



# IPAB Intellectual Property Appellate Board

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M.P.No.167 of 2020  
IN  
ORA/102/2020/TM/CHN

THURSDAY, THIS THE 5<sup>TH</sup> DAY OF NOVEMBER, 2020

HON'BLE SHRI JUSTICE MANMOHAN SINGH  
HON'BLE MS.LAKSHMIDEVI SOMANATH

CHAIRMAN  
TECHNICAL MEMBER (TRADEMARKS)

MOHD. MASIHUDDIN FAROOQUI,  
AKBARUNISA BEGUM,  
ASGHARUNISA BEGUM,  
ISMATHUNNISA BEGUM,  
MOHD. OWAISUDDIN FAROOQUI,  
FARISA AZAM,  
KARIMUNNISA BEGUM HERBALS PVT. LTD.,  
MOHD. SOHAILUDDIN FAROOQUI,  
SARA AHMED,  
ALI AZAM AND MOHD. IMADUDDIN FAROOQUI

PARTNERS, TRADING AS  
M/S. KARKHANA ZINDA TILISMATH  
2-3-728, AMBERPET  
P.O. ZINDA TILISMATH  
HYDERABAD – 500 013  
ANDHRA PRADESH

: APPLICANT

(Represented by Mr. Saurabh Kapoor)

Versus

1. SH SYED AKHTAR AHMED  
TRADING AS  
M/S KOMAL PERFUMERY WORKS  
18-7-3-06/40, AMAN NAGAR  
HYDERABAD – 500 023  
ANDHRA PRADESH

: RESPONDENT NO.1

2. THE REGISTRAR OF TRADE MARKS  
INTELLECTUAL PROPERTY RIGHTS BUILDING,  
INDUSTRIAL ESTATE, SIDCO RMD  
GODOWN AREA, G.S.T. ROAD,  
GUINDY, CHENNAI – 600 032.

: RESPONDENT NO.2

(R1 Represented by Ramji Ganesan)

## ORDER

HON'BLE SHRI JUSTICE MANMOHAN SINGH, CHAIRMAN

1. The Rectification Application is filed under Section 57 of Trademark Act, 1999 for Removal "ZINDA TEL" label under Reg. No. 1633656 in class 05 registered in favour of Respondent No.1. Along with main Rectification Application the present Miscellaneous Petition vide M.P.No.167 of 2020 for Stay of operation of Registration of Respondent No.1 for the mark ZINDA TEL label under Trade Mark No.1633656 in Class 05 pending disposal for the main Rectification Application has been filed.



2. In the main petition, two months time is granted to the Respondent No.1 to file the counter statement with an advance copy to the learned counsel for the applicant who may file the response within one month thereafter and petition is listed for hearing on 01/04/2021.

3. The present Miscellaneous Petition has been filed seeking stay of operation of Registration until the Rectification Application finally decided. The prayer is opposed by the Respondent No.1. Both parties made their submissions.

4. We have heard the learned counsel for both the parties. We have also gone through the pleadings as well as the material placed on records. The Applicant provided the comparison of the marks of the Applicant and Respondent. We find that both marks are identical to each other. Strong prima facie case has been made by the learned counsel for the petitioner for granting the relief prayed for. Respondent No.1 has not offered any plausible explanation for the adoption of an identical mark, the same thus being malafide and dishonest. No subsequent use can provide legitimacy to the mark of the Respondent No.1. Therefore, until the Rectification Petition is finally decided, the operation of the registration No.1633656 in class 05 shall remain stayed. No costs.

5. List the main matter on 01/04/2021.

-Sd/-

(MS. LAKSHMIDEVI SOMANATH)  
TECHNICAL MEMBER (TM)

-Sd/-

(JUSTICE MANMOHAN SINGH)  
CHAIRMAN

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