

(T)OP(CR) No.3 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 13.11.2025

PRONOUNCED ON : 28.11.2025

CORAM

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

(T)OP(CR) No.3 of 2024

Mis Oasman Ali (Deceased)

- 1.Mir Mahamood Ali
- 2.Mir Azam Ali
- 3.Mir Hyder Ali
- 4.Mir Farooq Ali
- 5.Mir Mohammed Ali

... Petitioners

Vs.

Mir Mukkaram Ali

... Respondent

Prayer : Original Petition filed under Section 50 of the Copyrights Act to rectify the Registrar of Copyrights by expunging the name of the respondent whose name was entered as the owner of the Artistic Feature of the Trade Mark Sagar Homeo Stores with its logo registered by the Registrar of Copyrights, Copyrights office, Government of India, New Delhi vide Registration Certificate No.A-A2262 of 2008 Dt.28.2.2008 and consequently declare such certificate as concocted, forged and illegal.



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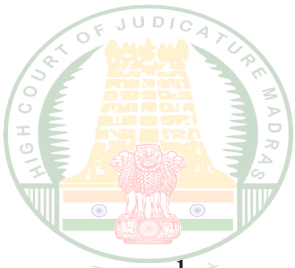
For Petitioners : Mr.Mohd Yaqoob Kafeel

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ORDER

This petition has been filed to rectify the register of Copyrights by expunging the name of the respondent, whose name was entered as the owner of the Artistic Feature of the Trade Mark 'Sagar Homeo Stores' with its logo registered by the Registrar of Copyrights, Copyrights office, Government of India, New Delhi vide Registration Certificate No.A-A2262 of 2008 Dt.28.2.2008 and consequently declare such certificate as concocted, forged and illegal.

2. The case of the petitioners is that the petitioners are the registered owners of the trademark titled "SAGAR HOMEEO STORES", which has been duly registered vide Application No.559095 in respect of their homeo medicines in Class 5 of Nice Class Application. The said trademark has been registered on 24.09.1991 and the registration certificate bearing No.6137765 was issued on 07.03.2007. An application has been made before the Registrar of Copyrights on 27.08.2007 to register the artistic features of the trademark "SAGAR HOMEEO STORES" with its logo denoting the alphabets 'S & H'



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along with the search certificate issued by the Registrar of Trademarks.

Thereafter, the Registrar has registered the artistic feature of the trademark 'SAGAR HOMEIO STORE' along with its logo 'S & H' and entered the same in the Register of Copyrights.

3. The petitioners came to know that the respondent, who is doing an identical business is using the same trade mark as that of the petitioners i.e. 'Sagar Homeio Stores' with its artistic features. The petitioners came to know that there was a registration vide Application No.86725/2009 dated 28.08.2009 depicting the same artistic work of the petitioners. The petitioners took serious note of the certificate standing in the name of the respondent vide Application No.86725/2009, which according to the petitioners is invalid. There cannot be two registration for the same logo in view of Section 45(1) & (2) of the Copyrights Act. For the sake of convenience, Section 45(1) & (2) of the Copyrights Act, is extended hereunder:

45. Entries in register of copyrights: (1) The author or publisher of, or the owner of or other person interested in the copyright in, any work may make an application in the prescribed form accompanied by the prescribed fee to the Registrar of Copyrights for entering particulars of the



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work in the Register of copyrights.

[Provided that in respect of an artistic work which is used or is capable of being used in (relation to any goods or services, the application shall include a statement to that effect and shall be accompanied by a certificate from the registrar of Trade Marks referred to in section 3 of the Trade Marks Act, 1999 (47 of 1999), to the effect that no trade mark identical with or deceptively similar to such artistic work has been registered under that Act in the name of, or that no application has been made under that Act for such registration by, any person other than the applicant.

(2) On receipt of an application in respect of any work under sub section (1), the Registrar of Copyrights may, after holding such inquiry as he may deem fit, enter the particulars of the work in the Register of copyrights.

4. According to the petitioners, perusing the documents shown by the respondent, the petitioners found that the search certificate issued by the Trademark registrar categorically shows that the petitioners herein who was the applicants under Application No.559095 are the owners of the trade mark and artistic work. In spite of the observation, the Registrar of Copyrights, registered the name of the respondent in the Register of copyrights and the



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certificate of registration was issued in favour of the respondent in respect of the artistic work. The above action is illegal and contrary to the provisions of law.

5. Learned counsel for the petitioner submitted that the name of the respondent was wrongly entered in the copyright register based on false and concocted documents and moreover, the above conduct of the respondent amounts to an offence and is liable for penalty and punishment under Section 67 of the Copyrights Act. It is further submitted that the respondent has committed an offence of tampering the records of the Trademark office thereby made himself liable for prosecution and that the entire mark along with its artistic feature claimed by the respondent is to be removed from the Register of copyrights.

6. Learned counsel for the petitioners submitted that the Registrar of Copyrights has wrongly made an entry in favour of the respondent herein and the petitioners have sought to expunge the name of the respondent who obtained registration vide Application No.86725/2009 dated 28.08.2009, as the said registration is concocted, forged and illegal.



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7. Pursuant to the application, the respondent was made as a party, and the respondent entered appearance. However the learned counsel for the Respondent submitted that they were not given any instructions by the Respondent for filing counter even after repeated attempt to get instructions. Thereafter the learned counsel withdrew their vakalat filed to appear on behalf of the Respondent. Thereafter, despite printing of the Respondent's name in the causelist, none has appeared. The respondent was set ex-parte vide order dated 10.07.2025 and ex-parte evidence was recorded.

8. In the trial, one Mir Mohammed Ali namely the 5th petitioner herein was examined as PW1, and he has marked nine documents as Exs.P1 to P9. Ex.P1 is the photocopy of registration of Trademark dated 24.09.1991; Ex.P2 is the photocopy of the request for search and issuance of certificate dated 15.03.2007; Ex.P3 is the photocopy of the letter from Registrar of Trademark dated 28.06.2007; Ex.P4 is the photocopy of the search certificate; Ex.P5 is the photocopy of the extract of register of copyrights dated 22.02.2008; Ex.P6 is the photocopy of the search certificate dated 23.02.2009; Ex.P7 is the photocopy of the extract of Registrar of copyrights dated 28.08.2009; Ex.P8 is



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the photocopy of the photographs showing the use of Trademark with the logo and Ex.P9 is the photocopy of bills, vouchers, receipts and labels showing the use of trademark of the applicant by the respondent.

9. Through the evidence of PW1 and the documents marked, the petitioners have proved that their trade mark 'SAGAR HOMEIO STORES' has been duly registered, as per Ex.P1, registration certificate and the search certificates revealed that the petitioner are registered proprietors of the artistic work and trademark. As the respondent's name was also registered as the owner of artistic work of the petitioner's trade mark, the present petition has been filed. Exs.P8 categorically shows that the petitioners are using the trademark with its logo and Ex.P9 is the copies of the bills, vouchers, receipts and labels showing the use of petitioner's trademark by the respondent. The petitioners have made out a case by filing Exs.P1 to P9 to establish that their trade mark has been registered by the trademarks authority along with their artistic work, which is evident from Ex.P5.

10. The respondent was set ex-parte on 10.07.2025, ex-parte evidence was recorded and documents were also marked. Even thereafter, the respondent



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has not appeared before this court. As the petitioners have made out a case that their trade mark is registered with the artistic work and the same is used by the respondent which is evident from Exs.P1 to P9 and the respondent's name is also entered as the owner of the artistic work of the registered trademark which stands in the name of the petitioners, the Registrar of Copyrights is directed to expunge the name of the respondent, whose name was entered as the owner of the Artistic Feature of the Trade Mark SAGAR HOMEIO STORES with its logo vide Registration Certificate No.A-A2262 of 2008 Dated 28.2.2008.

11. The original petition is ordered accordingly. No costs.

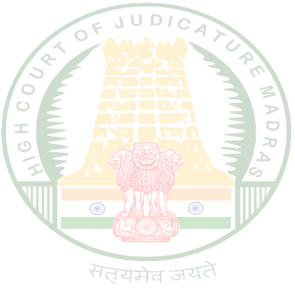
28.11.2025

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No



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N. SENTHILKUMAR, J.

Asr

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Dated : 28.11.2025