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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2023

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

(T)CMA(TM)/60/2023
(OA/10/2016/TM/CHN)

Lupin Limited,
Having its registered Office at
159, CST Road, Kalina, Santacruz (East),
Mumbai - 400 098.

... Appellant

-VS-

1.Cassel Research Laboratories Limited,
P.K.19, Phase V,
Industrial Estate,
Ekkattuthangal, Chennai 600 032.

2.The Registrar of Trade Marks,
Trade Marks Registry,
Chennai Intellectual Property Office,
GST Road, Guindy, Chennai 600 032.

... Respondents

PRAYER: Transfer Civil Miscellaneous Appeal (Trade Marks) filed
under Section 91 of the Trade Marks Act, 1999, praying to allow the



present appeal and that the order dated 20th October 2015 be quashed / set aside and that Registrar of Trade Marks be directed to hear the Notice of opposition.

For Appellant : Ms.Antara Balaji
for M/s.Rajesh Ramanathan

For Respondent 1 : Mr.Alagu Narayanan
for M/s.RRN Legal

For Respondent 2 : Mr.K.Subbu Ranga Bharathi, CGSC

JUDGMENT

The appellant challenges an order dated 20.10.2015 by which Opposition No.MAS723075 was rejected and Application No.965225 in Class 5 was allowed in favour of the first respondent herein.

2. The principal ground on which the appellant challenges the



impugned order is that the appellant was not provided a reasonable opportunity to present its case. In support of this contention, learned counsel for the appellant referred to the hearing notice dated 20.01.2015 for a hearing on 18.02.2015 and pointed out that the said notice was addressed to the counsel for the appellant. By referring to page 322 of the appeal paper book (Ex.H-1), learned counsel submitted that the notice was returned with the endorsement "left". Learned counsel submits that the subsequent hearing notices were also not served on the appellant.

3. Upon service of notice in the appeal, the first respondent entered appearance through learned counsel and submitted a memo dated 22.11.2023 stating that the first respondent is not interested in pursuing the rectification proceedings.

4. The impugned order reflects the fact the opponent was not represented during the hearings. In the above facts and



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circumstances, it is just and necessary to provide an opportunity to the appellant to contest the opposition. For such purpose, the impugned order dated 20.10.2015 is set aside and the matter is remanded for reconsideration by the second respondent.

5. (T)CMA(TM)/60/2023 is disposed of on the above terms without any order as to costs.

29.11.2023

rna

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No



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SENTHILKUMAR RAMAMOORTHY,J

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