



WEB COPY



OP(TM)6/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2024

CORAM

MR.JUSTICE N.SESHASAYEE

OP(TM)6/2023

1.P.C.Duraisamy
Proprietor, Sakthi Trading Company
No.6, Mamarathupalayam
Erode 638 004

2.Sakthi Masala (P) Ltd.
No.6, Mamarathupalayam
Erode 638 004
Rep. by Managing Director
Mr.P.C.Duraisamy

... Petitioners

Vs.

1.M.Viswanathan
Partner of M/s.Muthu Masala

2.V.Nirmaladevi
Partner of M/s.Muthu Masala

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

... Respondents



OP(TM)6/2023

PRAYER: The Original Petition (Trade Marks) filed under Sections 57 r/w Section 125 of the Trade Marks Act, 1999, praying to rectify the Trade Marks Register by removing, expunging and / or cancelling the Trade Mark of the 1st and 2nd respondents that stands registered under No.2808478 in Class 30.

For Petitioners	: Mr.S.Diwakar
For Respondents	: Mr.N.R.Srinath for R1 & 2
	Mr.V.Ashok Kumar, CGC - R3

ORDER

The suit in C.S.No.546 of 2014 is laid for infringement of Trade Mark and for certain allied reliefs.

2.The plaintiffs in the above suit have filed OP(TM)6/2023 for rectification of Register. In short, they seek cancellation of the respondents Trade Mark from the Register of the Trade Marks.

3.Be that as it may, the 1st respondent has filed an affidavit today giving an undertaking that he will have his mark cancelled within a period of four (4) months. This is essentially made with the intent to protect the stocks which



OP(TM)6/2023

he had already manufactured.

WEB COPY

4.The learned counsel for the petitioners / plaintiffs makes a statement that while the petitioners only welcome the idea of the respondents to have its mark cancelled at their instance, they also reminded the Court that the suit in C.S.No.546 of 2014 is laid also for some allied reliefs.

5.This Court now records the affidavit filed by the 1st respondent. In view of this development, there may not be any need for this Court to consider this petition on merit, therefore, chooses to close the above petition.

6.The respondents 1 and 2 / proprietors of the mark which the petitioners challenge will have time till 31.07.2024 to abide by the undertaking they have given. The Registrar of Trade Marks, the third respondent herein, is now required to cancel the the Trade Mark of the respondents 1 and 2 after 31.07.2024 and before 31.08.2024. It is underscored that the additional one month's time is given to the Trade Marks Registry only for it to comply with any procedural requirements, and that it is not intended to benefit the



WEB COPY



OP(TM)6/2023

N.SESHASAYEE, J.

kas

respondents 1 and 2 for them to extend the use of their Trade Mark beyond
31.07.2024.

27.03.2024

kas

Index : yes / no

Neutral Citation : Yes / No

OP(TM)/6/2023