

# Sabarimala trademark contested in Kerala HC

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;Statesman News Service, Thiruvananthapuram, 29 MAY: Tea from Darjeeling, Thanjavur and Madhubani paintings, chappals from Kholapur, and oranges from Nagpur are all protected under the Trade Related Aspects of Intellectual Property Rights. When authorities of the Attukal Bhagavathy Temple Trust (ABTT) in Thiruvananthapuram followed suit, a 29-year-old scientist, Mr RS Praveen Raj, from the National Institute for Interdisciplinary Science and Technology, called it “a serious prejudice to religious freedom guaranteed by the Indian Constitution”, and filed a petition in Kerala High Court.

In March, the ABTT received a certification of trademark on the picture of its deity and appellation “Sabarimala of Women”. This year, 2.5 million women participated in the annual Pongala festival. The temple entered the Guinness Book of World Records in 2007 “for the largest women gathering festival”, that year only 1.5 million women offered pongala. Given the circumstances, the temple authorities felt it was necessary to protect the temple’s status and its sacred food from counterfeiters.

“It is not the first time that a temple has sought protection under the IPR. The Tirupati and Kalakasti temples in Andhra Pradesh applied for Geographical Indication tag. The ABTT wanted a TM mainly for two reasons. The Attukal aravana (sacred food) is sold with the goddess’s image on the tins, within the temple premises, but spurious versions are available in the local market, we wanted to put an end to that. The other reason was that the Chakkulathukavu temple in Thiruvalla, around 130 kms from here, has been attracting women in large numbers to offer Pongala. The gathering at Attukal is bigger, but there is no guarantee that it will remain so in the future, so we want monopoly on the appellation ~ Sabarimala of Women,” said temple superintendent, Mr Sreekumar Nair. Mr Raj, who registered the case in Kerala High Court against the granting of trademark certificates to the shrine argued that the TM may prevent a devotee from using the picture of Attukal deity for his or her personal worship if it is not authorised by the Attukal Temple trust. He said that his seven years’ experience in the field of IPR as examiner of patents and design in Chennai, and his strong religious beliefs have come in handy in deconstructing the implications of trademarking faith symbols.

In a writ petition to the Kerala government, he mentioned: “A trademark certification was originally intended for commercial advantage and is inappropriate for religious symbols, as it passes a wrong message to the public that a place of worship also is a “business outfit” or “origin of trade and commerce”. The Attukal deity is a “common” (belonging to all her worshippers), and hence the use of image of the goddess is to be left unencumbered for all her worshippers. The ABTT authorities may plead ignorance, but it appears that the trademark registry lacked the intelligence to understand that granting the certificate would hurt the religious sentiment of thousands of devotees.”

Mr Raj said the main pitfall of the Trademarks Act (1999), is that the controller general

does not possess suo-moto power to cancel a TM registration. "I faxed the petition and left it to the wisdom of the court to take action," he said. The HC has registered a suo-moto case and directed that the temple trust, state government and the controller general of patent, designs and trademarks (Mumbai) be impeded as parties to the case.

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