



WEB COPY

OP(TM) No.2 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2024

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

OP(TM) No.2 of 2024

Cosmetic Warriors Limited
Through its Constituted Power Agent
Ms.Gabriela Maria Felix Francisco
29 High Street, Poole
Dorset, BH 15 1 AB, England
United Kingdom

.... Petitioner

Vs

1. Apex Laboratories Pvt. Ltd
SIDCO Garment Complex, 3rd Floor,
Guindy, Chennai – 600032,
Tamil Nadu

2. The Registrar of Trade Marks
Trade Marks Registry,
Bouddhik Sampada Bhavan,
GST Road, Guindy,
Chennai 600 032

.... Respondents

Prayer: Petition filed under Section 47 of the Trade Marks Act, 1999 to remove/expunge/rectify the entry relating to registration no.2393961 in class 3 and award costs in favour of the petitioner.

For Petitioner : Ms.Vandana Jain
For Respondents : Mr.R.Sathish Kumar- R1
Mr.J.Madanagopal Rao – R2
Senior Panel Counsel



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ORDER

WEB COPY Read this order in conjunction with and in continuation of order dated 22.04.2024.

2. Today, learned counsel for the first respondent, on instructions, has filed a memo dated 23.04.2024 reading thus:

It is stated that the petitioner had filed the present rectification petition against the 1st respondent for trademark BIOMIC SCIENCE registered under No.2393961 in clas 3. The petitioner has taken the ground that the impugned trademark has not been put to use by the 1st respondent.

It is stated that the 1st respondent has registered the impugned mark in 2012, however there has been no substantial use of the trademark "BIOMIC SCIENCE" by the 1st respondent in commerce. It is stated that therefore, the 1st respondent does not intend to prosecute the said rectification petition.

It is therefore prayed that this Hon'ble Court may be pleased to take the said memo on record and the rectification petition shall be allowed and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances and thus render justice.

3. In light of the admitted position that the impugned trademark has not been put to use by R1, this Original Petition is allowed with all consequences to follow. No costs.

23.04.2024

S1

Index:Yes/No

Speaking order

Neutral Citation:Yes



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To
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The Registrar of Trade Marks
Trade Marks Registry,
Sampada Bhavan,
Road, Guindy,
600 032



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Dr.ANITA SUMANTH,J.

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