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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **C.O. (COMM.IPD-TM) 322/2021 & I.A. No. 43982/2024**

PSYCHOTROPIC INDIA LIMITED

.....Petitioner

Through: Mr. Rishabh Srivastava with
Mr. Sahil Gupta, Advocates.
(M): 9654777151
Email: admin@raguellaw.com

versus

GOPAL BANSAL AND ANR.

.....Respondents

Through: Mr. Gopesh Tripathi with Mr. Hem
Kumar, Advocates.
(M): 9868578517
Email: hemkumar494@gmail.com
Mr. Yash Sampat, Advocate for
respondent no. 1.

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

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04.11.2024

I.A. No. 43982/2024 (Joint application on behalf of petitioner and respondent no. 1)

1. The present application has been filed under Order XXIII Rule 3 read with Section 151 of the Code of Civil Procedure, 1908 ("CPC") on behalf of the petitioner and respondent no. 1.
2. The present petition has been filed seeking rectification of the Register of Trade Marks by removal of the trademark "SENSOPIL" bearing registration no. 2854004 in Class-05 in favour of respondent no. 1.



3. By way of the present application, the respondent no. 1 submits that it has already abandoned the mark “SENSOPIL”, subject matter of registration no. 2854004 in Class-05. Learned counsel appearing for the respondent no. 1 submits that the respondent no. 1 shall not file any application seeking renewal of the mark with the Trade Marks Registry, which is valid for the time being till 02nd December, 2024. Further, respondent no. 1 has categorically stated in the present application that it does not wish to contest the present petition.

4. The petitioner as well as respondent no. 1 have arrived at a settlement, terms of which, are as under:-

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4. *The petitioners and respondent no. 1 have arrived at a settlement on the following terms and conditions:-*

a. *The respondent no. 1 admit and agree that mark “SENSOPIL” subject matter of registration under no. 2854004 in Class-05 be removed/cancelled from the register of trademarks.*

b. *The respondent no. 1 admit and acknowledges that the petitioner is the registered proprietor of the trade mark “SENSOPIL” (word as well as formative mark) in respect of “Pharmaceutical And Medicinal Preparations, Medicated Oral Care Preparations Medicated Tooth Polishing Preparations & Medicated Tooth Whitening Preparations, Medicated Mouth Washes, Medicated Bleaching Preparations, Medicated Chewing Gum and Lozenges for Dental Hygiene, Medicinal and Pharmaceutical Preparation, and Ayurvedic Medicinal Preparation, Dietary food Specially adapted for Medical use or veterinary use, Tonic for Medical Purposes, Preparations for destroying vermin & Fungicides, herbicides, Tooth paste, Dentifrices, Mouthwashes and Breath Fresheners Oral Care Preparations, Dental Gels, Tooth Polishing Preparations & Tooth Whitening Preparations, Cosmetic Stain Removal Preparations in Classes-05 & 03” and as is subject matter of Trade Mark Registration Nos. 3085797, 4607981 and 4610649 since 12/08/2008, and also that the proprietary rights of petitioner no. 1 in the said Trade Mark under the common law on account of priority in adoption and use, through its licensees, and the goodwill/reputation accrued therein, vests in favour of the petitioner.*



c. The respondent no. 1 undertake to this Court not to commit any act of infringement or passing off in respect of the Trade Mark “SENSOPIL” and refrain from using the impugned mark “SENSOPIL” with or without any suffix or prefix or any other mark which contains essential features of the petitioner’s trade mark wholly or partially or any other mark which may be identical or deceptively similar to the petitioners’ trade mark “SENSOPIL” in respect of medicinal and/or pharmaceutical preparations.

d. The respondent no. 1 further admit and undertake to this Court that is not using the trademark “SENSOPIL” and nor otherwise are manufacturing, marketing, distributing or selling nor will in future will manufacture or market or distribute or sale any product under the impugned Trade Mark “SENSOPIL” with or without any suffix or prefix or any other mark which contains essential features of the petitioners’ trade mark wholly or partially or any pther mark which may be identical or deceptively similar to the petitioners’ trade mark “SENSOPIL” in respect of medicinal and/or pharmaceutical preparations within the territory of India or outside of India. The respondent no. 1 further confirms to this that it is not in power and possession of any stocks of the product bearing the impugned mark “SENSOPIL” and/ or any material including packaging material with the impugned mark, as those that were in their power and possession have been destroyed.

e. The respondent no. 1 affirm that at the time of signing of present petition the respondent no. 1 have already discontinued the use of impugned mark “SENSOPIL” and has surrendered the Drug Licence(s) for the manufacture and distribution back to respective Drug authorities.

f. The respondent no. 1 further assure to this Court that it has not filed any application for registration of any other mark which contains essential features of the petitioner’s trade mark wholly or partially with or without any suffix or prefix or any other mark which may be identical or deceptively similar to the petitioner’s trade mark “SENSOPIL” in respect of medicinal and/or pharmaceutical preparations and undertake that it shall not file in future any such application.

g. The respondent no. 1 assures this Court that it is aware and have been made aware about the consequences of breach of the assurances and undertakings given hereunder and will not commit breach of the assurances and undertakings given hereunder or do any act or things which may amounts to breach of the undertakings given hereunder.

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5. Learned counsels appearing for the parties confirm the terms of the



settlement and submit that the present petition can be disposed off in terms thereof.

6. Considering the submissions made before this Court, the present petition is allowed. The trademark registration in favour of the respondent no. 1 for the mark “SENSOPIL” bearing registration no. 2854004 in Class-05, is hereby cancelled.

7. The Registrar of Trade Marks is directed to remove the aforesaid entry from the Register of Trade Marks, and carry out the necessary rectification.

8. The Registry is directed to supply a copy of the present order to the Trademark Registry, at E-mail: llc-ipo@gov.in, for compliance.

9. With the aforesaid directions, the present petition, along with the pending application, is disposed of.

10. The next date of 22nd November, 2024, stands cancelled.

MINI PUSHKARNA, J

NOVEMBER 4, 2024

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