



2025:DHC:1012



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

% *Date of decision: 14<sup>th</sup> February, 2025*

+ C.O. (COMM.IPD-TM) 88/2024 & I.A. 33225/2024

MANASH LIFESTYLE PRIVATE LIMITED .....Petitioner  
Through: Mr. Siddharth Yadav, Mr. Nageshwar  
Kumhar, Advocates.


versus

SHABINA KUNDIAL & ANR. ....Respondents  
Through: Ms. Nidhi Raman, CGSC with Mr.  
Arnav Mittal & Mr. Zubin Singh,  
Advocates for R-2.

**CORAM:**  
**HON'BLE MR. JUSTICE AMIT BANSAL**

**AMIT BANSAL, J. (Oral)**

1. The present rectification petition has been filed under Section 57 of the Trade Marks Act, 1999 (hereinafter 'the Act') seeking rectification/

removal of the trade mark '  ' bearing application no. 4686526 in class 44 in the name of the respondent no.1 (hereinafter 'impugned mark') from the Register of Trade Marks.

**PROCEEDINGS IN THE PETITION**

2. Notice in the present petition was issued to the respondents on 15<sup>th</sup> July, 2024.

3. Despite service, neither any appearance has been made on behalf of



the respondent no.1 nor has any reply been filed to the present petition. Accordingly, *vide* the order dated 21<sup>st</sup> October, 2024, the respondent no.1 was proceeded against *ex-parte*.

4. None appears on behalf of the respondent no.1 even today.

#### **BRIEF FACTS**

5. Brief facts set up in the petition, which are relevant for adjudicating the present petition, are as under:

5.1. The petitioner, Manash Lifestyle Private Limited, was incorporated in the year 2011 and operates an online beauty and wellness store, accessible at <https://www.purplle.com/>, under the name PURPLLE. The petitioner is recognized as a market leader in the country and its start-up venture PURPLLE.COM has emerged as India's 102<sup>nd</sup> Unicorn Start-Up Company.

5.2. The petitioner acquired the trademarks FACES, FACESCANADA and various other marks incorporating the same (hereinafter 'FACES marks') through a Share Purchase Agreement dated 14<sup>th</sup> December, 2021 from its predecessor, Faces Cosmetics, Inc. (previously known as Faces Cosmetics Group, Inc) and M/s. Faces Cosmetics India Private Limited. Consequently, the petitioner has become the subsequent owner and proprietor of the FACES marks along with their associated goodwill.

5.3. The petitioner's predecessor-in-interest adopted the mark FACES in 1974 and filed trade mark applications for its registration in India in 2006. The petitioner's predecessor commenced operations under the mark FACES in India around 2009 and established its inaugural store in Bangalore in 2011.

5.4. In 2018, the petitioner's predecessor added the word CANADA to the



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mark FACES, resulting in the change to FACES CANADA but the mark FACES was retained and continues to be used by the petitioner.

5.5. The petitioner, through its predecessor-in-interest, is the registered proprietor of the FACES marks and a list of its registrations for the FACES marks is provided in paragraph no.7 of the petition. The earliest registration in favour of the petitioner is in classes 3, 21, 35 and 42 and the same dates back to 27<sup>th</sup> October, 2006.

5.6. The petitioner has filed an application before the Trade Marks Registry seeking a change in the registered proprietor in trade mark application no. 1499433 in classes 3, 21, 35 and 42 from Faces Cosmetics, Inc. to Manash Lifestyle Private Limited and in trade mark application no. 4746313 in class 3 from Faces Cosmetics India private Limited to Manash Lifestyle Private Limited and the said applications are under process.

5.7. The petitioner's registration for the mark 'FACES' in class 42 is with respect to '*cosmetic and personal care services namely providing make overs, ear, nose and body piercing, pedicures, manicures, hair removal, hair dying and aromatherapy services*' which services were reclassified into class 44 by the Trade Marks (Amendment) Rules, 2010.

5.8. The petitioner distributes its products under the FACES marks through multiple channels including its own websites <https://www.purple.com/> and <https://www.facescanada.com/>, retails stores and third-party e-commerce platforms such as Flipkart, Amazon, Myntra and Tata Cliq.



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5.9. The petitioner has made substantial efforts as well as financial investment towards establishing and promoting the brand identity of the FACES marks and uses various forms of media to promote the same. The petitioner's FACES marks are advertised through television commercials, newspapers, magazines, digital platforms, etc. The petitioner has also engaged several renowned film stars and celebrities to promote the FACES marks. Further, the petitioner actively promotes its products under the FACES marks across various social media platforms including Facebook, Instagram and YouTube.

5.10. In addition to the statutory rights of the petitioner over the FACES marks and due to substantial usage, extensive sales and advertising efforts associated therewith, the petitioner has acquired an unrestricted common law rights in the FACES marks.

5.11. The petitioner has also secured a judgment from the Addl. City Civil Judge, Bengaluru City in *Faces Cosmetics Group Inc. v. Chalhoub Group Limited*, Suit No. O.S. No. 7804/2008, in its favour wherein the defendant therein was restrained from using any mark containing the word FACES.

5.12. The petitioner also frequently initiates opposition proceedings before the Trade Marks Registry against applications for deceptively similar trade marks and has successfully enforced its right in the FACES marks against third-parties.

5.13. The petitioner, in June 2024, during a routine search of the records of the Trade Marks Registry, discovered the impugned mark registered in class 44 with respect to '*depilatory waxing, hairdressing salons, health spa services, manicuring, massage and beauty care*'. The impugned mark was



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applied for registration on 3<sup>rd</sup> October, 2020 on a '*proposed to be used*' basis and the registration certificate was issued to the respondent no.1 on 26<sup>th</sup> April, 2021.

### **SUBMISSIONS OF THE PETITIONER**

6. Counsel appearing on behalf of the petitioner has made the following submissions:

6.1. The petitioner is original, honest and prior adopter, user and the registered proprietor of the FACES marks.

6.2. Due to the long, continuous and extensive use and promotion of the FACES marks, the same have become distinctive and are exclusively associated with the petitioner in respect of cosmetics and skin care products. By virtue of the aforesaid, the petitioner is entitled to the exclusive use of the FACES marks and any unauthorized use of the same or any other deceptively similar mark by third-parties would amount to infringement of the petitioner's FACES marks as well as passing off.

6.3. The respondent no.1 has dishonestly adopted the petitioner's mark FACES entirely and the same forms the dominant part of the impugned mark. Therefore, the impugned mark bears an undeniable resemblance to the petitioner's prior registered FACES marks when considered in totality.

6.4. The impugned mark has been registered with respect to services which are akin to those of the petitioner.

6.5. The impugned mark is confusingly and deceptively similar to the petitioner's unique and distinctive mark FACES and will mislead and confuse the consumers and the members of the trade into believing that the impugned services originate from or are associated with the petitioner.



6.6. Any use of the impugned mark would lead to the respondent no.1 taking undue advantage of reputation and goodwill of the petitioner under the FACES marks.

**ANALYSIS AND FINDINGS**

7. I have heard the counsel for the petitioner and perused the material on record.

8. The respondent no.1 has not filed his reply to the present petition, which indicates that she has nothing substantial to put forth on merits by way of a response to the averments made in the petition. In view of the above, the averments made in the petition are deemed to be admitted.

9. A comparison of the impugned mark with the petitioner's FACES marks is set out below:

Petitioner's FACES marks	Impugned Mark
<p data-bbox="619 1160 743 1189"><b>FACES</b></p> <p data-bbox="539 1223 823 1254"><b>FACESCANADA</b></p> <p data-bbox="539 1288 823 1319"><b>FACES CANADA</b></p>  <p data-bbox="624 1498 735 1527">FACES</p> 	

10. This Court in the case of *Greaves Cotton Limited v. Mohammad Rafi and Ors.*, 2011 SCC OnLine Del 2596, has held as follows:

**“16. It is not necessary that in order to constitute infringement, the impugned trademark should be an absolute replica of the registered trademark of the plaintiff. When the mark of the defendant is not identical**



*to the mark of the plaintiff, it would be necessary for the plaintiff to establish that the mark being used by the defendant resembles his mark to such an extent that it is likely to deceive or cause confusion and that the user of the impugned trademark is in relation to the goods in respect of which the plaintiff has obtained registration in his favour. **It will be sufficient if the plaintiff is able to show that the trademark adopted by the defendant resembles its trademark in a substantial degree, on account of extensive use of the main features found in his trademark. In fact, any intelligent person, seeking to encash upon the goodwill and reputation of a well-established trademark, would make some minor changes here and there so as to claim in the event of a suit or other proceeding, being initiated against him that the trademark being used by him, does not constitute infringement of the trademark, ownership of which vests in some other person. But, such rather minor variations or distinguishing features would not deprive the plaintiff of injunction in case resemblance in the two trademarks is found to be substantial, to the extent that the impugned trademark is found to be similar to the registered trademark of the plaintiff.** But, such malpractices are not acceptable and such a use cannot be permitted since this is actuated by a dishonest intention to take pecuniary advantage of the goodwill and brand image which the registered mark enjoys, it is also likely to create at least initial confusion in the mind of a consumer with average intelligence and imperfect recollection. It may also result in giving an unfair advantage to the infringer by creating an initial interest in the customer, who on account of such deceptive use of the registered trademark may end up buying the product of the infringer, though after knowing, either on account of difference in packaging etc. or on account of use of prefixes or suffixes that the product which he is buying is not the product of the plaintiff, but is the product of the defendant.”*

**(emphasis supplied)**

11. As may be seen from the side-by-side comparison of the marks set out in the table above, the impugned mark subsumes the petitioner's mark FACES in its entirety. Any further addition in the impugned mark does not render it different from the petitioner's prior and reputed FACES marks when considered in totality. It is therefore evident that the impugned mark is



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deceptively similar to the petitioner's FACES marks. This Court further

notes that the petitioner is the registered proprietor of the mark 'FACES' with respect to '*cosmetic and personal care services namely providing make overs, ear, nose and body piercing, pedicures, manicures, hair removal, hair dying and aromatherapy services*'. Therefore, the impugned services and trade channels of the respondent no.1 are identical and overlapping with those of the petitioner.

12. The petitioner has been using the FACES marks since 2009 in India and has acquired immense goodwill and reputation thereunder. Considering the aforesaid, I am of the view that the impugned mark is likely to cause confusion and deception among the consumers who associate the mark FACES with the petitioner only and none else.

13. In view of the above, it is clear that the impugned mark has been adopted by the respondent no.1 dishonestly to ride over the goodwill and reputation of the petitioner under the FACES marks and to associate herself and her services with the petitioner. Therefore, the continuation of the registration of the impugned mark in the name of the respondent no.1 in the Register of Trade Marks is in contravention of the provisions of Sections 9, 11 and 18 of the Act and is liable to be cancelled under the provisions of Section 57 of the Act.

14. Accordingly, the present petition is allowed and the Trade Marks

Registry is directed to remove the impugned mark





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bearing the application no. 4686526 in class 44 in the name of the respondent no.1 from the Register of Trade Marks.

15. The Registry is directed to supply a copy of the present order to the Trade Marks Registry, at e-mail: [llc-ipo@gov.in](mailto:llc-ipo@gov.in), for compliance.

16. All pending applications stand disposed of.

**AMIT BANSAL, J**

**FEBRUARY 14, 2025**

*at*