



(T)OP(TM)/143/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2023

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

(T)OP(TM)/143/2023
(ORA/176/2014/TM/CHN)

M/s.Patiala Distillers & Manufacturers Ltd.,
Village Main,
Patiala-147 001 (Punjab)

... Petitioner

-vs-

1. M/s.Empee Distilleries Ltd., ,
No.59, Harris Road, Pudupet,
Chennai - 600 002.

2.The Registrar of Trade Marks,
Intellectual Property Office Building,
G.S.T.Road, Guindy, Chennai-600 032.

... Respondents

PRAYER: Transfer Original Petitions (Trade Marks) filed under Sections 47, 57, 125 of the Trade Marks Act, 1999, praying to remove / cancel / expunged / rectify the entry pertaining to impugned Trade Mark "COMMANDO" registered under No.1117954 in class 33 and stay the effect and operation of the entry pertaining to impugned



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Trade Mark "COMMANDO" registered under No.1117954 in class 33

WEB COPY during the pendency of the present proceedings.

For Petitioner : Mr.Somnath De
for M/s.K.G.Bansal and Co.,

For Respondent 1 : Mr.Ramkumar Natarajan
for M/s.Jacob Kurian

For Respondent 2 : S.Janarthanam, SPC

ORDER

The petitioner seeks rectification of the entry pertaining to the trade mark "COMMANDO" registered as Trade Mark No.1117954 in class 33. By asserting that the petitioner adopted the trade marks COMMANDO and COMMANDO XXX RUM in the year 1977 and has been using the said marks honestly, openly and continuously since then and that the petitioner is, therefore, aggrieved by the adoption and use of the trade mark COMMANDO by the first respondent herein, the present petition was filed.



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2. On instructions, learned counsel for the first respondent states that the said respondent is not interested in protecting the impugned mark any longer.

3. On examining the evidence on record, it is clear that both parties are engaged in identical businesses and the marks are nearly identical. Since the marks are nearly identical and such marks are applied to goods which are also nearly identical, the petitioner has made out a case for rectification of the register.

4. Consequently, this petition is allowed with the following directions:

(i) The Registrar of Trade Marks is directed to cancel the certificate of registration relating to Trade Mark No.1117954 in class 33 and remove the entry relating thereto from the Register of Trade Marks.



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(ii) The above exercise shall be completed within a period of *four weeks* from the date of receipt of copy of this order.

(iii) There shall be no order as to costs.

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rna/gvn

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes/No



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