



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-12-2025

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THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

CMA(TM) No. 18 of 2024

AND

CMP NO. 21543 OF 2024

1. Ms SAPCO Laboratories Private
Limited
No. 35, 2nd Street, Padmavathi
Nagar, Virugambakkam, Chennai

Appellant(s)

Vs

1. The Registrar of Trademarks
Trade marks Registry, Intellectual
Property Building, G.S.T.Road,
Guindy, Chennai-600 032

2. Glenmark Pharmaceuticals
Limited
B-2, Mahalaxmi chambers, 22,
Bhulabhai Desai Road, Mumbai –
400 026

Respondent(s)

PRAYER

Appeal filed under Section 91 of Trade Marks Act, 1999, praying to set aside the order dated 27-05-2024 made in Opposition No.797312 to Application No.2183627 in Class 5 on the file of the Registrar of Trade Marks at Chennai and direct the 1st Respondent to grant Registration Certificate to the Trademark Application No.2183627 in class 5.

For Appellant(s): M/s.A SWAMINATHAN



T K Anuradha
M Aaruseela Sudhakar
G Jeyraj Israel

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For Respondent(s): Dr.V.Venkatesan, SPC For R1
M/s.R.Sathish Kumar For R2

ORDER

This appeal has been filed challenging the order passed by the 1st respondent dated 27.05.2024 refusing to grant registration certificate based on the Trade mark application submitted by the petitioner in class 5.

2. Heard Mr.A.Swaminathan, learned counsel for the appellant and Dr.V.Venkatesan, learned Senior Panel Counsel for the 1st respondent and Mr.R.Sathish Kumar, learned counsel for the 2nd respondent.

3. The case of the Appellant is that they adopted the trade mark “BREMONT-L” in the year 2011. The appellant filed trade mark application before the Trade Mark Registry under class 5 on 01.08.2011 in respect of Medicinal and Pharmaceutical preparations. The 1st respondent after examining the application provided the Examination report on 12.10.2012. Thereafter, the appellant was



allowed to advertise the trade mark and pursuant to the same, the appellant advertised and published the trade mark in the trade marks journal.

4. The 2nd respondent filed opposition on 04.01.2013 by stating that they are the proprietor of the Trade mark GLEMONT registered under No.2062498 on 02.12.2010 in class 5 under the provisions of the Trade Marks Act in respect of Pharmaceutical Medicinal, Ayurvedic Preparations and Substances. The 2nd respondent took a stand that the registration that was sought for by the appellant for BREMONT-L is identical and/or deceptively similar to the trade mark GLEMONT of the 2nd respondent.

5. For the opposition submitted by the 2nd respondent, the appellant also filed a counter affidavit.

6. The 1st respondent through the impugned proceedings dated 27.05.2024 allowed the opposition and concluded that the marks are identical and there is every possibility of confusion and deception being caused. Hence, the application was rejected. Aggrieved by the same, the present appeal has been filed before this



Court under Section 91 of the Trade Marks Act, 1989 (hereinafter referred to as the Act).

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7. This Court has carefully considered the submissions made on either side and perused the materials available on record.

8. One of the primordial submission that was made on the side of the appellant is that the word MONT is used by more than 500 Pharmaceutical companies to name their mark with the suffix MONT in which medicines, there is an active ingredient of MONTELUKAST and the same is common to trade in the Pharmaceutical industry. Thus, the learned counsel for the appellant submitted that the last four letters viz., MONT is common for both the appellant and the 2nd respondent. Insofar as the appellant is concerned, the 1st three letters are BRE and finally the letter L is added to denote the ingredient LEVOCETIRIZINE. Insofar as the 2nd respondent is concerned, the 1st three syllable are GLE. Insofar as the availability of the pharmaceutical products carrying the very same suffix MONT, the learned counsel for the appellant relied upon various documents. Apart from that, an application has also been filed before this Court in CMP No.21543 of 2024 for receiving



additional evidence whereby the appellant is seeking to rely upon ten more documents to justify the stand taken by the appellant.

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9. Various judgements were also cited before this Court by the learned counsel for the appellant and the learned counsel for 2nd respondent to justify their respective stand.

10. In the considered view of this Court, when this Court sits on an appeal against the order passed by the 1st respondent, this Court can only assess the order based on those materials that was placed before the 1st respondent while the final decision was taken. If there are certain other materials that are relied upon and which ought to have been produced before the 1st respondent at the time of taking evidence and it was not placed before the 1st respondent, those materials cannot be acted upon by this Court while dealing with this appeal.

10. This Court went through the materials that are now relied upon by the appellant and it is seen that they will have some bearing in the decision making process of the 1st respondent. However, this Court is not inclined to go into the merits of those materials that are



relied upon by the learned counsel for the appellant. This Court is also consciously not dealing with the issue on merits since it may have a bearing when a final decision is taken by the 1st respondent, after the matter is remitted back to the file of the 1st respondent.

11. In the light of the above discussion, the impugned proceedings of the 1st respondent dated 27.05.2024 is hereby set-aside and the matter is remitted back to the file of the 1st respondent. The materials that are sought to be relied upon by the appellant shall be submitted before the 1st respondent and the 2nd respondent shall be given an opportunity to submit their opposition for the same. Thereafter, the 1st respondent shall deal with the application on its own merits and in accordance with law and pass final orders. This process shall be completed by the 1st respondent within a period of six months from the date of filing the application /memo by the appellant. The appellant shall submit all the relevant documents along with a memo and also a copy of this order before the 1st respondent within a period of four weeks from the date of receipt of a copy of this order.



WEB COPY 12. In the result, this appeal is disposed of in the above terms.

No costs. Consequently, the connected miscellaneous petition is closed.

11-12-2025

rka

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No



To
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1.The Registrar of Trademarks
Trade marks Registry, Intellectual
Property Building, G.S.T.Road,
Guindy, Chennai-600 032No. 35, 2nd
Street, Padmavathi Nagar,
Virugambakkam, Chennai

2.Glenmark Pharamaeceuticals
limited
B-2, Mahalaxmi chambers, 22,
Bhulabhai Desai Road, Mumbai



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N.ANAND VENKATESH J.

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