

OIPD-12

IN THE HIGH COURT AT CALCUTTA
ORIGINAL SIDE
(Intellectual Property Rights Division)

IPDATM/227/2023

SOMANY CERAMICS LIMITED (ORA/8/2019/TM/KOL)
VS
HSIL LIMITED AND ANR.

BEFORE:

The Hon'ble JUSTICE RAVI KRISHAN KAPUR

Date : 22nd December, 2025

Appearance:

Mr. S. N. Mookherji, Sr. Adv.
Mr. Ranjan Bachawat, Sr. Adv.
Mr. Ashutosh Kumar, Adv.
Mr. Sajjan Shankar Prasad, Adv.
Mr. Tanmoy Roy, Adv.
Mr. Partheshwar Singh, Adv.
Mr. Yash Singhi, Adv.
Mr. Sagnik Bose, Adv.
Ms. Aheriya Roy, Adv.
Mr. Askash Kumar, Adv.
..for the applicant

Mr. Manav Gupta, Adv.
Mr. Avishek Das, Adv.
Mr. Soubhik Dey, Adv.
Mr. Sahil Garg, Adv.
Mr. Ankit Gupta, Adv.
...for the respondent no. 1

The Court:- This is an application filed under Sections 47 and 57 of the Trade Marks Act, 1999 seeking removal and cancellation of the registered device mark belonging to the respondent no. 1 i.e., "A Somany Enterprise", bearing registration no. 595609 in Class 16.

Briefly, the applicant is engaged in the business of manufacture and sale of ceramic products and allied goods and is the proprietor of several trade marks containing the word "Somany". The applicant claims long, prior continuous and uninterrupted use of its marks which have been in the market since 1968.

The impugned mark was applied for claiming user from 13 April, 1992 and was subsequently registered in Class 16 on 27 April, 1993. The principal ground urged in the present application is one of non-use.

It is contended on behalf of the applicant that the respondent no. 1 has never used the impugned mark in the market as a trade mark in relation to the goods for which it has been registered under Class 16. There are no materials nor documents to demonstrate that the impugned mark has ever been commercially used by the respondent no. 1. In this context, the applicant relies on Section 47 of the Act.

On behalf of the respondent, it is fairly submitted that they have no objection if the present petition is allowed thereby directing that the impugned trade mark be taken off the Register solely on the ground of non-commercial use under Section 47 of the Trademarks Act, 1999.

In view of the fair concession given by the respondents, IPDATM/227/2023 stands allowed by directing that the registered device mark “A Somany Enterprise”, bearing registration no. 595609 in Class 16 be removed from the Register of the Trade Marks.

The above order is without prejudice to the rights and contentions of both the parties in all pending proceedings pertaining to the mark “Somany”.

(RAVI KRISHAN KAPUR, J.)