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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-10-2026

CORAM

THE HON'BLE MR.JUSTICE P.B. BALAJI

CMA(PT) No. 10 of 2026

CNR: {HCMA010759932026}

REGENERON PHARMACEUTICAL INC.,
777, Old Saw Mill River Road,
Tarrytown, NY 10591, USA,
Nationality USA,
Rep. by its Constituted Power of Attorney,
S.Anandan,
De Penning and De Penning,
Having office at
No.120, Velachery Main Road,
Guindy, Chennai - 600032.

..Petitioner(s)

Vs

The Controller of Patents
Government of India,
Patent Office,
Intellectual Property Rights Building,
GST Road, Guindy,
Chennai - 600032.

..Respondent(s)

PRAYER: This Civil Miscellaneous Appeal is filed under Section 117-A of the Patents Act to call for the records of the Controller culminating in the impugned direction dated 30.12.2025, whereby the request on Form-13 filed under section 57 on 06.10.2023 for a post-grant amendment in respect of Patent No.450352 (Application No. 201647039008) was not taken on record, and set aside the same.

For Petitioner(s): Mr.Shivathanu Mohan, for M/s.S.RAMASUBRAMANIAM AND ASSOCIATES

For Respondent(s): S.Janarthanam, Senior Panel Counsel

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JUDGMENT

The present patent appeal challenges an order rejecting a post grant amendment request made in Form-13 invoking Section 57 of the Patents Act, 1970 (hereinafter referred to as "the Act") in respect of Patent No. 450352, titled "HUMAN ANTIBODIES TO MIDDLE EAST RESPIRATORY SYNDROME-CORONAVIRUS SPIKE PROTEIN".

2. I have heard Mr. Shivathanu Mohan for M/s. S.Ramasubramaniam and Associates, learned counsel for the appellant and Mr. S.Janarthanam, learned senior panel counsel for the respondent.

3. The learned counsel for the appellant, at the outset, would state that patent was granted to the appellant on 08.09.2023 and only after the grant of patent, the appellant noticed certain inadvertent omissions in the claims, which necessitated seeking rectification of the same by amending the claims, post grant. Taking me through the response of the appellant to the First Examination Report on 28.10.2020, Mr. Shivathanu Mohan, learned counsel for the appellant, invited my specific attention to the mention of SEQ ID NO: 66/74 in various portions of the response in First Examination Report. He would therefore state that omission of a sequence pair "66/74" in claims 1, 4, 5 and 6 was clearly an inadvertent omission. Similarly, he would also refer to the

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inclusion of "…that binds to MERS–CoV spike protein at a first epitope" in claim 15. In claim 1, he takes me through the specifications in the original PCT claim 20 to contend that the omission was only inadvertent.

4. Thereafter, he drew my attention to the impugned order, which is not only cryptic in nature, but also not in any manner justifying the reasons for rejection, that the post grant amendments were amounting to enlarging the scope of the granted claims. The learned counsel for the appellant would therefore state that the Form-13 ought to have been admitted and necessary post grant amendment ought to have been ordered, as it was in compliance with Section 59(1) of Act.

5. Per contra, Mr.S.Janarthanam, learned counsel for the respondent, would submit that under Section 59(1) the Act, the grantee of a patent is not permitted to seek amendment, especially post grant, if the amendment amounts to enlarging the scope of the granted claim. He would therefore state that the impugned order does not any warrant interference.

6. I have carefully considered the submissions advanced by the learned counsel on either side.

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7. As rightly contended by Mr. Shivathanu Mohan, learned counsel for the appellant, it is not a case where SEQ ID No: 66/74 has been introduced for the first time, post grant of patent, in favour of the appellant. It is seen from the records that even in the response to the First Examination Report and also in the original claim as well, there is clear reference and indication to the said SEQ ID No: 66/74. Similarly, there is also reference to "…that binds to MERS–CoV spike protein at a first epitope". I find reference to both these aspects in the original claim itself and therefore, it is not a case where something new is introduced for the first time, by the appellant. It is a clear case of an inadvertent omission to mention these relevant particulars in some of the claims which has been noticed after the grant was made in favour of the appellant, warranting filing of Form-13, seeking amendment of the claim, post grant.

8. The respondent, unfortunately, without even assigning any reasons as to how the request for amendment was enlarging the scope of the original claim, has blindly applied Section 59(1) of the Act and rejected Form-13 filing for post grant amendment. There is absolutely no discussion, leave alone any reasons being assigned, as to how and why the post grant amendment sought for, is hit by Section 59(1) of the Act. As already discussed, when there is clear reference to these very specific particulars was in some of the other claims forming part of the original PCT claim, mere omission to mention SEQ ID NO: 66/74 in claims 1, 4, 5 and 6 and to include "…that binds to MERS–CoV spike protein at a first

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epitope" to claim 15 will not and cannot amount to enlargement of the scope of the granted claim in favour of the appellant. Thus, I do not see any violation of the mandate of Section 59(1) of the Act, entitling the respondent to reject Form-13.

9. In view of the foregoing, the appellant is entitled to succeed and the impugned order dated 30.12.2025, rejecting Form 13 under Section 57 for post grant amendment in respect of Patent No. 450352 is set aside and the respondent is directed to effect the necessary amendments as prayed for in Form-13 and make it part of the granted specification in Patent No. 450352. The said exercise shall be carried out within a period of 4 weeks from the date of receipt of this copy. This Civil Miscellaneous Appeal is ***allowed*** and there shall be no order as to costs.

28-10-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

RKP
To
The Controller of Patents
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P.B.BALAJI, J.

RKP

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