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(T)OP(TM)/300/2023
(ORA/15/2019/TM/CHN)

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2024

CORAM

MR.JUSTICE N.SESHASAYEE

(T)OP(TM)/300/2023
(ORA/15/2019/TM/CHN)

Chirec Public School
(Managed by Pavan Education and Charitable Trust)
Ward No.18, GBN Road
Madhugiri, Tumkur District
Karnataka State 572132

... Petitioner

Vs.

1.Shri Shakti Schools Private Limited
1-55/12, Chirec Avenue
Kothaguda (Po), Kondapur
Hyderabad - 500084
Telangana

2.The Deputy Registrar of Trade Marks
The office of the Trade Marks Registry
Boudhik Sampada Bhawan
G.S.T Road,
Guindy, Chennai 600032

... Respondents

PRAYER: The Transfer Original Petitions (Trademarks) filed under Sections 47(1)(a) & (b) and Section 50(ii), 57(2) (3) of the Trademarks



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Act, 1999, to order an entry relating to the above registered trade mark CHIREC bearing no.3168471 Registered in Class 41, in the name of Shri Shakti Schools Private Limited be expunged and removed.

For Petitioner : Mr.Arun C.Mohan
For Respondent 1 : M/s.Rao and Rao
For Respondent 2 : Mr.Diwakar
SPC - R2

ORDER

The learned counsel for the petitioner submitted that the 1st respondent herein has laid O.S.No.38 of 2018 before the Commercial District Court at Hyderabad against the present petitioner. The petitioner herein has taken out an application for stay of proceedings under Section 124 of the Trade Marks Act, 1999, citing the pendency of the present petition before this Court. That application was dismissed by the concerned District Court on the ground that the petitioner herein has not adequately pleaded disputing the validity of the registration of the Trademark of the 1st respondent herein. In the same order, the District Court has also observed that the petitioner herein has not sought leave of the Court to file the rectification



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petition. This order was stated to have been challenged before the Telangana High Court by the petitioner and it came to be confirmed.

2. In the meantime, the 1st respondent (the plaintiff in O.S.No.38 of 2018) had obtained the leave of the trial Court to amend its pleading and the petitioner herein had also filed its written statement. In this written statement, the petitioner herein is stated to have taken a plea challenging the very validity of the registration of the 1st respondent's mark.

3. The learned counsel for the petitioner would now state that the petitioner would now be approaching the trial Court, seeking leave to file a petition under Section 57 of the Act, and inasmuch as the present petition is filed without leave, it may not be legally sustainable. He submitted that he reserves his right to file a fresh petition under Section 57 subject to the District Court which handles O.S.No.38 of 2018, granting necessary leave.

4. In view of the same, this Court dismisses the present petition as not



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N.SESHASAYEE, J.

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maintainable. The petitioner's right to file a fresh petition under Section 57 will now depend on what the District Court at Hyderabad may do.

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Index : yes / no

Neutral Citation : Yes / No

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