, accept service of notices and documents, and even appear before the Registry as an agent. The function of the agent is multifarious and is of significance as far as the application for registration of trade mark or its opposition, is concerned. The acts of the agent will bind the principal and can even create a right on him or affect his right.

11. Though a format is prescribed as per Rule 19, the mere prescription of the form of authorisation cannot by itself be decisive, regarding the question of payment of stamp duty on such an



authorisation. Neither the Trade Marks Act, 1999 nor the Trade Marks Rules, 2017 framed under it can control or determine the issue whether stamp duty is payable. The levy of stamp duty is a fiscal measure, enacted with an object to secure revenue for the State and imposed on certain classes of instruments. The stringent provisions of the Act are conceived in the interest of the revenue. Reference to the decisions in **Hindustan Steel Ltd.v. Dilip Construction Company** [(1969) 1 SCC 597] and **Dr. Chiranjil Lal v. Haridas** [(2005) 10 SCC 746] are apposite for the above principle.

12. Stamp duty is payable on every instrument dealt with under the respective Stamp Acts. The Indian Stamp Act, 1899 and the Kerala Stamp Act, 1959 (for short 'the Stamp Act') are the two statutes dealing with stamp duty that may be applicable or relevant in the present case. The definitions in both the above statutes are identical and hence the definition in the Stamp Act is referred to, for easy comprehension. Section 2(j) of the Stamp Act defines an 'instrument' as 'includes every document by which any right or liability is, or purported to be, created, transferred, limited, extended, extinguished or recorded'. Section 2(p) of the Stamp Act defines the term Power of Attorney as follows:



'Power of Attorney' includes any instrument (not chargeable with a fee under the law relating to court fees for the time being in force) empowering a specific person to act for and in the name of the person executing it.

13. The above referred definition of an instrument is wide enough to include every document by which a right is created. Thus, any authorisation, if it amounts to an instrument, requires it to be stamped under the relevant statutes. As noted earlier, a power of attorney is a document entitling a person to act on behalf of another. When such a right, to act on behalf of another, is conferred by an instrument, for a purpose not chargeable with court fee, stamp duty gets attracted.

14. As far as an Advocate is concerned, though a vakalathnama is in effect a power of attorney, when filed before a Court or Tribunal, it is chargeable to court fees as per Article 12 of the Kerala Court Fees Act and Suits Valuation Act, 1959 and hence stamp duty is not attracted. However the same principle cannot apply to the authorisations given for appearance as an agent, before the Registry under the Act as it is an officer appointed by the Central Government and Kerala Court Fees Act and Suits Valuation Act, 1959 is not applicable.

15. In this context, it is relevant to refer to a decision of this court in **The Institute of Chartered Accountants of India v. Union of**

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India and Others [2002 SCC Online Ker. 675], wherein the question of appearance of authorised representatives before the taxing authorities came up for consideration. After elaborately considering the various contentions, this Court concluded that the authorisations filed before such taxing authorities, are liable to be stamped under the Stamp Act where it is executed.

16. The authorisation prescribed under section 145 of the Act read with rule 19 of the Rules, is certainly an instrument creating a right on a person to represent another. Necessarily such an instrument, which has all the trappings of a power of attorney, must be stamped under the relevant Stamp Act where the instrument is executed.

Hence, the declarations sought for by the petitioner cannot be issued. The writ petition lacks merit and it is dismissed.

Sd/-

BECHU KUIRIAN THOMAS
JUDGE

vps

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APPENDIX OF WP(C) NO. 17 OF 2026

PETITIONER'S/S' EXHIBITS

Exhibit P1	COPY OF NOTICES ISSUED BY THE REGISTRAR OF TRADEMARKS IN TRADEMARK APPLICATION NUMBERED 6494556.
Exhibit P2	COPY OF NOTICES ISSUED BY THE REGISTRAR OF TRADEMARKS IN TRADEMARK APPLICATION NUMBERED 6505784
Exhibit P3	COPY OF NOTICES ISSUED BY THE REGISTRAR OF TRADEMARKS IN TRADEMARK APPLICATION NUMBERED 6508902
Exhibit P4	ORDER OF THE SENIOR EXAMINER OF TRADE MARKS IN TRADEMARK APPLICATION NUMBERED 6494556.
Exhibit P5	COPY OF EXAMINATION REPORT ISSUED BY THE REGISTRAR OF TRADEMARKS IN TRADEMARK APPLICATION NUMBERED 6494556.
Exhibit P6	FLOW CHART OF THE TRADEMARK REGISTRATION PROCEDURE
Exhibit P7	COPY OF FORM TM-M
EXHIBIT-P8	LIST OF EXAMINATION REPORTS ISSUED BY THE TRADE MARKS REGISTRY DURING THE PERIOD FROM 31.12.2025 TO 31.05.2026.
EXHIBIT-P9	COPY OF ONLINE RTI REQUEST FORM SUBMITTED TO OFFICE OF THE CONTROLLER GENERAL OF PATENTS, DESIGNS AND TRADE MARKS (RTI REQUEST REGISTRATION NUMBER CGPDT/R/E/26/00390 DATED 10/04/2026)
EXHIBIT-P10	REPLY RECEIVED VIDE LETTER DATED 06/05/2026 FROM THE OFFICE OF THE CONTROLLER GENERAL OF PATENTS, DESIGNS AND TRADE MARKS FOR THE RTI REQUEST REGISTRATION NUMBER CGPDT/R/E/26/00390 DATED 10/04/2026
EXHIBIT-P11	COPY OF OFFICE ORDER DATED 08.10.2025

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ISSUED BY CONTROLLER GENERAL OF PATENTS,
DESIGNS AND TRADE MARKS

EXHIBIT-P12 NOTE REGARDING APPEARANCE BEFORE THE
TRADEMARKS REGISTRY AND NATURE OF
AUTHORISATION AS PER THE RTI REPLY DATED
06.05.2026 ISSUED BY THE OFFICE OF THE
CONTROLLER GENERAL OF PATENTS, DESIGNS
AND TRADE MARKS ON THE PETITIONER'S RTI
REQUEST NO. CGDPT/R/E/26/00390 DATED
10/04/2026 AND THE OFFICE ORDER DATED
08.10.2025 REFERRED THEREIN

EXHIBIT-P13 COPY OF ONLINE RTI REQUEST FORM SUBMITTED
TO OFFICE OF THE NATIONAL COMPANY LAW
TRIBUNAL, PRINCIPAL BENCH, NEW DELHI (RTI
REQUEST REGISTRATION NUMBER
NCLTP/R/E/26/00057 DATED 06/04/2026)

EXHIBIT-P14 REPLY RECEIVED VIDE LETTER DATED
30/04/2026 FROM THE OFFICE OF THE
NATIONAL COMPANY LAW TRIBUNAL, PRINCIPAL
BENCH, NEW DELHI FOR THE RTI REQUEST
REGISTRATION NUMBER NCLTP/R/E/26/00057
DATED 06/04/2026

EXHIBIT-P15 COPY OF FORM NO. NCLT. 12 (MEMORANDUM OF
APPEARANCE) TO BE SUBMITTED, BY
PRACTISING PROFESSIONALS SUCH COMPANY
SECRETARY IN PRACTICE/ PRACTISING
CHARTERED ACCOUNTANT/ PRACTISING COST
ACCOUNTANT TO APPEAR BEFORE NCLT AS PER
RULE 45 OF THE NCLT RULES 2016

EXHIBIT-P16 NOTE REGARDING APPEARANCE BEFORE THE
NATIONAL COMPANY LAW TRIBUNAL (NCLT) AND
NATURE OF AUTHORISATION AS PER THE RTI
REPLY DATED 30.04.2026 ISSUED BY THE
NATIONAL COMPANY LAW TRIBUNAL, PRINCIPAL
BENCH ON THE PETITIONER'S RTI REQUEST NO
NCLTP/R/E/26/00057 DATED 06/04/2026

EXHIBIT-P17 COPY OF ONLINE RTI REQUEST FORM SUBMITTED
TO OFFICE OF THE INCOME TAX APPELLATE
TRIBUNAL, COCHIN (RTI REQUEST
REGISTRATION NUMBER: ITCCN/R/E/26/00001
DATED 06/04/2026)

EXHIBIT-P18 REPLY RECEIVED VIDE LETTER DATED

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30/04/2026 FROM THE OFFICE OF THE INCOME TAX APPELLATE TRIBUNAL, COCHIN FOR THE RTI REQUEST REGISTRATION NUMBER: ITCCN/R/E/26/00001 DATED 06/04/2026

EXHIBIT-P19 NOTE REGARDING APPEARANCE BEFORE THE INCOME TAX APPELLATE TRIBUNAL (ITAT) AND NATURE OF AUTHORISATION AS PER THE RTI REPLY DATED 30.04.2026 ISSUED BY THE INCOME TAX APPELLATE TRIBUNAL (ITAT) KOCHI BENCH ON THE PETITIONER'S RTI REQUEST NO. ITCCN/R/E/26/00001 DATED 06/04/2026

EXHIBIT-P20 COPY OF ONLINE RTI REQUEST FORM SUBMITTED TO OFFICE OF THE DIRECTORATE GENERAL OF GOODS AND SERVICES TAX (DGGST) (RTI REQUEST REGISTRATION NUMBER: DGSTX/R/E/26/00148 DATED 10/04/2026)

EXHIBIT-P21 REPLY RECEIVED VIDE LETTER DATED 14/05/2026 FROM THE OFFICE OF THE DIRECTORATE GENERAL OF GOODS AND SERVICES TAX (DGGST) FOR THE RTI REQUEST REGISTRATION NUMBER: DGSTX/R/E/26/00148 DATED 10/04/2026

EXHIBIT-P22 COPY OF GSTAT FORM-04 MEMORANDUM OF APPEARANCE UNDER RULE 72 OF THE GSTAT PROCEDURE RULES, 2025

EXHIBIT-P23 NOTE REGARDING APPEARANCE BEFORE THE GOODS AND SERVICES TAX APPELLATE TRIBUNAL (GSTAT) AND NATURE OF AUTHORISATION AS PER THE RTI REPLY DATED 14.05.2026 ISSUED BY THE GOODS AND SERVICES TAX APPELLATE TRIBUNAL (GSTAT) ON THE PETITIONER'S RTI REQUEST NO. DGSTX/R/E/26/00148 DATED 10/04/2026

EXHIBIT-P24 COPY OF THE 'LETTER OF AUTHORISATION' PRESCRIBED UNDER CLAUSE 60 OF THE POST OFFICE GUIDE, PART I, APPEARING AT PAGE 63 OF THE SAID PUBLICATION ISSUED BY THE DEPARTMENT OF POSTS, GOVERNMENT OF INDIA

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RESPONDENT'S/S' EXHIBITS

ANNEXURE A1	FORMALITIES CHECK FAIL NOTICE DATED 11/02/2026 VIS-A-VIS TRADEMARK APPLICATION NUMBER: 6520930
ANNEXURE A2	FORMALITIES CHECK FAIL NOTICE DATED 11/02/2026 VIS-A-VIS TRADEMARK APPLICATION NUMBER: 6520931
ANNEXURE A3	EXAMINATION REPORT DATED 06/03/2026 VIS- A-VIS TRADEMARK APPLICATION NUMBER: 6558277
ANNEXURE A4	EXAMINATION REPORT DATED 11/03/2026 VIS- A-VIS TRADEMARK APPLICATION NUMBER: 6563472
ANNEXURE A5	EXAMINATION REPORT DATED 11/03/2026 VIS- A-VIS TRADEMARK APPLICATION NUMBER: 6565283
ANNEXURE A6	EXAMINATION REPORT DATED 11/03/2026 VIS- A-VIS TRADEMARK APPLICATION NUMBER: 6565779
ANNEXURE A7	EXAMINATION REPORT DATED 12/03/2026 VIS- A-VIS TRADEMARK APPLICATION NUMBER: 6571603
ANNEXURE A8	EXAMINATION REPORT DATED 12/03/2026 VIS- A-VIS TRADEMARK APPLICATION NUMBER: 6569601
ANNEXURE A9	EXAMINATION REPORT DATED 13/03/2026 VIS- A-VIS TRADEMARK APPLICATION NUMBER: 6572845
ANNEXURE A10	EXAMINATION REPORT DATED 13/03/2026 VIS- A-VIS TRADEMARK APPLICATION NUMBER: 6576118
Annexure A11	EXAMINATION REPORT DATED 13/03/2026 VIS- A-VIS TRADEMARK APPLICATION NUMBER: 6576120
Annexure A12	EXAMINATION REPORT DATED 14/03/2026 VIS- A-VIS TRADEMARK APPLICATION NUMBER: 6576123

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Annexure A13 **EXAMINATION REPORT DATED 14/03/2026 VIS-
A-VIS TRADEMARK APPLICATION NUMBER:
6576121**

Annexure A14 **EXAMINATION REPORT DATED 14/03/2026 VIS-
A-VIS TRADEMARK APPLICATION NUMBER:
6576119**