



WEB COPY

1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 25TH DAY OF AUGUST 2021

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

A.No.2917 of 2021

in

C.S.No.754 of 2012

1. SAINT - GOBAIN GLASS FRANCE,
a French Societe Anonyme (SA) ,
"les Miroirs", 18,
Avenue d' Alsace 92400
Courbevoie France
Represented by Power Agent T.Bhaskaran

2. M/S SANIT GOBAIN GLASS (INDIA) LIMITED,
Level 7, Sigapi Achi Building,
18/3, Rukmoni Lakshmipathy Road,
Egmore,
Chennai-600 008.

..Plaintiffs

-Vs-

M/S CSG HOLDING COMPANY LTD.,
6th Industry Road,
Shenkou Shenzhen, China.

.. Defendant

This Civil Suit coming on this day before this Court for hearing the
court made the following order:

Heard Mr.Arun C.Mohan, learned counsel appearing for the

<https://hcservices.ecourts.gov.in/hcservices/>

applicant/ defendant and Mr.Madhan Babu, learned counsel appearing for



the respondents/ plaintiffs.

WEB COPY

2. The defendant would seek incorporation of an additional issue as a consequence of the amendment introduced to the Trademarks Act, due to the abolition of the Intellectual Property Appellate Board as well as the transfer of jurisdiction to decide on the rectification to the High Court.

3. According to Mr.Arun C.Mohan, learned counsel appearing for the applicant, when the defendant alleges that the plaintiff is not entitled to registration, the Court has to decide upon that issue while deciding the other issues. When the issues were framed by this Court in this suit in March 2021, the amendment to the Trademarks Act,1999 had not come into force and the Intellectual Property Appellate Board had exclusive jurisdiction to decide on the validity of Registration. Now that the Intellectual Property Appellate Board itself has been abolished and jurisdiction has been vested in this Court to decide on rectification, the issue relating to the validity of the registration of the plaintiffs' mark needs to be framed.

4. Mr.Madhan Babu, learned counsel appearing for the respondents/ plaintiffs would contend that no doubt certain allegations have been made in the written statement regarding the validity of the registration, the framing of the additional issue should not enable the defendant to drag



on the suit contending that the issue of rectification must be tried first or this Court should wait for the receipt of transfer of proceedings from the Intellectual Property Appellate Board.

5. In response to the said submission of the counsel for the plaintiff, Mr.Arun C.Mohan, learned counsel appearing for the defendant would submit that he would not seek stay of trial of the suit and the defendant would co-operate in disposal of the suit, since the Division Bench has, today, issued certain directions for the disposal of the suit at the earliest.

6. Considering the fact that the amendment was introduced after framing of issues, the fact that it becomes the duty of this Court to decide on the rectification/ validity of the registration of the Trademark also and the absence of prejudice to the respondents, I am of the considered opinion that the additional issue as suggested by the defendant can be framed.

7. This application is therefore **allowed** and the following issue is framed as additional issue in the suit:

“Whether the plaintiff No.2's trade mark registrations for the mark SGG under Nos.1132951 and 1132954 is invalid and liable to be cancelled/ rectified?”

