



**IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE-II, MANJERI**

Present: Sri. A.V.Telles, Addl. District Judge-II,  
Monday, the 27<sup>th</sup> day of March, 2023.  
6<sup>th</sup> Chaithra, 1945.

**INTERLOCUTORY APPLICATION No.19/2023**

in I.A.02/2020 in OS 01/2020.

**Between:-**

M/s ALBAIK, Represented by its proprietor,  
M.Moideenkutty, 70 years, S/o Abdul Karim Haji,  
Mankarathodi House, Edapalayam, Patterkadavu (PO)  
Malappuram District-676519, Kerala State

Petitioner/  
Petitioner/  
Plaintiff

**And:-**

1. M/s AL-BAIK, Represented by its Principle Consultant & Founder, Syed Sahil Ahmad, Head Office, B4/186, Vishal Khand 4 Gomti Nagar, Lucknow, Uttar Pradesh-226010.
2. Ussaid Farooqui, Head of Brand Development, AL-BAIK, Shop NO. DS-812, Sec-D, LDA Colony Nagar, Nigam Food Safety Zone-18, Lucknow (UP)-226012.
3. Aviral Shrivastav, Head of Franchise Support Team, AL-BAIK, Shop No. DS-812, Sec-D, LDA Colony Nagar, Nigam Food Safety Zone-18, Lucknow (UP)-226012.



Respondents/  
Respondents/  
Defendants

This petition coming on hearing before me in the presence of Sri.Nineep.K, Advocate for the petitioner, and of Sri.K.P. Muhammed Arif, Advocate for the respondents, the court passed the following:

**ORDER**

Petitioner is the plaintiff in OS 01/2020. The suit is filed for permanent prohibitory injunction to restrain the respondent/defendants and their employees or their agents from using the trade mark ALBAIK.

2. Along with the original suit petitioner filed temporary injunction as IA No. 2/2020 and the same was allowed on 22.01.2021 and the time is



extended till the disposal of the injunction petition ie., IA 02/2020.

3. This IA is filed by the plaintiff stating that the respondents violated the Order dated 22.01.2021 and permit the petitioner to enforce the injunction order through Police assistance. He relied Judgment in *Pulikkalath Mohammed Vs. C. Mohammed Haji and Another (1986 KLJ 61)*. In this judgment the Hon'ble High Court of Kerala held that "though the action can be taken by the court for violation of injunction under Order 39 Rule 2A CPC that does not end there as it is open to the court to implement its Order by exercising its inherent powers u/s. 151 CPC". The Hon'ble court again held that "in some cases violation of injunction order will have to be effectively met by taking immediate preventive action. If this could be done by exercising powers of court u/s. 151 CPC, the court should not feel diffident to exercise that power. In many cases action taken under Order 39 Rule 2A may altogether be found wanting. In such cases it is always open to the court to render necessary assistance to the aggrieved party by invoking powers u/s. 151 CPC. Whenever interest of justice require compelling attention of the court to do justice to the party who is faced with violation of his legal rights the court should definitely prevent such violation. For that, court can fall back any powers u/s. 151 CPC". This petition is filed u/s. 151 of the CPC to invoke the inherent power of this court to enforce the injunction order dated 22.01.2021 through police.


4. Heard the petitioner. Petitioner submitted that first respondent started the same business in violation of Order dated 22.01.2021. Respondent 2 and 3 are the franchises of R1. The petitioner produced Ext.1 to Ext 16 to support his arguments. Document No.16 is website of AL-BAIK which shows that respondents conducting business in different areas. The petitioner argued that he cannot restrain the defendant without the assistance of police. Petitioner has absolute right over intellectual property ALBAIK. The continuance of the business will cause irreparable injury and hardship to the



petitioner. Petitioner relied Judgment in **Johnson Kuriakose Vs. Fr.Thomas Paul Ramban and Others (2019 (1) KLJ 469)**. In this case the Hon'ble High Court of Kerala held that " the law on the point is very clear that an order of injunction, if violated, can be enforced by taking punitive action against the contemnor under Order 39 Rule 2A CPC as well as by enforcement of the Order with the aid of police by invoking section 151 CPC".

5. I find merit on the argument of petitioner. This court has power to permit the petitioner to enforce the Order with the assistance of police by invoking power u/s. 151 CPC. Hence, this IA is allowed and permitted the petitioner/plaintiff to enforce the Order dated 22.01.2021 with the assistance of the police.


(Dictated to the Confidential Assistant, transcribed by her, revised and corrected by me and pronounced in Open Court on this, the 27<sup>th</sup> day of March, 2023.).



Additional District Judge-II

Typed by : Jumaila.P  
Compared by:

**TRUE PHOTOSTAT COPY**



Fair Copy Superintendent

01. District & Sessions Court, Manjeri :
02. Year & No. of the case or other Proceedings : ~~640/23dt~~ 08.1/2020
03. Name of the applicant : Vineep. K.
04. No. & Date of the application : 640/23dt. 14/23
05. Date of calling for stamps : 4/4/23
06. Date of production of stamps : 5/4/23
07. Date of calling for addl. stamps : —
08. Date of production of addl. stamps : —
09. Date when copy was ready : 10/4/23
10. Date notified for appearance to receive the copy : 12/4/23
11. Date when copy was delivered : 10/4/23

Fair Copy Supdt.