



# Intellectual Property Appellate Board

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**TP/17/2020/CR/SZ**

**WEDNESDAY, THIS THE 30<sup>TH</sup> DAY OF DECEMBER, 2020**

**Hon'ble Shri Justice Manmohan Singh**  
**Hon'ble Shri. N. Surya Senthil**  
**Hon'ble Shri. SP. Chockalingam**

**...Chairman**  
**...Technical Member (CR)**  
**...Technical Member (CR)**

A. MANICKAVEL, TRADING AS  
BHARATHI SOAP WORKD  
1<sup>ST</sup> LINE, INDIRA GANDHI NAGAR  
NALLACHERUVU  
GUNTUR – 522 003  
ANDHRA PRADESH

.....Appellant

(Represented by - Mr. Ramkumar for A.A.Mohan Associates)

**Vs.**

1. P. GOVERDANAMMA, TRADING AS  
SRI VIJAYALAKSHMI SOAPS 7 CHEMES  
10/98, MAIN ROAD PEDARAVARU  
TENNALI, GUNTUR – 522 203  
ANDHARA PRADESH

2. THE REGISTRAR OF COPYRIGHTS  
B-2, W3, CURZON ROAD BARRACKS  
KASTURBA GANDHI MARG  
NEW DELHI – 110 001

.....Respondents

(Represented by – Mr. K. Hemaprakas Rao for Rao & Rao)

## **ORDER**

**Hon'ble Shri SP. Chockalingam, Technical Member (Copyright)**

1. The Petitioner is the manufacturer of detergent cakes, powder and dish-washing cakes. The Petitioner's products are sold under the trademark 'XXX'. The Petitioner has been using the said mark openly, continuously and extensively since the year 1991. In the course of business, the Petitioner has also adopted a distinct and attractive XXX label for marketing its detergent powder. The Petitioner has registered his artistic works, (1) SILVER FOAM XXX LABEL, vide Registration No. A-65424/2003, dated 09/10/2003, (2) CLASSIC XXX WITH LEMON LABEL vide Registration No. A-64801/2003, dated 21/07/2003 and (3) XXX BLUE LABEL vide Registration No. A-64359/2003, dated 24/03/2003 under the provisions of the Copyright Act, 1957.

2. The Petitioner has designed the XXX label in a distinctive manner with a colour scheme of red, white and yellow with blue background. The Petitioner has published the said artistic work in the year 2001.
3. The Petitioner has also registered the XXX label in Class 3 under the provisions of the Trade Marks Act, 1999. The Petitioner's trademark registrations are valid and subsisting till date.
4. The Petitioner in the year 2008 came to know that the 1<sup>st</sup> Respondent is using trademark XLENT which bears the artistic work of the Petitioner's XXX label/wrapper.
5. The Petitioner has filed a Civil Suit CS No. 1003 of 2008 on the file of Hon'ble Madras High Court against the 1<sup>st</sup> Respondent for the infringement of trademark and copyright. During the course of enquiry before the Hon'ble Madras High Court, it was brought to the knowledge of the Petitioner that the 1<sup>st</sup> Respondent has obtained registration for the artistic work XLENT, vide Registration No. A-85608/2009, dated 25/05/2009, under the provisions of the Copyright Act, 1957, which artistic work is impugned in this petition. The impugned artistic work of the 1<sup>st</sup> Respondent is a substantial reproduction of the Petitioner's artistic work.
6. On 03/07/2013, when the matter was taken up for hearing by the Hon'ble Madras High Court, the parties to the proceeding have reported to the Hon'ble Court that they have entered into a compromise. Based on the terms of the compromise, the Hon'ble High Court had disposed the Suit. By virtue of the terms of compromise, the Respondent herein had undertaken to change the colour scheme and get up of the XLENT label.
7. In view of the compromise reached by the parties and in view of the submission made by the counsel for the Respondent that he had no objection for the cancellation of the registration of the impugned artistic work. This petition is allowed
8. The Registrar of Copyrights is directed to rectify the Register in respect of the artistic work bearing Registration No. A-85608/2009, dated 25/05/2009. There is no order as to costs.

**-Sd/-**

**Hon'ble Shri N. Surya Senthil  
Technical Member (CR))**

**-Sd/-**

**Hon'ble Shri SP. Chockalingam  
Technical Member (CR)**

**-Sd/-**

**Hon'ble Shri Justice Manmohan Singh  
Chairman.**

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