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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

(T)CMA(TM) No.71 of 2023
(OA/9/2018/TM/CHN)

- 1.Shivkumar Shankarrao Thakur
- 2.Shaktie (forerly Shripad) Shankarrao Thakur
- 3.Girish Shankarrao Thakur ... Appellants

Vs.

- 1.K.Saravathy
- 2.The Assistant Registrar of Trade Marks,
having his branch office at Trade Marks
Registry, Intellectual Property Building,
G.S.T Road, Guindy, Chennai – 600 032.
- 3.R.Rengaswamy
- 4.R.Sivagami
- 5.R.Nagarajan ... Respondents

[Amendment carried out as per
order dated 28.03.2024 in
CMP(TM) No.4 of 2024 in
(T)CMA(TM) No.71 of 2023]

PRAYER: Appeal filed under Section 91 of the Trade Marks Act, 1999,
praying for the following reliefs:

<https://www.mhc.tn.gov.in/judis> a) The Board be pleased to call for the records of Application



No.1250898 in class 34 of Opposition thereto being Opposition No.MAS-198593 and quash and set aside the impugned order and decision dated 24th April 2012 of the 2nd respondent and allow the Opposition No.MAS-198593 of the appellants and dismiss the 1st respondent's application No.1250898 in class 34;

b) That pending the hearing and final disposal of the above appeal, the operation of the order and decision dated 24th April 2012 of the 2nd respondent be stayed and the 2nd respondent be directed not to register the trade mark under Application No.1250898 in class 34 and not to take any further proceedings in pursuance of the said order and decision; and

c) That the 1st respondent be ordered to pay to the appellants the cost of this appeal and the cost of proceedings before the Registrar of Trade Marks.

For Appellants : Mr.Madhan Babu

For Respondents

For R1, R3 to R5 : Mr.N.R.Srinath

For R2 : Mr.M.Sathyan
Additional Central Government
Standing Counsel

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J U D G M E N T

The appeal is listed today under the caption "for reporting settlement.

2.The respondents 3, 4 and 5, who are the partners carrying on



business in the name and style of Classic Enterprises, have filed separate undertaking affidavits dated 08.07.2024 stating that originally one K.Saravathy was carrying on business as a sole proprietary concern and the said K.Saravathy had successfully contested the opposition proceedings against the appellants in the present appeal.

3.Considering that the trademark “Langer” was said to expire on 20.11.2023, they have discussed with their counsel and come forward to file the present undertaking affidavits that the mark “Langer” will be limited only to the goods of safety matches and the same will not be used for any other goods other than safety matches. It is further undertaken that they would also not file any trademark application in any other class other than Class-34 which specifically pertains to safety matches. They have prayed for the affidavits to be taken on file and suitable orders being passed.

4.The learned counsel for the appellants submits that the appellants would be satisfied if the undertakings are recorded and the appeal is disposed of in terms of the undertaking. The affidavits of the partners, namely R.Sivagami, R.Rengaswamy and R.Nagarajan are taken on record and the undertaking given by them at paragraph No.4 is recorded and in



view of the same, the appeal is disposed of. There shall be no order as to costs.

11.07.2024

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P.B.BALAJI, J.



To
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The Assistant Registrar of Trade Marks,
Trade Marks Registry,
Intellectual Property Building,
G.S.T Road, Guindy,
Chennai – 600 032.

(T)CMA(TM) No.71 of 2023

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