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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ C.O. (COMM.IPD-TM) 37/2024 & I.A. 4573/2024

EMAMI LIMITED

.....Petitioner

Through: Mr. Abhimanyu Bhandari, Senior Advocate with Ms. Roohe Hina Dua, Ms. Shrutika Garg, Mr. Harshit Khanduja and Ms. Aroha Kadyan, Advocates.

versus

M/S GUFIC BIOSCIENCE LIMITED & ANR.

.....Respondents

Through: Mr. Abhishek Chandra Mishra and Ms. Sarita Mehta, Advocates for R-1. Ms. Nidhi Raman, CGSC with Mr. Om Ram and Ms. Nikita Singh, Advocates for R-2.

(9)

+ CS(COMM) 559/2023 & I.A. 15313/2023

M/S GUFIC BIOSCIENCES LIMITED

.....Plaintiff

Through: Mr. Abhishek Chandra Mishra and Ms. Sarita Mehta, Advocates.

versus

M/S SAARVASRI HERBS PRIVATE LIMITED AND ORS

.....Defendants

Through: Mr. Abhimanyu Bhandari, Senior Advocate with Ms. Roohe Hina Dua, Ms. Shrutika Garg, Mr. Harshit Khanduja and Ms. Aroha Kadyan, Advocates for R-2.

(10)

+ CS(COMM) 828/2023, I.A. 22887/2023, I.A. 22890/2023, I.A. 4057/2024, I.A. 29664/2024, I.A. 29689/2024 & I.A. 30211/2024

M/S GUFIC BIOSCIENCES LIMITED

....Plaintiff

Through: Mr. Abhishek Chandra Mishra and Ms. Sarita Mehta, Advocates.



versus

M/S APEX LABORATORIES PVT. LTDDefendant
Through: Ms. Rajeshwari H. and Ms. Swapnil
Gaur, Advocates.

CORAM:
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

% **28.04.2026**

I.A. 10153/2026 in CS(COMM) 828/2023 (Seeking detagging of CS(COMM) 828/2023 from connected matters and also early hearing of I.A. 22887/2023)

1. This is an application filed on behalf of the plaintiff under Section 151 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') seeking de-tagging of the present suit from the connected matters i.e. C.O. (COMM.IPD-TM) 37/2024 & CS(COMM) 559/2023 and also seeks early hearing of the plaintiff's application under Order XXXIX Rules 1 and 2 of the CPC bearing no. I.A. 22887/2023.
2. After having heard Mr. Abhishek Chandra Mishra, learned counsel for the plaintiff and Ms. Rajeshwari, learned counsel for the defendant, it appears that the issue as to whether the plaintiff's registered mark "SALLAKI", which is stated to be the name of the herb itself, could have been registered, is intrinsically intertwined with the subject matter of the C.O. (COMM.IPD-TM) 37/2024 and therefore, the question of de-tagging may not be possible.
3. So far as the present suit being adjourned for awaiting the outcome of the decision in LPA 121/2023 titled "*Satish Kumar Jain vs. Anubhav Jain & Anr.*" pending before the learned Division Bench, which is now next listed on 16.07.2026 is concerned, there does not seem to be any impediment or the reason as to why the present suit or the application bearing I.A. No. 22887/2023 seeking stay, should necessarily get delayed on account of the said



pendency of the LPA 121/2023. It is informed that the aforesaid LPA 121/2023 pertains to a procedural question regarding the interplay between Sections 57 and 124 of the Trademarks Act, 1999, and as to whether Rectification Petition can be independently instituted without obtaining the leave of Civil Court, when an infringement suit is pending. The said issue may not be relevant so far as the decision on the application under Order XXXIX Rules 1 and 2, CPC is concerned. Therefore, to that extent the pendency of the said LPA 121/2023 may have no bearing on the present suit or the application seeking stay.

4. The said application is allowed only to the aforesaid extent and disposed of.

5. List the application bearing no. I.A. 22887/2023 on 22.09.2026.

I.A. 3779/2024 in CS(COMM) 828/2023 (under Section 124)

6. This is an application filed on behalf of the defendant under Section 124 of the Trademark Act, 1999, seeking permission to file a rectification petition against the plaintiff's registered trademark "SALLAKI" having registration no. 385295 under Class 5.

7. Learned counsel for the plaintiff states that he has no objection in case the said application in terms of Section 124 of the Trademarks Act, 1999 is allowed.

8. Having regard to the aforesaid, the application stands allowed.

9. The defendant is permitted to file a rectification petition in terms of Section 124 of the Trademarks Act, 1999, within three months from today.

10. The application stands disposed of.

I.A. 11863/2026 in CS(COMM) 559/2023 (Seeking detagging of CS(COMM) 559/2023 from connected matters and also early hearing of I.A. 15313/2023)

11. This is an application filed on behalf of the plaintiff under Section 151 of CPC seeking de-tagging of the present suit from the connected matters i.e. C.O.



(COMM.IPD-TM) 37/2024 & CS(COMM) 828/2023 and also seeks early hearing of the plaintiff's application under Order XXXIX Rules 1 and 2 of the CPC bearing no. I.A. 15313/2023.

12. Learned counsel for the plaintiff states that he would not object to the maintainability of C.O. (COMM.IPD-TM) 37/2024 and therefore, the present application may be dismissed as withdrawn.

13. Having regard to the fact that the learned counsel has withdrawn his objection in respect of the maintainability of the rectification petition bearing no. C.O. (COMM.IPD-TM) No. 37/2024, the order dated 05.07.2024 to the extent of the statement noted in para 8 stands modified.

14. Accordingly, list C.O. (COMM.IPD-TM) 37/2024 as well as CS(COMM) 559/2023 on 22.09.2026 for considering the pending applications.

TUSHAR RAO GEDELA, J

APRIL 28, 2026/anj